Council Regulation (EC) No 147/2003 of 27 January 2003 concerning certain restrictive measures in respect of Somalia

COUNCIL REGULATION (EC) No 147/2003

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concerning certain restrictive measures in respect of Somalia

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 Council Common Position 2002/960/CFSP of 10 December 2002 concerning restrictive measures against Somalia[(1)],

Having regard to the proposal from the Commission,

Whereas:

(1) On 23 January 1992 the United Nations Security Council adopted resolution 733 (1992), imposing a general and complete embargo on all deliveries of weapons and military equipment to Somalia (hereinafter referred to as 'the arms embargo').

(2) On 19 June 2001 the United Nations Security Council adopted resolution 1356 (2001), permitting certain exemptions to the arms embargo.

(3) On 22 July 2002 the United Nations Security Council adopted resolution 1425 (2002), extending the arms embargo by prohibiting the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities.

(4) Certain of these measures fall under the scope of the Treaty and, therefore, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the territory of the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(5) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, and cooperate with the Committee established by paragraph 11 of Resolution 733 (1992), in particular by supplying information to it.

(6) Violations of the provisions of this Regulation should be subject to sanctions and Member States should impose appropriate sanctions to that end. It is, moreover, desirable that sanctions for violations of the provisions of this Regulation can be imposed on the date of entry into force of this Regulation and that Member States

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institute proceedings against any persons, entities or bodies under their jurisdiction that have violated any of the provisions,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to the powers of the Member States in the exercise of their public authority, it shall be prohibited:

— to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in Somalia,

— to grant, sell, supply or transfer technical advice, assistance or training related to military activities, including in particular training and assistance related to the manufacture, maintenance and use of arms and related materiel of all types, directly or indirectly to any person, entity or body in Somalia.

Article 2

The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Article 1 shall be prohibited.

[F1 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:

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(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) **[**[F2]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);**]**

(ea) **[**[F3]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;**]**

(f) 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 European Union Training Mission in Somalia (EUTM).**]**

Textual Amendments

F1 Substituted by Council Regulation (EU) No 1153/2013 of 15 November 2013 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia.

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F2 Substituted by Council Regulation (EU) 2020/169 of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia.
F3 Inserted by Council Regulation (EU) 2020/169 of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia.

Article 3

[F2 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.**]**

2 Article 1 shall not apply either to protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

3 Article 2 shall not apply to the participation in activities the object or effect of which is to promote activities that have been approved by the Committee established by paragraph 11 of Resolution 751 (1992) of the Security Council of the United Nations.

Textual Amendments
F2 Substituted by Council Regulation (EU) 2020/169 of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia.

*[*F4 *Article 3a*

1 In order to ensure the strict implementation of Articles 1 and 3 of Council Decision 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia[(2)], all goods brought into or leaving the customs territory of the Union to and from Somalia shall be made subject to pre-arrival or pre-departure information to be submitted to the competent authorities of the Member States concerned.

[F2 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[(3)].**]**

3 Furthermore, the person who provides the information referred to in paragraph 2, shall declare whether the goods are covered by the Common Military List of the European Union[(4)] and, if their export is subject to an exemption, specify the particulars of the export licence granted.

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4 Until 31 December 2010 the entry and exit summary declarations and the required additional elements as referred to in this Article may be submitted in written form using commercial, port or transport documentation, provided that it contains the necessary particulars.

5 As from 1 January 2011 the required additional elements, as referred to in paragraph 3, shall be submitted either in written form or using a customs declaration as appropriate.**]**

Textual Amendments

F2 Substituted by Council Regulation (EU) 2020/169 of 6 February 2020 amending Regulation (EC) No 147/2003 concerning restrictive measures in respect of Somalia.

F4 Inserted by Council Regulation (EU) No 1137/2010 of 7 December 2010 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia.

[F5 Article 3b

1 It shall be prohibited:

a to import charcoal into the Union if it:

(i) originates in Somalia; or

(ii) has been exported from Somalia;

b to purchase charcoal which is located in or which originated in Somalia;

c to transport charcoal if it originates in Somalia, or is being exported from Somalia to any other country;

d to provide, directly or indirectly, financing or financial assistance, as well as insurance and re-insurance related to the import, transport or purchase of charcoal from Somalia referred to in points (a), (b) and (c); and

e to participate knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibition in points (a), (b), (c) and (d).

2 For the purposes of this Article, ‘charcoal’ means the products listed in Annex II.

3 The prohibitions in paragraph 1 shall not apply to the purchase or transport of charcoal which had been exported from Somalia prior to 22 February 2012.**]**

Textual Amendments

F5 Inserted by Council Regulation (EU) No 642/2012 of 16 July 2012 amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia.

[F3 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.**]**