Council Regulation (EU) No 1032/2010 of 15 November 2010 amending Regulation (EC) No 174/2005 imposing restrictions on the supply of assistance related to military activities to Côte-d'Ivoire

COUNCIL REGULATION (EU) No 1032/2010

of 15 November 2010

amending Regulation (EC) No 174/2005 imposing restrictions on the supply of assistance related to military activities to 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 2010/656/CFSP of 29 October 2010 renewing the restrictive measures against Côte d'Ivoire[(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 174/2005 of 31 January 2005 imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire[(2)] provides for prohibitions on the export of equipment which might be used for internal repression and on the provision of certain technical assistance, financing and financial assistance. Those restrictions were enacted in accordance with Council Common Position 2004/852/CFSP of 13 December 2004 concerning restrictive measures against Côte d'Ivoire[(3)].

(2) Taking into account United Nations Security Council Resolution 1946 (2010) of 15 October 2010 and Decision 2010/656/CFSP, it is necessary to amend Regulation (EC) No 174/2005 in order to permit the export of non-lethal equipment, as well as non-lethal equipment capable of being used for internal repression, intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as well as the provision of related technical assistance, financing and financial assistance.

(3) The list of equipment which might be used for internal repression should be updated following recommendations made by experts, taking into account Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment[(4)].

(4) It is appropriate to update the article on Union jurisdiction in light of recent drafting practice.

(5) Regulation (EC) No 174/2005 should be amended accordingly,

Changes to legislation: *Council Regulation (EU) No 1032/2010 is up to date with all changes known to be in force on or before 28 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 174/2005 is amended as follows:

(1) Article 4(1) is replaced by the following:

1. By way of derogation from Article 2, the prohibitions referred to therein shall not apply to:
   - a the provision of technical assistance, financing and financial assistance related to arms and related materiel, where such assistance or services are intended solely for support of and use by the United Nations Operation in Côte d'Ivoire (UNOCI) and the French forces who support it;
   - b the provision of technical assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and Economic Community of West African States (ECOWAS) crisis management operations, where such activities have also been approved in advance by the Sanctions Committee;
   - c the provision of financing or financial assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and ECOWAS crisis management operations;
   - d the provision of technical assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement, where such activities have also been approved in advance by the Sanctions Committee;
   - e the provision of financing or financial assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement;
   - f the sales or supplies temporarily transferred or exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, where such activities have also been notified in advance to the Sanctions Committee;
   - g the provision of technical assistance, financing or financial assistance related to non-lethal military equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.;

(2) the following Article is inserted:

Article 4a

1 By way of derogation from Article 3, the competent authority, as listed in Annex II, of the Member State where the exporter or service provider is established may authorise, under such conditions as it deems appropriate, the sale, supply, transfer or export of non-lethal equipment listed in Annex I or the provision of technical assistance, financing or financial assistance related to such non-lethal equipment, after having determined that the non-lethal equipment concerned is intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.

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2 The relevant Member State shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

3 No authorisations shall be granted for activities that have already taken place.;

(3) Article 9 is replaced by the following:

Article 9

This Regulation shall apply:

(a) within the territory of the Union, including its airspace;

(b) on board any aircraft or any vessel under the jurisdiction of a Member State;

(c) to any person inside or outside the territory of the Union who is a national of a Member State;

(d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.;

(4) Annex I is replaced by the text in the Annex to this Regulation;

(5) the title of Annex II is replaced by the following:
List of competent authorities referred to in Articles 4 and 4a.

Article 2

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

It shall apply from 29 October 2010.

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

Done at Brussels, 15 November 2010.

For the Council

The President

S. VANACKERE