Council Regulation (EU) 2020/169 of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia

COUNCIL REGULATION (EU) 2020/169

of 6 February 2020

amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia

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 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP[(1)],

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

Whereas:

(1) Council Regulation (EC) No 147/2003[(2)] concerning certain restrictive measures in respect of Somalia imposes a general prohibition on the provision of technical advice, assistance, training, financing and financial assistance related to military activities to any person, entity or body in Somalia, as well as a prohibition on the import, purchase and transport of charcoal from Somalia.

(2) On 15 November 2019, the United Nations Security Council (UNSC) adopted Resolution (UNSCR) 2498 (2019). That Resolution reaffirms a general and complete arms embargo on Somalia and amends the exemptions, advance approvals and notifications concerning the delivery of arms and related materials to Somalia. Furthermore, that Resolution reaffirms the prohibition on the import of charcoal from Somalia and introduces restrictions on improvised explosive device components.

(3) On 6 February 2020 the Council adopted Decision (CFSP) 2020/170[(3)], which amends Decision 2010/231/CFSP in accordance with UNSCR 2498 (2019).

(4) Certain of these amendments fall within the scope of the Treaty on the Functioning of the European Union, and regulatory action at the level of the Union is therefore necessary in order to implement them, in particular with a view to ensuring their uniform application by economic operators in all Member States.

(5) Regulation (EC) No 147/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 147/2003 is amended as follows:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2020/169. (See end of Document for details)*

(1) Article 2a is amended as follows:

(a) point (e) is replaced by the following:

(e) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if the following conditions are met:

(i) the competent authority concerned has determined that such financing, financial assistance, technical advice, assistance or training is intended solely for the development of the Somali National Security Forces to provide security for the Somali people; and

(ii) a notification to the Committee established by paragraph 11 of UNSCR 751 (1992) has been made by the Federal Government of Somalia or, in the alternative, by the Member State providing the financing, financial assistance, technical advice, assistance or training, at least five working days in advance of any provision of such financing, financial assistance, technical advice, assistance or training, in accordance with paragraph 11 of UNSCR 2498 (2019);;

(b) the following point is inserted:

(ea) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities if the following conditions are met:

(i) the competent authority concerned has determined that such financing, financial assistance, technical advice, assistance or training is intended solely for the development of the Somali security sector institutions other than those of the Federal Government of Somalia; and

(ii) a notification to the Committee established by paragraph 11 of UNSCR 751 (1992) has been made by the Member State providing such financing, financial assistance, technical advice, assistance or training, of any provision of such financing, financial assistance, technical advice, assistance or training, and the Federal Government of Somalia has been informed in parallel at least five working days in advance in accordance with paragraphs 12 and 15 of UNSCR 2498 (2019); and

(iii) the Committee has not taken a negative decision within five working days of receiving a notification;.

(2) In Article 3, paragraph 1 is replaced by the following:

1. Article 1 shall not apply to:

a the provision of financing and financial assistance for the sale, supply, transfer or export of non-lethal military equipment intended solely for humanitarian or protective use, or for material intended for institution building programmes

of the Union or Member States, including in the field of security, carried out within the framework of the Peace and Reconciliation Process; or

b the provision of technical advice, assistance or training related to such non-lethal equipment,

if such activities have been notified in advance and for its information only, to the Committee established by paragraph 11 of UNSCR 751 (1992) by the supplying Member State, international regional or subregional organisation..

(3) In Article 3a, paragraph 2 is replaced by the following:

2. The rules governing the obligation to provide pre-arrival or pre-departure information, in particular regarding the person who provides that information, the time-limits to be respected and the data required, shall be as determined in the relevant provisions concerning entry and exit summary declarations as well as customs declarations in the customs legislation[(4)]..

(4) The following Article is inserted:

Article 3c

1 It shall be prohibited to sell, export, supply or transfer, directly or indirectly, improvised explosive devices components as listed in Annex III to Somalia from the territories of Member States or by nationals of Member States outside the territories of Member States, or using the flag vessels or aircraft of Member States, unless the competent authority of the relevant Member State, as identified on the websites listed in Annex I, has granted prior authorisation.

2 The competent authorities of the Member States shall not grant any authorisation under paragraph 1 if there is sufficient evidence to demonstrate that the item(s) will be used, or that there is a significant risk they may be used, in the manufacture in Somalia of improvised explosive devices..

(5) Annex III is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that 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, 6 February 2020.

For the Council

The President

A. METELKO-ZGOMBIĆ