

(Acts adopted pursuant to Title V of the Treaty on European Union)

**COUNCIL COMMON POSITION 2004/161/CFSP
of 19 February 2004
renewing restrictive measures against Zimbabwe**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) Pursuant to Common Position 2002/145/CFSP⁽¹⁾ the Council imposed a prohibition on the supply of arms and related materiel, on the provision of related technical training or assistance and on the supply of equipment that might be used for internal repression to Zimbabwe.
- (2) Pursuant to Common Position 2002/145/CFSP the Council also imposed a travel ban and a freezing of funds on the Government of Zimbabwe and persons who bear a wide responsibility for serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly.
- (3) Common Position 2002/145/CFSP was amended by Common Position 2002/600/CFSP⁽²⁾ by extending these restrictive measures to further persons who bear a wide responsibility for such violations.
- (4) The list of persons subject to the restrictive measures annexed to Common Position 2002/145/CFSP was updated and replaced by Council Decision 2002/754/CFSP⁽³⁾ following a government reshuffle in Zimbabwe.
- (5) Common Position 2002/145/CFSP was further amended and extended by Common Position 2003/115/CFSP⁽⁴⁾, which expires on 20 February 2004.
- (6) In view of the continued deterioration in the human rights situation in Zimbabwe, the restrictive measures adopted by the European Union should be renewed for a further 12 months.
- (7) The objective of these restrictive measures is to encourage the persons targeted to reject policies that lead to the suppression of human rights, of the freedom of expression and of good governance.
- (8) The list of persons subject to restrictive measures annexed to Common Position 2002/145/CFSP, as amended and replaced, should be updated.
- (9) Action by the Community is needed in order to implement certain measures,

HAS ADOPTED THIS COMMON POSITION:

Article 1

For the purposes of this Common Position, the term 'technical assistance' shall mean any technical support related to repairs, development, manufacture, assembly, testing, maintenance or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; technical assistance includes verbal forms of assistance.

Article 2

1. The sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression, to Zimbabwe by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited whether originating or not in their territories.

2. It shall be prohibited:

- (a) to grant, sell, supply or transfer technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression, directly or indirectly to any person, entity or body in or for use in Zimbabwe;

⁽¹⁾ OJ L 50, 21.2.2002, p. 1.

⁽²⁾ OJ L 195, 24.7.2002, p. 1.

⁽³⁾ OJ L 247, 14.9.2002, p. 56.

⁽⁴⁾ OJ L 46, 20.2.2003, p. 30.

- (b) to provide financing or financial assistance related to military activities, including, in particular, grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, as well as equipment which might be used for internal repression, directly or indirectly to any person, entity or body in or for use in Zimbabwe.

Article 3

1. Article 2 shall not apply to:

- (a) the sale, supply, transfer or export of non-lethal military equipment or of equipment which might be used for internal repression, intended solely for humanitarian or protective use, or for institution-building programmes of the UN, the EU and the Community, or of materiel intended for EU and UN crisis-management operations;
- (b) the provision of financing and financial assistance related to such equipment;
- (c) the provision of technical assistance related to such equipment,

on condition that such exports have been approved in advance by the relevant competent authority.

2. Article 2 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Zimbabwe by United Nations personnel, personnel of the EU, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

Article 4

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the natural persons listed in the Annex, who are engaged in activities that seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe.

2. Paragraph 1 will not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

- (a) as a host country of an international intergovernmental organisation;
- (b) as a host country to an international conference convened by, or under the auspices of, the United Nations; or
- (c) under a multilateral agreement conferring privileges and immunities.

The Council shall be duly informed in each of these cases.

4. Paragraph 3 shall be considered as applying also in cases where a Member State is host country of the Organisation for Security and Cooperation in Europe (OSCE).

5. Member States may grant exemptions from the measures imposed in paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings, including those promoted by the European Union, where a political dialogue is conducted that directly promotes democracy, human rights and the rule of law in Zimbabwe.

6. A Member State wishing to grant exemptions referred to in paragraph 5 shall notify the Council in writing. The exemption will be deemed to be granted unless one or more of the Council Members raises an objection in writing within 48 hours of receiving notification of the proposed exemption. In the event that one or more of the Council members raises an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

7. In cases where, pursuant to paragraphs 3, 4, 5 and 6, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

Article 5

1. All funds and economic resources belonging to individual members of the Government of Zimbabwe and to any natural or legal persons, entities or bodies associated with them as listed in the Annex shall be frozen.

2. No funds or economic resources shall be made available directly or indirectly to or for the benefit of natural or legal persons, entities or bodies listed in the Annex.

3. Exemptions may be made for funds or economic resources which are:

- (a) necessary for basic expenses, including payments for food-stuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;
- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
- (d) necessary for extraordinary expenses.

4. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to restrictive measures,

provided that any such interest, other earnings and payments continue to be subject to paragraph 1.

Article 6

The Council, acting upon a proposal by a Member State or the Commission, shall adopt modifications of the list contained in the Annex as required by political developments in Zimbabwe.

Article 7

In order to maximise the impact of the abovementioned measures, the European Union shall encourage third States to adopt restrictive measures similar to those contained in this Common Position.

Article 8

This Common Position shall take effect on the date of its adoption.

It shall apply as from 21 February 2004.

Article 9

This Common Position shall apply for a 12-month period. It shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

Article 10

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 19 February 2004.

For the Council

The President

M. McDOWELL

ANNEX

List of persons referred to in Articles 4 and 5

1. Mugabe, Robert Gabriel President, born 21.2.1924
2. Buka (a.k.a. Bhuka), Flora Minister of State in Vice-President's Office (former Minister of State for the Land Reform Programme in the President's Office), born 25.2.1968
3. Bonyongwe, Happyton Director-General Central Intelligence Organisation, born 6.11.1960
4. Chapfika, David Deputy Minister of Finance and Economic Development
5. Charamba, George Permanent Secretary Department for Information and Publicity, born 4.4.1963
6. Charumbira, Fortune Zefanaya Deputy Minister for Local Government, Public Works and National Housing, born 10.6.1962
7. Chigwedere, Aeneas Soko Minister of Education, Sports and Culture, born 25.11.1939
8. Chihuri, Augustine Police Commissioner, born 10.3.1953
9. Chikowore, Enos C. ZANU (PF) Politburo Secretary for Land and Resettlement, born 1936
10. Chinamasa, Patrick Anthony Minister of Justice, Legal and Parliamentary Affairs, born 25.1.1947
11. Chindori-Chininga, Edward Takaruza former Minister of Mines and Mining Development, born 14.3.1955
12. Chipanga, Tongesai Shadreck Deputy Minister of Home Affairs
13. Chiwenga, Constantine Commander Zimbabwe Defence Forces, General (former Army Commander, Lieutenant General), born 25.8.1956
14. Chiwewe, Willard Senior Secretary responsible for Special Affairs in the President's Office (former Senior Secretary, Ministry of Foreign Affairs), born 19.3.1949
15. Chombo, Ignatius Morgan Chiminya Minister of Local Government, Public Works and National Housing, born 1.8.1952
16. Dabengwa, Dumiso ZANU (PF) Politburo Senior Committee Member, born 1939
17. Goche, Nicholas Tasunungurwa Minister of State for National Security in the President's Office (former Security Minister), born 1.8.1946
18. Gula-Ndebele, Sobuza Chairman of Electoral Supervisory Commission
19. Gumbo, Rugare Eleck Ngidi Minister of State for State Enterprises and Parastatals in the President's Office (former Deputy Minister of Home Affairs, born 8.3.1940)
20. Hove, Richard ZANU (PF) Politburo Secretary for Economic Affairs, born 1935
21. Hungwe, Josaya (a.k.a. Josiah) Dunira Provincial Governor: Masvingo, born 7.11.1935
22. Kangai, Kumbirai ZANU (PF) Politburo Committee Member, born 17.2.1938
23. Karimanzira, David Ishemunyoro Godi ZANU (PF) Politburo Secretary for Finance, born 25.5.1947
24. Kasukuwere, Saviour ZANU (PF) Politburo Deputy-Secretary for Youth Affairs, born 23.10.1970

25. Kuruneri, Christopher Tichaona Minister of Finance and Economic Development (former Deputy Minister of Finance and Economic Development), born 4.4.1949
26. Langa, Andrew Deputy Minister of Transport and Communications
27. Lesabe, Thenjiwe V. ZANU (PF) Politburo Secretary for Women's Affairs, born 1933
28. Machaya, Jason (a.k.a. Jaison) Max Kokerai Deputy Minister of Mines and Mining Development, born 13.6.1952
29. Made, Joseph Mtakwese Minister of Agriculture and Rural Development (former Minister of Lands, Agricultural and Rural Resettlement), born 21.11.1954
30. Madzongwe, Edna (a.k.a. Edina) ZANU (PF) Politburo Deputy Secretary for Production and Labour, born 11.7.1943
31. Mahofa, Shuvai Ben Deputy Minister for Youth Development, Gender and Employment Creation, born 4.4.1941
32. Mahoso, Tafataona Chair, Media Information Commission
33. Makoni, Simbarashe ZANU (PF) Politburo Deputy Secretary General for Economic Affairs (former Minister of Finance), born 22.3.1950
34. Malinga, Joshua ZANU (PF) Politburo Deputy Secretary for Disabled and Disadvantaged, born 28.4.1944
35. Mangwana, Paul Munyaradzi Minister of Public Service, Labour and Social Welfare (former Minister of State for State Enterprises and Parastatals in the President's Office), born 10.8.1961
36. Mangwende, Witness Pasichigare Madunda Provincial Governor: Harare (former Minister for Transport and Communications), born 15.10.1946
37. Manyika, Elliot Tapfumanei Minister without Portfolio (former Minister of Youth Development, Gender and Employment Creation), born 30.7.1955
38. Manyonda, Kenneth Vhudukai Deputy Minister of Industry and International Trade, born 10.8.1934
39. Marumahoko, Rueben Deputy Minister of Energy and Power Development, born 4.4.1948
40. Masawi, Ephrahim Sango Provincial Governor: Mashonaland Central
41. Masuku, Angeline Provincial Governor: Matabeleland South (ZANU (PF) Politburo Secretary for Disabled and Disadvantaged), born 14.10.1936
42. Mathema, Cain Provincial Governor: Bulawayo
43. Mathuthu, T. ZANU (PF) Politburo Deputy Secretary for Transport and Social Welfare
44. Midzi, Amos Bernard (Mugenva) Minister of Mines and Mining Development (former Minister of Energy and Power Development), born 4.7.1952
45. Mnangagwa, Emmerson Dambudzo Speaker of Parliament, born 15.9.1946
46. Mohadi, Kembo Campbell Dugishi Minister of Home Affairs (former Deputy Minister of Local Government, Public Works and National Housing), born 15.11.1949
47. Moyo, Jonathan Minister of State for Information and Publicity in the President's Office, born 12.1.1957
48. Moyo, July Gabarari Minister of Energy and Power Development (former Minister of Public Service, Labour and Social Welfare), born 7.5.1950
49. Moyo, Simon Khaya ZANU (PF) Politburo Deputy Secretary for Legal Affairs, born 1945

50. Mpofu, Obert Moses
Provincial Governor: Matabeleland North (ZANU (PF) Politburo Deputy Secretary for National Security), born 12.10.1951
51. Msika, Joseph W.
Vice-President, born 6.12.1923
52. Msipa, Cephas George
Provincial Governor: Midlands, born 7.7.1931
53. Muchena, Olivia Nyembesi (a.k.a. Nyembezi)
Minister of State for Science and Technology in the President's Office (former Minister of State in Vice-President Msika's Office), born 18.8.1946
54. Muchinguri, Oppah Chamu Zvipange
ZANU (PF) Politburo Secretary for Gender and Culture, born 14.12.1958
55. Mudede, Tobaiwa (Tonnethe)
Registrar General, born 22.12.1942
56. Mudenge, Isack Stanilaus Gorerazvo
Minister of Foreign Affairs, born 17.12.1941
57. Mugabe, Grace
Spouse of Robert Gabriel Mugabe, born 23.7.1965
58. Mugabe, Sabina
ZANU (PF) Politburo Senior Committee Member, born 14.10.1934
59. Mujuru, Joyce Teurai Ropa
Minister of Water Resources and Infrastructural Development (former Minister of Rural Resources and Water Development), born 15.4.1955
60. Mujuru, Solomon T.R.
ZANU (PF) Politburo Senior Committee Member, born 1.5.1949
61. Mumbengegwi, Samuel Creighton
Minister of Industry and International Trade (former Minister of Higher Education and Technology), born 23.10.1942
62. Murerwa, Herbert Muchemwa
Minister of Higher and Tertiary Education (former Minister of Finance and Economic Development), born 31.7.1941
63. Mushohwe, Christopher Chindoti
Minister of Transport and Communications (former Deputy Minister of Transport and Communications), born 6.2.1954
64. Mutasa, Didymus Noel Edwin
Minister of Special Affairs in the President's Office in charge of the Anti-Corruption and Anti-Monopolies Programme (former ZANU (PF) Politburo Secretary for External Relations), born 27.7.1935
65. Mutinhiri, Ambros (a.k.a. Ambrose)
Minister of Youth Development, Gender and Employment Creation, Retired Brigadier
66. Mutiwekuziva, Kenneth Kaparadza
Deputy Minister of Small and Medium Enterprises Development, born 27.5.1948
67. Muzenda, Tsitsi V.
ZANU (PF) Politburo Senior Committee Member, born 28.10.1922
68. Muzonzini, Elisha
Brigadier (former Director-General Central Intelligence Organisation), born 24.6.1957
69. Ncube, Abedinico
Deputy Minister of Foreign Affairs, born 13.10.1954
70. Ndlovu, Naison K.
ZANU (PF) Politburo Secretary for Production and Labour, born 22.10.1930
71. Ndlovu, Sikhanyiso
ZANU (PF) Politburo Deputy Secretary for Commissariat, born 20.9.1949
72. Nhema, Francis
Minister of Environment and Tourism, born 17.4.1959
73. Nkomo, John Landa
Minister of Special Affairs in the President's Office
74. Nyambuya, Michael Reuben
Lieutenant General, Provincial Governor: Manicaland
75. Nyoni, Sithembiso Gile Glad
Minister of Small and Medium Enterprises Development (former Minister of State for the Informal Sector), born 20.9.1949

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| 76. Parirenyatwa, David Pagwese | Minister of Health and Child Welfare (former Deputy Minister), born 2.8.1950 |
| 77. Pote, Selina M. | ZANU (PF) Politburo Deputy Secretary for Gender and Culture |
| 78. Rusere, Tinos | Deputy Minister for Water Resources and Infrastructural Development (former Deputy Minister of Rural Resources and Water Development), born 10.5.1945 |
| 79. Sakupwanya, Stanley | ZANU (PF) Politburo Deputy Secretary for Health and Child Welfare |
| 80. Samkange, Nelson Tapera Crispen | Provincial Governor: Mashonaland West |
| 81. Sekeramayi, Sydney (a.k.a. Sidney) Tigere | Minister of Defence, born 30.3.1944 |
| 82. Shamu, Webster | Minister of State for Policy Implementation in the President's Office, born 6.6.1945 |
| 83. Shamuyarira, Nathan Marwirakuwa | ZANU (PF) Politburo Secretary for Information and Publicity, born 29.9.1928 |
| 84. Shiri, Perence | Air Marshal (Air Force), born 1.11.1955 |
| 85. Shumba, Isaiah Masvayamwando | Deputy Minister of Education, Sports and Culture, born 3.1.1949 |
| 86. Sibanda, Jabulani | Chair, National War Veterans Association, born 31.12.1970 |
| 87. Sibanda, Misheck Julius Mpande | Cabinet Secretary (successor to No. 93 Charles Utete), born 3.5.1949 |
| 88. Sibanda, Phillip Valerio (a.k.a. Valentine) | Commander Zimbabwe National Army, Lieutenant General, born 25.8.1956 |
| 89. Sikosana, Absolom | ZANU (PF) Politburo Secretary for Youth Affairs |
| 90. Stamps, Timothy | Health Advisor in the Office of the President, born 15.10.1936 |
| 91. Tawengwa, Solomon Chirume | ZANU (PF) Politburo Deputy Secretary for Finance, born 15.6.1940 |
| 92. Tungamirai, Josiah T. | Minister of State for Indigenisation and Empowerment, Retired Air Marshall (former ZANU (PF) Politburo Secretary for Empowerment and Indigenisation), born 8.10.1948 |
| 93. Utete, Charles | Chairman of the Presidential Land Review Committee (former Cabinet Secretary), born 30.10.1938 |
| 94. Zimonte, Paradzai | Prisons Director, born 4.3.1947 |
| 95. Zvinavashe, Vitalis | Retired General (former Chief of Defense Staff), born 27.9.1943 |
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