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EUROPEAN COMMISSION

HIGH REPRESENTATIVE OF
THE EUROPEAN UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Brussels, 1.4.2011
COM(2011) 194 final

2011/0078 (NLE)

Joint proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 560/2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

EXPLANATORY MEMORANDUM

- (1) Council Regulation (EC) No 560/2005, as modified by Regulation (EU) 25/2011, gives effect to Council Decision 2010/656/CFSP and imposes certain restrictive measures in view of the situation in Côte d'Ivoire. These measures comprise, inter alia, a freezing of assets of certain persons and entities who are obstructing the process of peace and national reconciliation.
- (2) Council Decision 2011/[...]/CFSP of [...] amends Council Decision 2010/656/CFSP renewing the restrictive measures concerning Côte d'Ivoire, and provides for the adoption of further restrictive measures in view of the seriousness of the situation in Côte d'Ivoire.
- (3) These further measures include a prohibition on the trade of bonds and the provision of loans to the illegitimate government of Mr. Gbagbo, as well as some adjustments to the freezing measures in order to allow for legitimate trade under contracts concluded prior to the adoption of sanctions. In addition, the Council Decision includes a provision to ensure that the measures do not affect the provision of humanitarian assistance in Côte d'Ivoire.
- (4) The High Representative of the EU for Foreign Affairs and Security Policy and the Commission propose to give effect to these measures by means of a Regulation based on Article 215 of the Treaty on the Functioning of the European Union (TFEU).

Joint proposal for a

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amending Council Regulation (EC) No 560/2005 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2011/[...]/CFSP of [...] renewing the restrictive measures in view of the situation in Côte d'Ivoire,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission,

After consulting the European Data Protection Supervisor,

Whereas:

- (1) Council Decision 2011/[...]/CFSP of [...] provides, inter alia, for further restrictive measures in relation to Côte d'Ivoire, including a prohibition on the trade of bonds and the provision of loans to the illegitimate government of Mr. Gbagbo, and further provisions in relation to the measures imposed by Council Decision 2010/656/CFSP including a provision to ensure that these measures do not affect humanitarian operations in Côte d'Ivoire.
- (2) These measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary in order to implement them.
- (3) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 560/2005 is amended as follows:

- (1) The following Article shall be inserted:

“Article 3a

By way of derogation from Article 2, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise, with regard to persons and entities listed in Annex IA, the release of certain frozen funds or economic resources or the making available of certain funds or economic resources which are necessary for humanitarian purposes, after notification in advance to the other Member States and to the Commission.”

- (2) The following Article shall be inserted:

“Article 3b

By way of derogation from Article 2 and provided that a payment by a person, entity or body listed in Annex IA is due under a contract or agreement that was concluded by, or an obligation that arose for the person, entity or body concerned, before the date on which that person, entity or body had been designated, the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that:

- (i) the funds or economic resources shall be used for a payment by a person, entity or body listed in Annex IA;
- (ii) the payment is not in breach of Article 2 (2);

The Member State concerned shall, at least two weeks prior to the grant of the authorisation, notify the other Member States and the Commission of that determination and its intention to grant an authorisation.”

- (3) The following Article is inserted:

“Article 9a

It shall be prohibited:

- (a) to purchase, broker or assist in the issue of bonds or securities issued or guaranteed after the date of entry into force of this Regulation by the illegitimate government of Mr Laurent Gbagbo, as well as by persons or entities acting on its behalf or under its authority, or by entities owned or controlled by it. By way of exception to the foregoing, financial institutions shall be authorised to purchase such bonds or securities of corresponding value to bonds and securities already held by them and which are due to mature;
- (b) to provide loans, in any form, to the illegitimate government of Mr Laurent Gbagbo, as well as to persons or entities acting on its behalf or under its authority, or to entities that it owns or controls.

- (4) The following Article is inserted:

“Article 9b

The prohibitions set out in Article 2(2) and in Article 9a shall not give rise to any liability of any kind on the part of the natural and legal persons, entities and bodies who made funds or economic resources available if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibitions in question.”

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the Council
The President
[...]