

COUNCIL DECISION (CFSP) 2023/160
of 23 January 2023
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 17 November 2022, the United Nations Security Council adopted Resolution (UNSCR) 2662 (2022). That Resolution reaffirms the arms embargo on Somalia and amends the application of derogations and exemptions concerning the delivery of arms and related materials to Somalia's security and police institutions at the national and local level. That Resolution reaffirms the prohibition on the import of charcoal from Somalia, and also confirms the restrictions on the sale, supply and transfer of improvised explosive device (IED) 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:

(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 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 (UNSOM);
- (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 Transition Mission in Somalia (ATMIS) and its strategic partners, operating solely under the latest African Union (AU) Strategic Concept of Operations, and in cooperation and coordination with ATMIS;

⁽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).

- (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: the 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 (STP), or have a status of forces agreement or a memorandum of understanding with the Federal Government of Somalia (FGS) to serve the purposes of UN Resolution 2662 (2022) provided they inform the Sanctions Committee about concluding such agreements;
 - (d) 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 Somalia's security and police institutions at the national and local level, 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 Somalia's security and police institutions, to provide security for the Somali people, shall be subject to approval in advance by the Sanctions Committee, as set out in paragraph 4 of this Article, and may be provided in the absence of a negative decision by the Sanctions Committee within five working days of receiving such notification from Somalia, the Member States or international, regional and subregional organisations delivering assistance;
 - (ii) the supply, sale or transfer of arms and related material of all types set out in Annex III intended solely for the development of Somalia's security and police institutions, to provide security for the Somali people, shall be subject to prior notification to the Sanctions Committee for information purposes, as set out in paragraph 4 of this Article, submitted five working days in advance by Somalia, the Member States or international, regional and subregional organisations delivering assistance;
 - (e) 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;
 - (f) the supply, sale or transfer of non-lethal military equipment by the Member States, international regional or subregional organisations intended solely for humanitarian or protective use.;
- (b) paragraph 4 is replaced by the following:
- '4. The Somali authorities have the primary responsibility to notify the Sanctions Committee of any delivery of arms and related material of all types set out in Annexes II and III to Somalia's security and police institutions, as set out under paragraph 3, point (d) of this Article. 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, serial numbers, calibre and quantity, the proposed date and place of delivery, and all relevant information concerning the intended destination unit, or the intended place of storage.;
- (c) paragraph 4a is replaced by the following:
- '4a. Somalia or the supplying Member State or an international, regional or sub-regional organisation delivering the assistance 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 of all types delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage.;
- (d) paragraph 4b is deleted;

(e) paragraph 5 is replaced by the following:

‘5. It shall be prohibited to supply, resell, transfer, or make available for use any weapons or military equipment, sold or supplied in accordance with Article 1(3)(d) solely for the development of Somalia’s security and police institutions, to any individual or entity not in the service of Somalia’s security and police institutions to which it was originally sold or supplied, or to the selling or supplying Member State or international, regional or subregional organisation.’

(2) Article 2 is replaced by the following:

Article 2

1. 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:

- (a) engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, where such acts include, but are not limited to:
 - (i) planning, directing or committing acts involving sexual and gender-based violence;
 - (ii) acts that threaten the peace and reconciliation process in Somalia;
 - (iii) acts that threaten the Federal Government of Somalia or ATMIS by force;
- (b) 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;
- (c) obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
- (d) being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law;
- (e) 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;
- (f) being associated with Al-Shabaab, acts and activities indicating that an individual or entity is associated with Al-Shabaab including:
 - (i) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of Al-Shabaab;
 - (ii) supplying, selling or transferring arms and related materiel to Al-Shabaab; and
 - (iii) recruiting for, or otherwise supporting acts or activities of Al-Shabaab or any cell, affiliate, splinter group or derivative thereof.

2. The relevant persons and entities are listed in Annex I’.

(3) Article 4a is replaced by the following:

Article 4a

Member States may, in accordance with paragraphs 11 to 21 of UNSCR 2182 (2014), inspect, in Somali territorial waters and on the high seas off the coast of Somalia extending to and including the Arabian Sea and Persian Gulf, acting nationally or through voluntary multinational naval partnerships, such as “Combined Maritime Forces”, in cooperation with the Federal Government of Somalia, vessels bound to or from Somalia which they have reasonable grounds to believe are:

- (a) carrying charcoal from Somalia in violation of the charcoal ban;
- (b) carrying weapons or military equipment to Somalia, directly or indirectly, in violation of the arms embargo on Somalia;

- (c) carrying weapons or military equipment to individuals or entities designated by the Sanctions Committee;
 - (d) carrying improvised explosive device (IED) components identified in Part I of Annex C to UN Resolution 2662 (2022) in violation of the IED components ban.’.
- (4) Annex II is replaced by Annex I to this Decision.
- (5) Annex III is replaced by Annex II 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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

ANNEX I

ANNEX II

LIST OF ITEMS REFERRED TO IN ARTICLE 1(3), POINT (d)(i)

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

ANNEX III

LIST OF ITEMS REFERRED TO IN ARTICLE 1(3), POINT (d)(ii)

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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