

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 8.11.2010  
COM(2010) 654 final

2010/0321 (NLE)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC) No 174/2005 imposing restrictions on the supply of assistance  
related to military activities to Côte d'Ivoire**

(presented jointly by the Commission and the High Representative of the EU  
for Foreign Affairs and Security Policy)

## EXPLANATORY MEMORANDUM

- (1) On 15 October 2010 the UN Security Council adopted Resolution 1946(2010) on Côte d'Ivoire confirming the restrictive measures decided in 2004 and 2005. The Resolution also amends the terms of the embargo on arms and military equipment in that it foresees that the Sanctions Committee established by Resolution 1572 (2004) may approve supplies of non-lethal equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.
- (2) Further to this Resolution the Council is preparing a CFSP Decision based on Article 29 TEU renewing the restrictive measures against Côte d'Ivoire and aligning the exceptions to the embargo on arms and military equipment with UN Security Council Resolution 1946(2010). The CFSP Decision also provides for a similar exception as regards the embargo on equipment which might be used for internal repression.
- (3) Regulation (EC) No 174/2005 imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire gives effect to the restrictive measures concerned. It needs to be amended in view of these developments.
- (4) It is appropriate to replace the list of equipment which might be used for internal repression to take account of the entry into force of Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The list set out in Annex II to the Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy (Council document 17464/09 of 15 December 2009) was drawn up for this purpose.

Proposal for a

## **COUNCIL REGULATION**

**amending Regulation (EC) No 174/2005 imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire**

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/.../CFSP of ... 2010 renewing the restrictive measures against Côte d'Ivoire<sup>1</sup>,

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

Whereas:

- (1) Council Regulation (EC) No 174/2005 of 31 January 2005 imposing restrictions on the supply of assistance related to military activities to Côte d'Ivoire<sup>2</sup> provides for prohibitions on the export of equipment which might be used for internal repression and on the provision of certain technical assistance, financing and financial assistance. These restrictions were enacted in accordance with Council Common Position 2004/852/CFSP of 13 December 2004 concerning restrictive measures against Côte d'Ivoire<sup>3</sup>.
- (2) Taking into account UN Security Council Resolution 1946 of 15 October 2010, it is appropriate to amend the restrictive measures in order to permit the export of non-lethal equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as well as the provision of related technical assistance, financing and financial assistance.
- (3) The list of equipment which might be used for internal repression should be updated following recommendations made by experts, taking into account Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment<sup>4</sup>.

---

<sup>1</sup> OJ L ..., ... 2010, p. ...

<sup>2</sup> OJ L 29, 2.2.2005, p. 5.

<sup>3</sup> OJ L 368, 15.12.2004, p. 50.

<sup>4</sup> OJ L 200, 30.7.2005, p. 1.

- (4) It is appropriate to update the article on Union jurisdiction in light of recent drafting practice.
- (5) Regulation (EC) No 174/2005 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 174/2005 is amended as follows:

- (1) Article 4(1) is replaced by the following:
  - “1. By way of derogation from Article 2, the prohibitions referred to therein shall not apply to:
    - (a) the provision of technical assistance, financing and financial assistance related to arms and related materiel, where such assistance or services are intended solely for support of and use by the United Nations Operation in Côte d’Ivoire (UNOCI) and the French forces who support it;
    - (b) the provision of technical assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and Economic Community of West African States (ECOWAS) crisis management operations, where such activities have also been approved in advance by the Sanctions Committee;
    - (c) the provision of financing or financial assistance related to non-lethal military equipment intended solely for humanitarian or protective use, including such equipment intended for EU, UN, African Union and ECOWAS crisis management operations;
    - (d) the provision of technical assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement, where such activities have also been approved in advance by the Sanctions Committee;
    - (e) the provision of financing or financial assistance related to arms and related materiel intended solely for support of or use in the process of restructuring defence and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement;
    - (f) the sales or supplies temporarily transferred or exported to Côte d'Ivoire to the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire, where such activities have also been notified in advance to the Sanctions Committee;

- (g) the provision of technical assistance, financing or financial assistance related to non-lethal military equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.”

(2) The following Article 4a is inserted:

*“Article 4a*

1. By way of derogation from Article 3, the competent authority, as listed in Annex II, of the Member State where the exporter or service provider is established may authorise, under such conditions as it deems appropriate, the sale, supply, transfer or export of non-lethal equipment listed in Annex I or the provision of technical assistance, financing or financial assistance related to such non-lethal equipment, after having determined that the non-lethal equipment concerned is intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order.
2. The relevant Member State shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.
3. No authorisations shall be granted for activities that have already taken place.”

(3) Article 9 is replaced by the following:

*“Article 9*

This Regulation shall apply:

- (a) within the territory of the Union, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.”

(4) Annex I is replaced by the text in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on [... October 2010].

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

Done at [...],

*For the Council  
The President*

## ANNEX

### “ANNEX I

#### **List of equipment which might be used for internal repression as referred to in Article 3 and 4a**

1. Fire-arms, ammunition and related accessories therefor, as follows:
  - 1.1 Firearms not controlled by ML 1 and ML 2 of the EU Common Military List<sup>5</sup>;
  - 1.2 Ammunition specially designed for the firearms listed in 1.1 and specially designed components therefor;
  - 1.3 Weapon-sights not controlled by the EU Common Military List.
2. Bombs and grenades not controlled by the EU Common Military List.
3. Vehicles as follows:
  - 3.1 Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
  - 3.2 Vehicles specially designed or modified to be electrified to repel borders;
  - 3.3 Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
  - 3.4 Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
  - 3.5 Vehicles specially designed to deploy mobile barriers;
  - 3.6 Components for the vehicles specified in 3.1 to 3.5 specially designed for the purposes of riot control.

*Note 1 This item does not control vehicles specially designed for the purposes of fire-fighting.*

*Note 2 For the purposes of item 3.5 the term "vehicles" includes trailers.*
4. Explosive substances and related equipment as follows:
  - 4.1 Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflaters, electric-surge arresters of fire sprinkler actuators);

---

<sup>5</sup> OJ L 88, 29.3.2007, p. 58.

- 4.2 Linear cutting explosive charges not controlled by the EU Common Military List;
- 4.3 Other explosives not controlled by the EU Common Military List and related substances as follows:
  - a. amatol;
  - b. nitrocellulose (containing more than 12,5 % nitrogen);
  - c. nitroglycol;
  - d. pentaerythritol tetranitrate (PETN);
  - e. picryl chloride;
  - f. 2,4,6-trinitrotoluene (TNT).
5. Protective equipment not controlled by ML 13 of the EU Common Military List as follows:
  - 5.1 Body armour providing ballistic and/or stabbing protection;
  - 5.2 Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, antiriot shields and ballistic shields.

*Note This item does not control:*

  - *equipment specially designed for sports activities;*
  - *equipment specially designed for safety of work requirements.*
6. Simulators, other than those controlled by ML 14 of the EU Common Military List, for training in the use of firearms, and specially designed software therefor.
7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the EU Common Military List.
8. Razor barbed wire.
9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
10. Production equipment specially designed for the items specified in this list.
11. Specific technology for the development, production or use of the items specified in this list.”