


# Procedure file

Basic information		
CNS - Consultation procedure Regulation	2005/0101(CNS)	Procedure completed
Specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo		
Subject 6.10.03 Armaments control, non-proliferation nuclear weapons 6.10.04 Third-country political situation, local and regional conflicts		
Geographical area Congo DR, ex-Zaire		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		06/06/2005
		ALDE <a href="#">CAVADA Jean-Marie</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
Council of the European Union	<b>DEVE</b> Development		
	<b>ECON</b> Economic and Monetary Affairs	The committee decided not to give an opinion.	
European Commission	Council configuration	Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2674</a>	18/07/2005
European Commission	Commission DG	Commissioner	
	Development		

Key events			
30/05/2005	Legislative proposal published	<a href="#">09538/2005</a>	Summary
13/06/2005	Vote in committee		Summary
16/06/2005	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0194/2005</a>	
22/06/2005	Committee referral announced in Parliament		
23/06/2005	Results of vote in Parliament		
23/06/2005	Decision by Parliament	<a href="#">T6-0251/2005</a>	Summary
18/07/2005	Act adopted by Council after consultation of Parliament		
18/07/2005	End of procedure in Parliament		

23/07/2005	Final act published in Official Journal		
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## Technical information

Procedure reference	2005/0101(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 308; EC Treaty (after Amsterdam) EC 301; EC Treaty (after Amsterdam) EC 060
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/28503

## Documentation gateway

Supplementary legislative basic document		<a href="#">COM(2005)0227</a>	27/05/2005	EC	Summary
Legislative proposal		<a href="#">09538/2005</a>	30/05/2005	CSL	Summary
Committee opinion	DEVE	<a href="#">PE359.951</a>	07/06/2005	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0194/2005</a>	16/06/2005	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0251/2005</a> <a href="#">OJ C 133 08.06.2006, p. 0028-0099 E</a>	23/06/2005	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2005)2882</a>	13/07/2005	EC	

## Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Final act

<a href="#">Regulation 2005/1183</a> <a href="#">OJ L 193 23.07.2005, p. 0001-0008</a> Summary
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## Specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo

PURPOSE : to propose certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo.

PROPOSED ACT : Council Regulation.

CONTENT : in view of the continuing illicit flow of weapons within and into the Democratic Republic of the Congo, the UN Security Council of the United Nations adopted Resolution 1596 (2005) of 18 April 2005, amending the arms embargo imposed by UN Security Council Resolution 1493 (2003) and taking additional restrictive measures in respect of the Democratic Republic of the Congo. These measures concern restrictions on admission and financial restrictive measures against persons designated by the competent United Nations Sanctions Committee as acting in violation of the arms embargo imposed against the Democratic Republic of the Congo.

In order to implement the restrictive measures set out in UN Security Council Resolution 1596 (2005), the Council has adopted common position which provides, inter alia, for implementation of the financial restrictive measures against persons designated by the competent United Nations Sanctions Committee.

This proposal aims to implement these measures in the Community by means of a Council Regulation. The proposed measures are similar to

those imposed by means of a Regulation imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban.

## Specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo

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The Council has presented some technical amendments to the Commission's initial proposal.

The amendments concern in particular the following:

- provided that the Member State concerned has notified its intention to the United Nations Sanctions Committee and the Sanctions Committee has not objected within four working days of such notification (as opposed to the two days proposed by the Commission), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, under such conditions as they deem appropriate;
- the amendment of the Title of Annex I of the proposal : the Council is of the opinion that this list should be completed after designation by the Committee of the United Nations Security Council.

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The committee adopted the report by Jean-Marie CAVADA (ALDE, FR) broadly approving the proposal under the consultation procedure, subject to a few amendments:

- pointing out that the list of persons and entities whose assets should be frozen, which is supposed to be included in Annex 1 to the draft regulation, contains no names at present as the Council has yet to establish the procedure for drawing up the list, the committee said that it seemed contrary to the Treaty to submit to Parliament for consultation a text containing an empty annex. MEPs therefore proposed deleting the annex from the body of the regulation and stipulating that the list should be drawn up as an implementing measure by the Commission pursuant to Article 9. Provision should be made for Parliament's Civil Liberties Committee and Development Committee to be given details of the list in advance on a confidential basis;
- any information supplied to the Commission by the persons and entities concerned should be used "solely for the period necessary for the carrying-out of the operations to freeze assets", and should be subject to data protection rules;
- where funds have been unjustly frozen, those concerned should receive reimbursement "commensurate with the nature and extent of the damage unjustly inflicted";
- the regulation should contain a specific reference to the 2000 Cotonou Agreement.

## Specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo

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The European Parliament adopted a resolution drafted by Jean-Marie CAVADA (ALDE, FR) and made some amendments to the proposal. (Please see the document of 13/06/2005.) Parliament added that the measures provided should be without prejudice to the adoption of other measures to prosecute and try, in accordance with the provisions of international human rights conventions, persons suspected of committing serious violations of human rights and international humanitarian law, in particular through the International Criminal Court, on the basis of the ad hoc referral to the Court by the authorities of the Democratic Republic of the Congo on 19 April 2004 pursuant to the Rome Statute.

## Specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo

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**PURPOSE:** to impose certain restrictive measures against persons acting in violation of the arms embargo with regard to the Democratic Republic of Congo.

**LEGISLATIVE ACT:** Council Regulation 1183/2005/EC imposing certain restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of Congo.

**BACKGROUND:** in 2005 the United Nations adopted Resolution 1596 (2005) in response to the continuing flow of weapons both within and into the Democratic Republic of Congo. Resolution 1596 (2005) provides, inter alia, for financial restrictive measures against persons designated by a UN Sanctions Committee, who have been deemed to act in violation of the arms embargo.

For its part, the Council adopted, also in 2005, Common Position 2005/440/CFSP, which implements the financial restrictive measures against persons designated by the UN. It is necessary that these measures be implemented uniformly by all economic operators in all of the EU Member States. The purpose of this Regulation, therefore, is to implement the UN measures ? and measures set out in the Council's common position ? into Community legislation.

**CONTENT:** this Regulation, in Annex I, lists the names of all natural and legal persons entities and bodies to whom this Regulation applies. The list itself will be completed after the persons and entities have been registered by the UN ?Sanctions Committee? as established by UN

Resolution 1533 (2004). All funds and economic resources belonging to, owned, held or controlled by those listed will be frozen.

No funds or economic resources will be made available to those listed in Annex I. By way of derogation, the Member States may authorise the release of certain frozen funds if it is: a) necessary for basic expenses (such as food, rent or medicines etc.); b) intended exclusively for the payment of professional fees (such as legal services); or c) intended exclusively for the payment of fees for the routine holding or maintenance of the frozen funds. Any funds released by way of derogation must be notified to both the UN and the Commission.

In other derogations, the Regulations specifies that the Member States may authorise the releases of certain frozen funds or economic resources if: the funds are subject to a judicial administrative or arbitral lien ? established prior to 18 April 2005; the funds will be used exclusively to satisfy claims secured by such a lien or recognised as valid; the lien or judgement does not benefit either a person or entity listed in the Regulation; if the lien is not contrary to public policy and if the lien has been notified by the Member State to the UN Sanctions Committee.

The provisions of this Regulation will not prevent financial or credit institutions from crediting the accounts that receive funds transferred by third parties - on condition that any addition to the accounts of the frozen assets is also frozen. The financial or credit institutions will need to inform the authorities of such transactions without delay.

The Regulation also provides that, without prejudice to rules on reporting, confidentiality and professional secrecy, legal and natural persons and/or bodies will be obliged to supply immediate information to the authorities, as well as co-operate with the authorities, on any of the provisions set out in this Regulation.

The Commission will be empowered to amend Annex I based on decisions made by the UN Sanction Committee. The Member States will be responsible for laying down the rules on penalties which will apply to infringements of the Regulation. Lastly, the Regulation will apply: within the territory of the Community (including its airspace); on board any aircraft or vessel under the jurisdiction of a Member State; to any person inside or outside the territory of the Community who is a national of a Member State; to any legal person, entity or body which is incorporated under the law of a Member State; and to any legal person, entity or body in respect of any business done within the Community.

ENTRY INTO FORCE: 23 July 2005.