Council Regulation (EC) No 1377/2007 of 26 November 2007 amending Regulation (EC) No 889/2005 imposing certain restrictive measures in respect of the Democratic Republic of Congo

COUNCIL REGULATION (EC) No 1377/2007

of 26 November 2007

amending Regulation (EC) No 889/2005 imposing certain restrictive measures in respect of the Democratic Republic of Congo

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2007/654/CFSP of 9 October 2007 amending Common Position 2005/440/CFSP concerning restrictive measures against the Democratic Republic of Congo[(1)],

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 889/2005[(2)] imposed restrictive measures in respect of the Democratic Republic of Congo ('DRC'), in accordance with Common Position 2005/440/CFSP and in line with UN Security Council Resolution 1596 (2005) and subsequent relevant resolutions.

(2) By means of Resolution 1771 (2007) of 10 August 2007, the UN Security Council decided, *inter alia*, that the restrictive measures on technical assistance should not apply to the provision of relevant technical assistance, as notified in advance to the Committee established by paragraph 8 of Resolution 1533 (2004) and agreed to by the Government of the DRC, where such assistance is intended solely for support of units of the army and police of the DRC that are in the process of their integration in the provinces of North and South Kivu and the Ituri district. It is appropriate to amend Regulation (EC) No 889/2005 accordingly.

(3) It is also appropriate to align Regulation (EC) No 889/2005 with recent developments in sanctions practice regarding the identification of competent authorities, liability for infringements and jurisdiction,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 889/2005 is amended as follows:

1. Article 3 shall be replaced by the following:

Changes to legislation: Council Regulation (EC) No 1377/2007 is up to date with all changes known to be in force on or before 26 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

Article 3

1 By way of derogation from Article 2, the competent authorities, as indicated in the websites listed in the Annex, in the Member State where the service provider is established, may authorise the provision of:

a technical assistance, financing and financial assistance related to arms and related materiel intended solely for the support of and use by the United Nations Organisation Mission in the DRC ("MONUC");

b technical assistance, financing and financial assistance related to arms and related materiel intended solely for the support of or use by units of the army and police of the DRC, provided that the said units:

(i) have completed the process of their integration, or

(ii) operate under the command, respectively, of the "état major intégré" of the Armed Forces or of the National Police of the DRC, or

(iii) are in the process of their integration, in the territory of the DRC outside the provinces of North and South Kivu and the Ituri district;

c technical assistance agreed to by the Government of the DRC and intended solely for support of units of the army and police of the DRC that are in the process of their integration in the provinces of North and South Kivu and the Ituri district, where the provision of such assistance or services has been notified in advance to the Sanctions Committee; and

d technical assistance, financing and financial assistance related to non-lethal military equipment intended solely for humanitarian or protective use, where the provision of such assistance or services has been notified in advance to the Sanctions Committee.

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

2. the following Article 2a shall be inserted:

Article 2a

The prohibition set out in Article 2(b) shall not give rise to liability of any kind on the part of the natural or legal persons or entities concerned, if they did not know, and had no reasonable cause to suspect, that their actions would infringe this prohibition.;

3. the following Article 6a shall be inserted:

Article 6a

1 Member States shall designate the competent authorities referred to in Article 3(1) and identify them in the websites as listed in the Annex.

2 Member States shall notify the Commission of their competent authorities without delay after the entry into force of this Article and shall notify it of any subsequent amendment.;

4. Article 7 shall be replaced by the following:

Article 7

This Regulation shall apply:

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

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

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(c) to any person inside or outside the territory of the Community 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 Community.;

5. the Annex shall be replaced by the text given in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following 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, 26 November 2007.

For the Council

The President

J. SILVA