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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2020/169

of 6 February 2020

amending Regulation (EC) No 147/2003 concerning 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 from 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⁾ concerning certain restrictive measures in respect of Somalia imposes a general prohibition on the provision of technical advice, assistance, training, financing and financial assistance related to military activities to any person, entity or body in Somalia, as well as a prohibition on the import, purchase and transport of charcoal from Somalia.
- (2) On 15 November 2019, the United Nations Security Council (UNSC) 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. Furthermore, that Resolution reaffirms the prohibition on the import of charcoal from Somalia and introduces restrictions on improvised explosive device components.
- (3) On 6 February 2020 the Council adopted Decision (CFSP) 2020/170 ⁽³⁾, which amends Decision 2010/231/CFSP in accordance with UNSCR 2498 (2019).
- (4) Certain of these 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, in particular 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 amended as follows:

(a) point (e) is replaced by the following:

‘(e) 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

⁽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) 2020/170 of 6 February 2020 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia (see page 5 of this Official Journal).

- (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);;
- (b) the following point is inserted:
- ‘(ea) 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.’
- (2) In Article 3, paragraph 1 is replaced by the following:
- ‘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.’
- (3) In Article 3a, paragraph 2 is replaced by the following:
- ‘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 (*).

(*) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1); Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1); Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).’

- (4) The following Article is inserted:

‘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.’

(5) Annex III is replaced by the Annex 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, 6 February 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

ANNEX

ANNEX III

LIST OF ITEMS REFERRED TO IN ARTICLE 3C

1. Equipment and devices, not specified by item 2 in Annex IV to Council Decision 2010/231/CFSP ⁽¹⁾, that are specially designed to initiate explosives by electrical or non-electrical means (e.g. firing sets, detonators, igniters, detonating chord).
2. “Technology” “required” for the “production” or “use” of the items listed at paragraph 1. (The definitions of the terms “technology”, “required”, “production” and “use” are from the Common Military List of the European Union ⁽²⁾.)
3. Explosive materials, as follows, and mixtures containing one or more thereof:

Name of the substance	Chemical Abstracts Service Registry number (CAS RN)	Combined Nomenclature (CN) code ⁽¹⁾
Ammonium Nitrate Fuel Oil (ANFO)	6484-52-2 (ammonium nitrate)	3102 30 3102 40
Nitrocellulose (containing more than 12,5 % nitrogen w/w)	9004-70-0	
Nitroglycol	55-63-0	ex 2920 90 70
Pentaerythritol tetranitrate (PETN)	78-11-5	ex 2920 90 70
Picryl chloride	88-88-0	ex 2904 99 00
2,4,6-Trinitrotoluene (TNT)	118-96-7	2904 20 00

⁽¹⁾ The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1) and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and *mutatis mutandis* as amended by subsequent legislation.

4. Explosives precursors:

Name of the substance	Chemical Abstracts Service Registry number (CAS RN)	Combined Nomenclature (CN) code
Ammonium nitrate	6484-52-2	3102 30
Potassium nitrate	7757-79-1	2834 21 00
Sodium chlorate	7775-09-9	2829 11 00
Nitric acid	7697-37-2	ex 2808
Sulphuric acid	7664-93-9	ex 2807'

⁽¹⁾ Council Decision 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP (OJ L 105, 27.4.2010, p. 17).

⁽²⁾ OJ C 98, 15.3.2018, p. 1.

DECISIONS

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 (UNSAM);
- (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 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;

⁽¹⁾ Council Decision 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP (OJ L 105, 27.4.2010, p. 17).

- (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;
 - (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 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 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

ANNEX I

ANNEX II

LIST OF ITEMS REFERRED TO IN POINT (F)(I) OF ARTICLE 1(3)

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS).
 2. Weapons with a calibre greater than 12,7 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.
 7. Aircraft, specifically designed or modified for military use. ("Aircraft" means fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle, or helicopter.)
 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

ANNEX III

LIST OF ITEMS REFERRED TO IN POINTS (F)(II) AND (F)(III) OF ARTICLE 1(3)

1. All types of weapons with a calibre up to 12,7 mm, and associated ammunition.
 2. RPG-7 and recoilless rifles, and associated ammunition.
 3. Helmets manufactured according to military standards or specification, or comparable national standards.
 4. Body armour or protective garments, as follows:
 - (a) soft body armour or protective garments, manufactured to military standards or specifications, or their equivalents (military standards or specifications include, as a minimum, specifications for fragmentation protection);
 - (b) hard body armour plates providing ballistic protection equal to or greater than level III (NIJ 0101.06 July 2008) or national equivalents.
 5. Ground vehicles specifically designed or modified for military use.
 6. Communication equipment specifically designed or modified for military use.
 7. Global Navigation Satellite Systems (GNSS) positioning equipment, specifically designed or modified for military use.'
-

ANNEX III

ANNEX IV

LIST OF ITEMS REFERRED TO IN ARTICLE 1C(1)

1. Tetryl (trinitrophenylmethylnitramine).
2. Equipment that is both specially designed for military use and specially designed for activating, powering with one-time operational output, discharging or detonating Improvised Explosive Devices (IEDs).
3. “Technology” “required” for the “production” or “use” of the items listed at paragraphs 1 and 2. (The definitions of the terms “technology”, “required”, “production”, and “use” are from the Common Military List of the European Union ⁽¹⁾.)

⁽¹⁾ OJ C 98, 15.3.2018, p. 1.

ANNEX IV

ANNEX V

LIST OF ITEMS REFERRED TO IN ARTICLE 1C(2)

1. Equipment and devices, not specified by item 2 in Annex IV, that are specially designed to initiate explosives by electrical or non-electrical means (e.g. firing sets, detonators, igniters, detonating chord).
 2. "Technology" "required" for the "production" or "use" of the items listed in paragraph 1. (The definitions of the terms "technology", "required", "production" and "use" are from the Common Military List of the European Union.)
 3. Explosive materials, as follows, and mixtures containing one or more thereof:
 - (a) Ammonium Nitrate Fuel Oil (ANFO);
 - (b) Nitrocellulose (containing more than 12,5 % nitrogen w/w);
 - (c) Nitroglycol;
 - (d) Pentaerythritol tetranitrate (PETN);
 - (e) Picryl chloride;
 - (f) 2,4,6-Trinitrotoluene (TNT).
 4. Explosives precursors:
 - (a) Ammonium nitrate;
 - (b) Potassium nitrate;
 - (c) Sodium chlorate;
 - (d) Nitric acid;
 - (e) Sulphuric acid.
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