EUROPEAN
COMMISSION

HIGH REPRESENTATIVE OF THE
EUROPEAN UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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2013/0330 (NLE)

Joint Proposal for a

COUNCIL REGULATION

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

EXPLANATORY MEMORANDUM

1. Council Regulation (EC) No 147/2003 concerning certain restrictive measures against Somalia imposes a general ban on the provision of technical advice, assistance, training, financing and financial assistance related to military activities to any person, entity or body in Somalia.
2. On 24 July 2013, the United Nations Security Council adopted Resolution 2111 (2013), thereby amending the scope of the arms embargo by allowing a derogation from the prohibition of assistance related to weapons and military equipment intended for the support of or use by the United Nations Assistance Mission in Somalia (UNSOM) and the European Union Training Mission in Somalia (EUTM).
3. The Council is about to adopt a decision amending Decision 2010/231/CFSP in order to provide for such derogations.
4. Further action by the Union is needed in order to implement these measures.
5. The High Representative of the Union for Foreign Affairs and Security Policy and the Europan Commission propose to amend Regulation (EC) No 147/2003 accordingly.

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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 the European Commission,

Whereas:

(1) Council Regulation (EC) No 147/2003 concerning certain restrictive measures against Somalia[2] imposes a general ban on the provision of technical advice, assistance, training, financing and financial assistance related to military activities to any person, entity or body in Somalia.

(2) On 24 July 2013, the United Nations Security Council (UNSC) adopted Resolution 2111 (2013) thereby amending the arms embargo imposed by paragraph 5 of UNSC Resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of Resolution 1425 (2002) and modified by paragraphs 33 to 38 of Resolution 2093(2013) thereby providing for a derogation from the prohibition of assistance related to weapons and military equipment intended for the support of or use by the successor of United Nations Assistance Mission in Somalia (UNSOM) and the European Union Training Mission in Somalia (EUTM).

(3) On … October 2013 the Council adopted Council Decision 2013/…/CFSP[3], which amends Decision 2010/231/CFSP and provides for such derogations.

(4) These measures 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 it, in particular with a view to ensuring its uniform application by economic operators in all Member States.

(5) Council Regulation (EC) No 147/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 147/2003, Article 2a is replaced by the following:

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1 OJ L 105, 27.04.2010, p. 17.
2 OJ L 24, 29.01.2003, p. 2.
3 OJ L …

‘Article 2a

By way of derogation from Article 1, the competent authority, as indicated in the websites set out in Annex I, in the Member State where the service provider is established, may authorise, under such conditions as it deems appropriate:

(a) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of, or use by, the African Union Mission in Somalia (AMISOM) referred to in paragraph 10(b) of United Nations Security Council Resolution (UNSCR) 2111 (2013);

(b) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is 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 as stipulated in paragraph 10(c) of UNSCR 2111 (2013);

(c) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM), as stipulated in paragraph 10(a) of UNSCR 2111(2013);

(d) the provision of technical advice, assistance or training relating to military activities, if the following conditions are met:

(i) the competent authority concerned has determined that such advice, assistance or training is 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

(ii) the Member State concerned has notified the Committee established by paragraph 11 of United Nations Security Council Resolution 751 (1992) of the determination that such advice, assistance or training is 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 Resolution UNSCR 1744 (2007) and of the intention of its competent authority to grant an authorisation, and the Committee has not objected to that course of action within five working days of notification;

(e) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, except in relation to the items set out in Annex III, if the following conditions are met:

(i) the competent authority concerned has determined that such advice, assistance or training is intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people; and

(ii) a notification to the Committee established by paragraph 11 of United Nations Security Council Resolution 751 (1992) has been made at least five days in advance of any provision of advice, assistance or training intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people, providing all the

relevant information in accordance with paragraph 16 of UNSCR 2111 (2013); or, if appropriate,

(iii) the Member State concerned, after having consulted the Federal Government of Somalia of its intention to do so, has notified the Committee established by paragraph 11 of United Nations Security Council Resolution 751 (1992), at least five days in advance, of the determination that such advice, assistance or training is intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people, and of the intention of its competent authority to grant an authorisation, including all the relevant information in accordance with paragraph 16 of UNSCR 2111 (2013);

(f) the provision of financing, financial assistance, technical advice, assistance or training relating to military activities, if it has determined that such financing, advice, assistance or training is intended solely for the support of or use by the European Union Training Mission in Somalia (EUTM).

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,

For the Council
The President