



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 2.9.2003
COM(2003) 528 final

Proposal for a

COUNCIL REGULATION

concerning certain restrictive measures in respect of the Democratic Republic of Congo

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 28 July 2003 the United Nations Security Council decided in its Resolution 1493 (2003) to impose an embargo on the supply of arms and related materiel as well as on the provision of assistance, advice or training related to military activities to all armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the Democratic Republic of Congo.
2. In view of this development, the Council should review Common Position 2002/829/CFSP concerning the arms embargo in respect of the Democratic Republic of Congo. The Commission was informally asked to make the necessary proposal for appropriate action by the Community.
3. In line with an existing practice on the implementation of arms embargoes, the Commission proposes, therefore, to implement the ban on the provision of assistance, advice or training related to military activities by means of a Council Regulation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2003/.../CFSP of ... 2003¹, concerning

Having regard to the proposal from the Commission²,

Whereas:

- (1) On 28 July 2003 the United Nations Security Council decided in its Resolution 1493 (2003), hereinafter referred to as UNSCR 1493 (2003), to impose an embargo on the supply of arms and related materiel as well as the provision of assistance, advice or training related to military activities to all armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the Democratic Republic of Congo.
- (2) The Council Common Position 2002/829/CFSP, of 21 October 2002 on the supply of certain equipment to the Democratic Republic of Congo³ imposes an embargo on the supply or sale of arms and related materiel to that country.
- (3) Council Common Position 2003/.../CFSP of2003 on.....provides for the implementation of the measures set out by UNSCR 1493 (2003), including *inter alia* for a ban on technical assistance and training related to military materiel.
- (4) That measure falls under the scope of the Treaty and, therefore, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the territory of the Community is concerned. For the purpose of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.
- (5) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, and co-operate with the Secretariat General of the United Nations, in particular by supplying information to it.

¹ OJ L ..., ..., p. ...

² OJ C ..., ..., p. ...

³ OJ L 285, 23.10.2002, p.1.

- (6) Violations of the provisions of this Regulation should be subject to sanctions and Member States should impose appropriate sanctions to that end. It is, moreover, desirable that those sanctions can be imposed on the date of entry into force of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. Without prejudice to the powers of the Member States in the exercise of their public authority, it shall be prohibited
 - (a) to provide financing and financial assistance, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, directly or indirectly, to any person, entity or body in the Democratic Republic of Congo;
 - (b) to provide, directly or indirectly, technical advice, assistance or training related to military activities, including in particular training and assistance related to the manufacture, maintenance and use of arms and related materiel of all types, to any person, entity or body in the Democratic Republic of Congo.
2. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in paragraph 1 shall be prohibited.

Article 2

Article 1 shall not apply to:

- a) the provision of financing and financial assistance for the sale, supply, transfer or export of military equipment, and the provision of technical advice, assistance or training related to military activities, to the United Nations Organization Mission in the Democratic Republic of Congo (MONUC), the Interim Emergency Multinational Force deployed in Bunia and the integrated Congolese national army and police forces;
- b) 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 and the provision of technical advice, assistance or training related to such non-lethal equipment,

if an authorisation for such activities has been granted by the competent authorities, as listed in the Annex, of the Member State, where the service provider is established.

Article 3

The competent authority shall without delay inform the Secretary-General of the United Nations through his Special Representative of any authorisation granted for activities referred to in Article 2 (b).

Article 4

The information concerning competent authorities shall be amended by the Commission on the basis of the information supplied by the Member States.

Article 5

The Commission and the Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

Article 6

1. Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.
2. Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed, shall be those determined by the Member States in order to give effect to Article 7 of Council Regulation (EC) No 147/2003 of 27 January 2003 concerning certain restrictive measures in respect of Somalia⁴.

Article 7

This Regulation shall apply

- within the territory of the Community, including its airspace,
- on board any aircraft or any vessel under the jurisdiction of a Member State,
- to any national of a Member State, and
- to any legal person, entity or body which is incorporated or constituted under the law of a Member State.

⁴ OJ L 24, 29.1.2003, p. 2.

Article 8

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 expire on 27 July 2004.

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

Done at Brussels,

For the Council
The President

ANNEX

List of competent authorities

(to be completed by Member States and sent to the Commission)

BELGIUM

DENMARK

GERMANY

GREECE

SPAIN

FRANCE

IRELAND

ITALY

LUXEMBOURG

NETHERLANDS

AUSTRIA

PORTUGAL

FINLAND

SWEDEN

UNITED KINGDOM

EUROPEAN COMMUNITY

Commission of the European Communities

Directorate-General for External Relations

Directorate CFSP

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