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EUROPEAN COMMISSION

Brussels, 30.6.2010
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2010/0191 (NLE)

Proposal for a

COUNCIL REGULATION (EU) No .../2010

**amending Regulation (EC) No 147/2003 concerning certain restrictive measures in
respect of Somalia**

(presented jointly by the Commission and the High Representative of the EU
for Foreign Affairs and Security Policy)

EXPLANATORY MEMORANDUM

- (1) Council Regulation (EC) No 147/2003 imposes a general ban on the provision of technical advice, assistance, training, financing or financial assistance related to military activities, to any person, entity or body in Somalia.
- (2) By paragraph 7 of Resolution 1907 of 23 December 2009, the UN Security Council called upon Member States to inspect all cargo going to or coming from Somalia, where they believe that the cargo contains items prohibited either by paragraphs 5 and 6 of that Resolution or the general and complete arms embargo to Somalia, for the purpose of ensuring strict implementation of those provisions.
- (3) Council Decision 2010/231/CFSP of 26 April 2010 provides, at Article 4, for the inspection of certain cargoes to and from Somalia and, in the case of aircraft and vessels, for the supply of additional pre-arrival and pre-departure information in respect of goods brought into or out of the Union. This information must be provided in accordance with the provisions on entry and exit summary declarations of Council regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code¹.
- (4) Whereas this measure falls within the scope of the Treaty on the Functioning of the European Union legislative action of the Union is necessary in order to implement it. The Commission and the High Representative of the Union for Foreign Affairs and Security Policy therefore propose to amend Regulation (EC) No 147/2003 accordingly.

¹ OJ L 302, 19.10.1992, p. 1

Proposal for a

COUNCIL REGULATION (EU) No .../2010

amending Regulation (EC) No 147/2003 concerning certain 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(1) thereof,

Having regard to Council Decision 2010/231/CFSP² concerning restrictive measures against Somalia,

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

Whereas:

- (1) Council Regulation (EC) No 147/2003 imposes a general ban on the provision of technical advice, assistance, training, financing or financial assistance related to military activities, to any person, entity or body in Somalia.
- (2) By paragraph 7 of Resolution 1907 of 23 December 2009, the UN Security Council calls upon Member States to inspect all cargo going to or coming from Somalia, where they believe that the cargo contains items prohibited either by paragraphs 5 and 6 of that Resolution or the general and complete arms embargo to Somalia, for the purpose of ensuring strict implementation of those provisions.
- (3) Council Decision 2010/231/CFSP of 26 April 2010 provides, at Article 4, for the inspection of certain cargoes to and from Somalia and, in the case of aircraft and vessels, for the supply of additional pre-arrival and pre-departure information in respect of goods brought into or out of the Union. This information must be provided in accordance with the provisions on entry and exit summary declarations of Council regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code³.
- (4) This measure falls within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring its uniform application by economic operators in all Member States, Union legislation is necessary in order to implement it.

² OJ L 105, 27.04.2010, p. 17.

³ OJ L 302, 19.10.1992, p. 1

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

HAS ADOPTED THIS REGULATION:

Article 1

Council Regulation (EC) No 147/2003 is hereby amended as follows:

The following Article shall be inserted:

“Article 3a

1. In order to ensure the strict implementation of Article 1 of Council Decision 2010/231/CFSP, all goods brought into or leaving the customs territory of the Union on cargo aircraft and merchant vessels 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.
2. The rules governing the obligation to provide pre-arrival or pre-departure information, in particular the time limits to be respected and the data to be required, shall be as determined in the relevant provisions concerning entry and exit summary declarations as well as customs declarations in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, and Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92.
3. Furthermore, the person who brings the goods, or who assumes responsibility for the carriage of the goods on cargo aircraft and merchant vessels to and from Somalia, or his/her representatives, shall declare whether the goods are covered by the Common Military List of the European Union⁴ and, if their export is subject to authorisation, specify the particulars of the export licence granted.
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 this Article, shall be submitted either in written form or using the entry and exit summary declarations as appropriate.”

Article 2

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

⁴ OJ C 65, 19.3.2009, p.1

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

Done at Brussels, [...]

For the Council
The President
[...]