

Treasury
Customs and Excise Division

Sanctions Notice 30

European Union Sanctions

Guinea



July 2010
(updated to 30 October 2018)



Isle of Man
Government

Reilys Ellan Vannin

About this Notice

This Notice draws attention in convenient form to the Orders and Regulations made under the European Communities (Isle of Man) Act 1973 which place financial sanctions on certain named individuals and entities.

This Notice provides guidance on certain aspects only of the Orders and Regulations, and should be read in conjunction with those Orders and Regulations.

The Treasury has appointed its Customs and Excise Division to act for the purpose of enforcing financial sanctions. Accordingly, certain powers have been delegated by the Treasury to the Division.

The list of persons and entities subject to the sanctions may be found at:
http://www.hm-treasury.gov.uk/fin_sanctions_index.htm

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by -

- facsimile transmission (01624 661725)
- Email (customs@gov.im)
- Telephone (01624 648138)

The address for any enquiries or applications relating to this Notice is -

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



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For further information on sanctions in general, including how to deal with false positives, or when sanctions are lifted or persons delisted, see Sanctions Notice 26.

Sanctions Notice 32 deals with the granting of licences.

These Notices, and other information about sanctions and export and trade controls, may be found at -

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

Directions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Financial Intelligence Unit.

All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Financial Intelligence Unit.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Financial Intelligence Unit and co-operate in any verification of the information.

Reports of accounts and amounts frozen should be made using THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the FIU website.

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000
Email: fiu@gov.im

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Introduction

1. On 22 December 2009 the Council of the European Union adopted Council Regulation (EU) No. 1284/2009, which places certain restrictions, including an asset freeze, on members of the National Council for Democracy and Development (NCDD) - a military junta that took power in December 2008 - and individuals associated with them responsible for the violent repression of a peaceful pro-democracy rally that took place on 28 September 2009 or the political stalemate in the Republic of Guinea.
2. EU Regulation 1284/2009 contained prohibitions and restrictions on -
 - the sale, supply etc of equipment that might be used for internal repression to, or for use in, Guinea;
 - providing, directly or indirectly, technical assistance or brokering services relating to equipment that might be used for internal repression;
 - providing, directly or indirectly, financial assistance relating to equipment that might be used for internal repression;
 - providing, directly or indirectly, technical assistance, brokering services, financing or financial assistance relating to equipment on the Common Military List of the EU;
 - participating, knowingly and intentionally, in activities to circumvent the prohibitions on the supply etc of equipment that might be used for internal repression or equipment on the Common Military List, or associated technical assistance, brokering services or financial assistance.

Some or all of these prohibitions and restrictions apply in the Island directly.

3. In addition, export licensing controls would impose prohibitions and restrictions on the supply of a range of equipment to Guinea, including a supply from another country which is arranged or facilitated by a person or entity in the Island.

For further information on export licensing and trade control licensing please see Public Notice 279 MAN, which is available on the Customs and Excise website.

4. Article 6 of EU Regulation 1284/2009 imposed financial sanctions on persons designated under the Regulation. The Regulation required that all funds and economic resources owned, held or controlled by these persons must be frozen, and that none should be made available, directly or indirectly, to or for the benefit of designated persons.
5. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the prohibitions and restrictions imposed by Article 6 was prohibited.
6. Article 6 did not apply directly in the Island. However, on 8 July 2010 the European Communities (Guinea Sanctions) Order 2010 [SD 561/10] applied Article 6, and other provisions of the Regulation to the Island. Subsequently, the Guinea Sanctions Regulations 2010 [SD 563/10] were made to provide for penalties and offences

relating to breaches of the prohibitions and restrictions.

7. On 1st August 2010 the Export Control (Guinea) Order 2010 (Application) Order 2010 came into operation, complementing export controls already in place and creating offences and penalties for certain breaches of EU Regulation 1284/2009. These include where a person provides false information in order to obtain an authorisation to do something that would otherwise be prohibited, and where someone fails to comply with conditions attached to such an authorisation.
- 7A. On 22 March 2011, Council Regulation (EU) No. 269/2011 came into force amending Regulation 1284/2009. Article 6 of the 2009 Regulation was amended to make the asset freeze provisions apply only to persons identified by the International Commission of Inquiry as responsible for the events of 28 September 2009, and natural or legal persons, entities or bodies associated with them. Annex II to the 2009 Regulation, which contained the list of those subject to the sanctions, was replaced.

Whilst Regulation 269/2011 did not have immediate effect in the Island, the Treasury takes the view that the prohibitions and restrictions imposed by Article 6 of the 2009 Regulation should nevertheless only apply to those persons named in the replacement Annex II. Therefore the sanctions measures mentioned in paragraphs 4 and 5 above shall only apply to the following persons—

“Annex II

List of natural and legal persons, entities or bodies referred to in Article 6(3)

	Name (and possible aliases)	Identifying information (date and place of birth [d.o.b. and p.o.b.] passport [Pass]/ID card number etc)
1	CAMARA Moussa Dadis	Title: Captain D.O.B.: 01.01.1964 or 29.12.1968 Passport Details: R0001318 Position: President of the CNDD <i>Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea.</i>
2	CAMARA Moussa Tiégboro	Title: Commandant Colonel D.O.B.: 01.01.1968 Passport Details: 7190 Position: Member of the CNDD. Minister attached to the Presidency with responsibility for special anti-drug services and organised crime <i>Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea.</i>

3	DIABY Abdoulaye Chérif	Title: Colonel Dr D.O.B.: 26.02.1957 Passport Details: 13683 Position: Member of the CNDD. Minister for Health and Sanitation. <i>Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea.</i>
4	DIAKITÉ Aboubacar Chérif (aka: DIAKITÉ Toumba)	Title: Lieutenant Position: Presidential aide-de-camp. <i>Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea.</i>
5	PIVI Jean-Clade	Title: Lieutenant Colonel D.O.B.: 01.01.1960 Position: Member of the CNDD. Minister with responsibility for presidential security <i>Person identified by the International Commission of Inquiry as responsible for the 28 September 2009 events in Guinea.</i>

7B. On 4 April 2011 the European Union (Guinea Sanctions) (Application) (Amendment) Order 2011 [SD 234/11] came into operation. This applied Council Regulation (EU) No. 269/2011 in the Island. As a result, the reduced list of those subject to sanctions shown in paragraph 7A above was given full legal effect in the Island.

At the same time, the Guinea Sanctions (Amendment) Regulations 2011 [SD 235/11] amended the 2010 Regulations to include mention of Council Regulation (EU) No. 269/2011.

7C. On 24 January 2013 Council Regulation (EU) No 49/2013 amended Article 4 of EU Regulation 1284/2009 to allow the licensing of the sale, supply, transfer or export of explosives and related equipment for civilian use in mining and infrastructure investments under certain conditions. The provision of financing, financial assistance, technical assistance, brokering services and other services related to such sale etc may also be licensed, subject to certain conditions.

7D. On 1 March 2013 the European Union (Guinea Sanctions) (Application) (Amendment) Order 2013 [SD 0099/13] applied Council Regulation (EU) No 49/2013 in Island law. This new Regulation amended Regulation 1284/2009 to allow for the licensing of the supply of explosives and related equipment intended solely for civilian use in mining and infrastructure investments, provided that the storage and use of the explosives and related equipment and services are controlled and verified by an independent body and that the providers of the related services are identified. It also allowed licensing of related financing, financial assistance, technical assistance, brokering services and other services.

7E. On 15 April 2014, the EU lifted the arms embargo and the embargo on equipment which might be used for internal repression. This was done by means of Council

Regulation (EU) No 380/2014, and this Regulation was applied in the Island with effect from 30 May 2014 using the European Union (Guinea Sanctions) (Application) (Amendment) Order 2014 [SD 2014/0205]. At the same time, the Guinea Sanctions (Amendment) Regulations 2014 [SD 2014/0206] amended the original 2010 Regulations.

- 7F. On 23 October 2017, following Council Decision (CFSP) 2017/1934 the EU announced that it has renewed restrictive measures against the Republic of Guinea until 27 October 2018.
- 7G. On 26 October 2018, following Council Decision (CFSP) 2018/1612, the EU extended existing restrictive measures until 27 October 2019.

Instructions to Financial Institutions etc

8. The Treasury will issue from time to time lists of individuals and entities subject to the sanctions imposed in connection with the restrictive measures against the Republic of Guinea.

All persons in business or a profession in the Island, including financial institutions, **MUST** -

- (a) check whether they maintain accounts for any of those individuals or organisations listed, and if so
 - (b) freeze the accounts and report findings to the Financial Intelligence Unit.
9. Regardless of whether any entity and/or person is named on a list notified by the Treasury, if any person or institution suspects that the funds of any customer or client is (or may be) used for facilitating, or providing material support for, acts of terrorism or serious crime they must report their suspicions immediately to the Financial Intelligence Unit (FIU).

Contact details are given at the end of this Notice.

10. Any person, including any bank or financial institution, which knows or suspects that a customer or other person identified in the Notices or news releases published by the Treasury with which it has had business dealings has committed an offence under the Orders, **MUST** report the information on which its knowledge or suspicion is based to the Financial Intelligence Unit as soon as reasonably practicable. Failure to do so may be an offence.

Contact details are given at the end of this Notice.

Definition of funds and economic resources

11. For the purpose of the Regulation, "funds" means financial assets and benefits of any kind, including (but not limited to) -
- cash, cheques, claims on money, drafts, money orders and other payment instruments;

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- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative contracts;
 - interest, dividends or other income on, or value accruing from, or generated by, assets;
 - credits, rights of set-off, guarantees, performance bonds or other financial commitments;
 - letters of credit, bills of lading, bills of sale;
 - documents evidencing an interest in funds or financial resources.
12. Economic resources means assets of every kind, whether tangible or intangible, movable or immovable, (such as goods, property, or rights) which are not funds themselves but can be used to obtain funds, goods or services.
13. The definitions are drawn so broadly as to include virtually all forms of asset, actual or potential. Therefore, you should assume that **any dealings** with persons, organisations or territories included in lists issued by the Treasury may be prohibited.

Frozen accounts

14. All funds and economic resources belonging to, owned, held or controlled by named parties included in Notices or news releases published by the Treasury and held in the Island by persons authorised by the Financial Services Authority (FSA) will be blocked and designated as **"Frozen accounts"**.
15. Funds held by advocates, accountants and others on behalf of such parties should be placed in a separate account that should be designated as a **Frozen account**.
16. When funds are frozen there should be no move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
17. Economic resources should not be used to obtain funds, goods or services in any way, including by selling, hiring or mortgaging them.
18. No funds or economic resources should be made available, directly or indirectly, for the benefit of a person included in a Notice or news release published by the Treasury.

Payments involving frozen accounts

19. Payments from frozen accounts are generally prohibited unless a **written** licence has been granted by the Treasury.

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20. The asset freeze does NOT apply to payments due under contracts, agreements or obligations which were concluded or arose before XXX 2010 (i.e. before the financial sanctions took effect in the Island) - BUT any such payment must be made into a frozen account.
 21. The prohibitions do NOT prevent financial or credit institutions from crediting frozen accounts where interest is accrued, or where they receive payments transferred to the account of a person designated in a Notice or news release published by the Treasury.
 22. Institutions making payment into a frozen account, or crediting a frozen account, must inform the Financial Intelligence Unit as soon as practicable.
 23. The Treasury is able to authorise the release of funds or economic resources for -
 - the basic needs of designated persons and dependent family members;
 - payment of reasonable professional fees and reimbursement of legal fees;
 - payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
 - necessary extraordinary expense

Any release of funds or economic resources MUST be authorised in writing by the Sanctions Officer.

Failure to provide information or providing false information

24. Any person who, except under the authority of a licence issued by the Treasury, makes any funds, other financial assets or economic resources available to or for the benefit of any of the listed persons (or "designated persons") shall be guilty of an offence.
25. Where the Treasury has reasonable grounds to suspect that the person on behalf of whom any funds etc. are held is a listed person it may direct by way of a Notice that those funds etc. are not to be made available to any person or entity except as permitted under a Treasury licence.
- 25A. The Treasury or any other person authorised by the Treasury, such as the Financial Intelligence Unit can serve a written notice on anyone to whom the measures apply, requiring them to furnish them with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

26. Any person who -

- knowingly and intentionally engages in activity the object or effect of which is to enable or facilitate the making available of funds etc. to a designated person;
- knowingly and intentionally engages in activity the object or effect of which is to enable or facilitate the contravention of a direction contained in this Notice; or
- fails to disclose knowledge or suspicion that a customer or client is a designated person,

shall be guilty of an offence.

Isle of Man Customs and Excise website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases and links to relevant lists at <http://www.gov.im/treasury/customs>

Amendments to this Notice

28 March 2011	Paragraph 7A re Council Regulation (EU) No. 269/2011 and the amended list of persons subject to sanctions was inserted.
5 April 2011	New paragraph 7B inserted re SD 234/11 and 235/11.
28 January 2013	New paragraph 7C re EU Regulation 49/2013 added.
5 March 2013	New paragraph 7D inserted re application in Island of EU Regulation 49/2013.
16 March 2014	New paragraph 7E inserted to say that the EU lifted the embargoes on arms and equipment which might be used for internal repression with effect from 15 April 2014
9 June 2014	Paragraph 7E replaced, to mention SD 2014/0205 and SD 2014/0206 coming into operation.
25 November 2015	New "directions" substituted on page 3, new paragraph 25A inserted, and references to FCU and FSA amended.
15 March 2016	Definition of economic resources in paragraph 12 replaced.
10 March 2017	Mention of Sanctions Notices 26 and 32 added on page 3.
3 August 2017	Amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions.

24 October 2017	New paragraph 7F inserted re renewal of restrictive measures until 27 October 2018.
3 April 2018	Various amendments to make clear that reporting of frozen accounts or breaches of sanctions must be made to the Financial Intelligence Unit.
31 May 2018	Privacy Notice Added
30 October 2018	Annex II in paragraph 7A updated following publication of Council Implementing Regulation (EU) 2018/1604. Paragraph 7G inserted re renewal of restrictive measures until 27 October 2019.

Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at: <https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>

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