Council Regulation (EU) No 1153/2013 of 15 November 2013 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia

COUNCIL REGULATION (EU) No 1153/2013

of 15 November 2013

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 the European Commission,

Whereas:

(1) Council Regulation (EC) No 147/2003 of 27 January 2003 concerning certain restrictive measures in respect of Somalia[(2)] imposes a general ban on the provision of technical advice, assistance, training, financing and financial assistance related to military activities to any person, entity or body in Somalia.

(2) On 24 July 2013, the United Nations Security Council (UNSC) adopted Resolution 2111 (2013) thereby amending the arms embargo imposed by paragraph 5 of UNSC Resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of Resolution 1425 (2002), paragraph 12 of Resolution 1846 (2008), paragraph 11 of Resolution 1851 (2008) and modified by paragraphs 33 to 38 of Resolution 2093(2013) thereby providing for a derogation from the prohibition of assistance related to weapons and military equipment intended for the support of or use by the United Nations Assistance Mission in Somalia (UNSOM) and the European Union Training Mission in Somalia (EUTM).

(3) On 15 November 2013 the Council adopted Decision 2013/659/CFSP[(3)], which amends Decision 2010/231/CFSP and provides for such derogations.

(4) These measures 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 it, in particular with a view to ensuring its uniform application by economic operators in all Member States.

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

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1153/2013. (See end of Document for details)*

Article 1

In Regulation (EC) No 147/2003, Article 2a is replaced by the following:

Article 2a

By way of derogation from Article 1, the competent authority, as indicated in the websites set out in Annex I, in the Member State where the service provider is established, may authorise, under such conditions as it deems appropriate:

(a) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of, or use by, the African Union Mission in Somalia (AMISOM) referred to in paragraph 10(b) of United Nations Security Council Resolution (UNSCR) 2111 (2013) or for the sole use of States or international, regional or sub-regional organisations undertaking measures in accordance with paragraph 10(e) of UNSCR 2111 (2013);

(b) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of, or use by, AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in cooperation and coordination with AMISOM as stipulated in paragraph 10(c) of UNSCR 2111 (2013);

(c) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM), as stipulated in paragraph 10(a) of UNSCR 2111(2013);

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

  (i) the competent authority concerned has determined that such advice, assistance or training is intended solely for the purpose of helping to develop security sector institutions; and

  (ii) the Member State concerned has notified the Committee established by paragraph 11 of UNSCR 751 (1992) of the determination that such advice, assistance or training is intended solely for the purpose of helping to develop security sector institutions, and of the intention of its competent authority to grant an authorisation, and the Committee has not objected to that course of action within five working days of notification;

(e) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, except in relation to the items set out in Annex III, if the following conditions are met:

  (i) the competent authority concerned has determined that such advice, assistance or training is intended solely for the development of the Security Forces of the Federal Government of Somalia 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 at least five days in advance of any provision of advice,