

DECISIONS

COUNCIL DECISION 2013/201/CFSP

of 25 April 2013

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

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 26 April 2010, the Council adopted Decision 2010/231/CFSP ⁽¹⁾.
- (2) On 6 March 2013, the United Nations Security Council ('UNSC') adopted Resolution 2093 (2013) thereby amending the arms embargo imposed by paragraph 5 of Resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of Resolution 1425 (2002). Resolution 2093 (2013) also updated the designation criteria applied by the UNSC Sanctions Committee established pursuant to Resolution 751 (1992) concerning Somalia.
- (3) Decision 2010/231/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/231/CFSP is hereby amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. Paragraphs 1 and 2 shall not apply to:

- (a) the supply, sale or transfer of arms and related materiel 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 as stipulated in paragraph 4 of UNSCR 1744 (2007) or for the sole use of States and regional organisations undertaking measures in accordance with paragraph 6 of UNSCR 1851 (2008) and paragraph 10 of UNSCR 1846 (2008);

(b) the supply, sale or transfer of weapons and military equipment, and the supply of direct or indirect 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 Strategic Concept of 5 January 2012, and in cooperation and coordination with AMISOM;

(c) the supply, sale or transfer of arms and related materiel of all types and to the direct or indirect supply of technical advice intended solely for the purpose of helping to develop security sector institutions, consistent with the political process set out in paragraphs 1, 2 and 3 of UNSCR 1744 (2007) and in the absence of a negative decision by the Sanctions Committee within five working days of receiving the relevant notification;

(d) the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, or of materiel 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, as approved in advance by the Sanctions Committee, and of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by UN personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;

(e) the supply, sale or transfer of weapons and military equipment, and the supply of direct or indirect technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by UN personnel, including the UN Political Office for Somalia or its successor mission;

(f) the supply, sale or transfer of weapons and military equipment, and the supply of direct or indirect technical advice, financial and other assistance and training related to military activities intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people, except in relation to deliveries of the items set out in Annex II, if a notification to the Sanctions Committee has been

⁽¹⁾ OJ L 105, 27.4.2010, p. 17.

made at least five days in advance in accordance with paragraph 38 of UNSCR 2093 (2013), including, if appropriate, as set out in paragraph 4 of this Article.;

(b) the following paragraphs are added:

‘4. A Member State, after having informed the Federal Government of Somalia of its intention to do so, may inform the Sanctions Committee, at least five days in advance, of any provision of assistance under point (f) of paragraph 3. Where a Member State chooses to provide such a notification it shall contain all relevant information, including, where applicable, the type and quantity of weapons, ammunitions, military equipment and materiel to be delivered, and the proposed date of delivery.

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 Security Forces of the Federal Government of Somalia to any individual or entity not in the service of the Security Forces of the Federal Government of Somalia.;

(2) the following Article is inserted:

‘Article 1b

Member States shall exercise vigilance over the direct or indirect supply, sale or transfer to Somalia of items not subject to the measures set out in Article 1(1) and over the direct or indirect supply to Somalia of technical advice, financial and other assistance and training related to military activities related to those items.;

(3) Article 2 is replaced by the following:

‘Article 2

Restrictive measures as provided for in Articles 3, 5(1) and 6(1) and (2) shall be imposed against persons and entities designated by the Sanctions Committee as:

— engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, including acts

that threaten the peace and reconciliation process in Somalia, or threaten the Federal Government of Somalia or AMISOM by force,

- having acted in violation of the arms embargo or the arms resale and transfer restrictions or the prohibition against providing related assistance as referred to in Article 1,
- obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia,
- being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law,
- being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement.

The relevant persons and entities are listed in the Annex I.;

(4) the word ‘Annex’ is replaced by ‘Annex I’ throughout the text;

(5) Annex II is added in accordance with the Annex to this Decision.

Article 2

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

Done at Brussels, 25 April 2013.

For the Council

The President

E. GILMORE

ANNEX

'ANNEX II

List of items referred to in Article 1(3)(f)

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS);
 2. Guns, howitzers, and cannons with a calibre greater than 12,7 mm, and ammunition and components specially designed for those. (This does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers.);
 3. Mortars with a calibre greater than 82 mm;
 4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for those items;
 5. Charges and devices intended for military use containing energetic materials; mines and related materiel;
 6. Weapon sights with a night vision capability.'
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