Council Decision (CFSP) 2020/170 of 6 February 2020 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia

COUNCIL DECISION (CFSP) 2020/170

of 6 February 2020

amending Decision 2010/231/CFSP concerning restrictive measures against Somalia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

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

Whereas:

(1) On 26 April 2010, the Council adopted Decision 2010/231/CFSP[(1)].

(2) On 15 November 2019, the United Nations Security Council 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. The Resolution reaffirms the prohibition on the import of charcoal from Somalia, and also introduces restrictions on the sale, supply and transfer of improvised explosive device components to Somalia.

(3) Decision 2010/231/CFSP should therefore be amended accordingly.

(4) Further action by the Union is necessary to implement certain measures in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/231/CFSP is amended as follows:

(1) Article 1 is amended as follows:

(i) paragraphs 3, 4 and 4a are replaced by the following:

3. Paragraphs 1 and 2 shall not apply to:

(a) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);

(b) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended

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solely for the support of or use by the African Union Mission in Somalia (AMISOM);

(c) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union (AU) Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM;

(d) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by the European Union Training Mission (EUTM) in Somalia;

(e) the supply, sale or transfer of arms and related material of all types, intended solely for the use of Member States or international, regional and subregional organisations undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia, upon the request of the Federal Government of Somalia for which it has notified the Secretary-General and provided that any measures undertaken shall be consistent with applicable international humanitarian and human rights law;

(f) the supply, sale or transfer of arms and related material of all types and the supply of technical advice, financial and other assistance and training related to military activities, intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people. The delivery of the items set out in Annexes II and III, and the provision of technical advice, financial and other assistance, and training related to military activities shall be subject to the relevant approval or notification requirements as follows:

(i) the supply, sale or transfer of arms and related material of all types set out in Annex II intended solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to provide security for the Somali people, shall be subject to approval in advance by the Sanctions Committee on a case-by-case basis, as set out in paragraphs 4a and 4b;

(ii) the supply, sale or transfer of arms and related material of all types set out in Annex III and the supply of technical advice, financial and other assistance and training related to military activities, intended solely for the development of the Somali National Security Forces to provide security for the Somali people, shall be subject to prior notification to the Sanctions Committee as set out in paragraphs 4 and 4b;

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(iii) the supply, sale or transfer of arms and related material of all types set out in Annex III and the supply of technical advice, financial and other assistance and training related to military activities by Member States or international, regional and subregional organisations intended solely for the development of the Somali security sector institutions other than those of the Federal Government of Somalia, shall be subject to prior notification to the Sanctions Committee as set out in paragraph 4b, and may be provided in the absence of a negative decision by the Sanctions Committee within five working days of receiving such notification;

(g) the supply, sale or transfer of 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;

(h) the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, notified to the Sanctions Committee five working days in advance, and for its information only, by the supplying Member State, international, regional or subregional organisation.

4 The Federal Government of Somalia has the primary responsibility to notify the Sanctions Committee at least five working days in advance of any delivery of arms and related material of all types set out in Annex III and the delivery of technical advice, financial and other assistance, and training related to military activities, to the Somali National Security Forces, as set out under point (f)(ii) of paragraph 3 of this Article. Alternatively, Member States delivering arms and related material or technical advice, financial and other assistance, and training related to military activities to the Somali National Security Forces may notify the Sanctions Committee at least five working days in advance, informing the appropriate national coordinating body within the Federal Government of Somalia of the notification and providing the Federal Government of Somalia with technical support with notification procedures where appropriate, in accordance with paragraphs 13 and 14 of UNSCR 2498 (2019). Notifications shall include details of the manufacturer and supplier of arms and related material of all types, a description of the arms and ammunition including the type, calibre and quantity, the proposed date and place of delivery, and all relevant information concerning the intended destination unit in the Somali National Security Forces, or the intended place of storage.

4a The Federal Government of Somalia has the primary responsibility to request advance approval by the Sanctions Committee at least five working days in advance of any delivery of arms and related material of all types listed in Annex II, to the Somali National Security Forces, as set out in point (f)(ii) of paragraph 3 of this Article. In the alternative, Member States delivering such items may request advance approval by the Sanctions Committee, informing the appropriate national coordinating body within the Federal Government of Somalia of the approval request and providing

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the Federal Government of Somalia with technical support with notification procedures where appropriate, in accordance with paragraphs 13 and 14 of UNSCR 2498 (2019).

Requests for approval shall include details of the manufacturer and supplier of arms and related material of all types, a description of the arms and ammunition including the type, calibre and quantity, the proposed date and place of delivery, and all relevant information concerning the intended destination unit in the Somali National Security Forces, or the intended place of storage.;

(ii) the following paragraph is added:

4b. Member States shall seek approval from or notify the Sanctions Committee as applicable of the delivery of any arms and related material of all types set out in Annexes II and III, technical advice, financial and other assistance, and training related to military activities to Somali security sector institutions other than those of the Federal Government of Somalia pursuant to points (f)(i) and (f)(iii) of paragraph 3, and shall inform the Federal Government of Somalia in parallel at least five working days in advance.;

(iii) paragraph 5 is replaced by the following:

5. It shall be prohibited to supply, resale, transfer, or make available for use any weapons or military equipment, sold or supplied solely for the development of the Somali National Security Forces, or Somali security sector institutions other than those of the Federal Government of Somalia, to any individual or entity not in the service of the Somali National Security Forces or Somali security sector institutions to which it was originally sold or supplied, or to the selling or supplying Member State or international, regional or subregional organisation..

(2) The following Article is inserted:

Article 1c

1 Subject to Article 1(3), the direct or indirect supply, sale or transfer to Somalia of improvised explosive device components which appear on the EU Common Military List, and are reproduced in Annex IV to this Decision, by nationals of Member States or from the territories of Member States, shall be prohibited whether originating or not in their territories.

2 The direct or indirect supply, sale or transfer to Somalia of other improvised explosive device components, as listed in Annex V to this Decision, shall be subject to prior authorisation by the competent authorities of the Member States. They shall not grant such authorisation if there is sufficient evidence to demonstrate that the items will be used, or there is a significant risk they may be used, in the manufacture in Somalia of improvised explosive devices.

3 Member States shall notify the Sanctions Committee of the sale, supply or transfer of items referred to in paragraph 2 within 15 working days after the sale, supply or transfer takes place. The notifications shall contain all relevant information, including the purpose of the use of the items, the end user, the technical specifications and the quantity of the items to be shipped. They shall ensure that the Federal Government of Somalia and the Federal Member States of Somalia are provided with

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adequate financial and technical assistance to establish appropriate safeguards for the storage and distribution of such materials.

4 Member States shall promote the exercise of vigilance by natural and legal persons subject to their jurisdiction as regards the direct or indirect supply, sale or transfer of explosive precursors and materials to Somalia that may be used in the manufacture of improvised explosive devices, other than the items listed in Annexes IV and V to this Decision. Member States shall keep records of transactions of which they are aware regarding suspicious purchases of, or enquiries into, such other items by natural or legal persons in Somalia, and shall share such information with the Federal Government of Somalia, the Sanctions Committee and the Panel of Experts on Somalia..

(3) Annex II is replaced by Annex I to this Decision.

(4) Annex III is added as set out in Annex II to this Decision.

(5) Annex IV is added as set out in Annex III to this Decision.

(6) Annex V is added as set out in Annex IV to this Decision.

Article 2

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

Done at Brussels, 6 February 2020.

For the Council

The President

A. METELKO-ZGOMBIĆ