

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2023/154

of 23 January 2023

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 thereof,

Having regard to Council Decision 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP ⁽¹⁾,

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

Whereas:

- (1) Council Regulation (EC) No 147/2003 ⁽²⁾ restricts the provision of financing, financial assistance and technical assistance related to military activities in relation to goods and technology included in the Common Military List of the European Union to any person, entity or body in Somalia.
- (2) On 17 November 2022, the United Nations Security Council adopted Resolution (UNSCR) 2662 (2022). That Resolution notably extends the scope of exemptions to the arms embargo and the related financing, financial assistance and technical assistance intended for certain recipients in Somalia.
- (3) On 23 January 2023, the Council adopted Decision (CFSP) 2023/160 ⁽³⁾, which amends Decision 2010/231/CFSP in accordance with UNSCR 2662 (2022).
- (4) Some of those amendments fall within the scope of the Treaty on the Functioning of the European Union and regulatory action at the level of the Union is therefore necessary in order to implement them, notably with a view to ensuring their uniform application by economic operators in all Member States.
- (5) Regulation (EC) No 147/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) Article 2a is deleted.

⁽¹⁾ OJ L 105, 27.4.2010, p. 17.

⁽²⁾ Council Regulation (EC) No 147/2003 of 27 January 2003 concerning certain restrictive measures in respect of Somalia (OJ L 24, 29.1.2003, p. 2).

⁽³⁾ Council Decision (CFSP) 2023/160 of 23 January 2023 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia (see page 22 of this Official Journal).

(2) Article 3 is replaced by the following:

Article 3

1. Article 1 shall not apply to the provision of financing or financial assistance or technical assistance related to military activities in relation to goods and technology included in the Common Military List of the European Union intended solely for:

- (a) the support of, or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);
- (b) the support of, or use by the African Union Transition Mission in Somalia (ATMIS) and its strategic partners, operating solely under the latest African Union Strategic Concept of Operations, and in cooperation and coordination with ATMIS;
- (c) the support of, or use by: European Union training and support activities, Türkiye, the United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as any other State forces that are either operating within the Somalia Transition Plan, or have a status of forces agreement or a memorandum of understanding with the Federal Government of Somalia to serve the purposes of UNSC Resolution 2662 (2022) provided they inform the Sanctions Committee about concluding such agreements;
- (d) the development of Somalia's security and police institutions, at local and national level, to provide security for the Somali people.

2. By derogation from paragraph 1, point (d), the provision of financing or financial assistance or technical assistance related to military activities for the development of Somalia's security and police institutions shall be subject to:

- (a) in relation to goods and technology included in Annex IV, the absence of a negative decision by the Sanctions Committee, within five working days of the Committee receiving a notification from Somalia or a Member State or the international, regional or sub regional organisation delivering assistance;
- (b) in relation to goods and technology included in Annex V, prior notification to the Sanctions Committee for information purposes submitted five working days in advance by Somalia, the Member States or international, regional and subregional organisations delivering assistance.

3. Notifications by the European Union or Member States under paragraph 2, points (a) and (b), of this Article shall include:

- (a) details of the manufacturer and supplier of the weapons and military equipment, including serial numbers;
- (b) a description of the arms and ammunition including the type, calibre and quantity;
- (c) proposed date and place of delivery; and
- (d) all relevant information concerning the intended destination unit, or the intended place of storage.

4. The European Union or the supplying Member State delivering assistance in the form of financing, financial assistance or technical assistance in relation to goods and technology included in the Common Military List of the European Union shall, no later than 30 days after the delivery of arms and related material of all types, submit to the Sanctions Committee a post-delivery notification in the form of written confirmation of the completion of any delivery, including the serial numbers for the arms and related material delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage.

5. Article 1 shall not apply to:

- (a) the sale, supply, transfer or export 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;

- (b) the sale, supply, transfer or export of non-lethal military equipment by Member States, or international, regional or subregional organisations intended solely for humanitarian or protective use.’.
- (3) Annex IV is added as in Annex I to this Regulation.
- (4) Annex V is added as in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of 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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

ANNEX I

The following Annex is added:

'ANNEX IV

LIST OF ITEMS REFERRED TO IN ARTICLE 3(2), POINT (a)

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS).
 2. Weapons with a calibre greater than 14,7 mm, and components specially designed for these, and associated ammunition. (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 and associated ammunition.
 4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items.
 5. Charges and devices specifically designed or modified for military use; mines and related materiel.
 6. Weapon sights with a night vision capability greater than generation 2.
 7. Fixed wing, swivel wing, tilt rotor or tilt wing aircraft, specifically designed or modified for military use.
 8. "Vessels" and amphibious vehicles specifically designed or modified for military use. ("Vessel" includes any ship, surface effect vehicle, vessel of small water plane area or hydrofoil and the hull or part of the hull of a vessel.)
 9. Unmanned combat aerial vehicles (listed as Category IV in the UN Register of Conventional Arms).'
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ANNEX II

The following Annex is added:

'ANNEX V

LIST OF ITEMS REFERRED TO IN ARTICLE 3(2), POINT (b)

1. All types of weapons with a calibre up to 14,7 mm, and associated ammunition.
 2. RPG-7 and recoilless rifles, and associated ammunition.
 3. Weapon sights with a night vision capability generation 2 or lower.
 4. Rotor wing or helicopters specifically designed or modified for military use.
 5. Hard body armour plates providing ballistic protection equal to or greater than level III (NIJ 0101.06 July 2008) or national equivalents.
 6. Ground vehicles specifically designed or modified for military use.
 7. Communication equipment specifically designed or modified for military use.'
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