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EUROPEAN COMMISSION

Brussels, 8.4.2010  
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2010/0072 (NLE)

Proposal for a

**COUNCIL REGULATION (EU) No .../2010**

**amending Regulation (EC) No 234/2004 concerning certain restrictive measures in  
respect of Liberia**

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

## **EXPLANATORY MEMORANDUM**

- (1) Common Position 2004/137/CFSP provided for the implementation of the measures set out in UN Security Council Resolution 1521 (2003), including a ban on technical assistance relating to military activities. It also provided for a ban on financial assistance related to military activities. Pursuant to that Common Position, Council Regulation (EC) No 234/2004<sup>1</sup> imposes a general ban on the provision of technical assistance, financing or financial assistance related to military activities, to any person, entity or body in, or for use in, Liberia.
- (2) On 12 February 2008, the Council adopted Common Position 2008/109/CFSP of 12 February 2008 which confirmed these measures, and consolidated these and other measures into a single Common Position.
- (3) On 17 December 2009, the UN Security Council adopted Resolution 1903 (2009), which amended the UN restrictive measures on arms and related materiel, and the provision of technical assistance, financing and financial assistance relating to military activities, by confining the effect of these restrictive measures to non-governmental entities and individuals operating in the territory of Liberia. Exports of arms and related materiel, and the provision of assistance, advice and training relating to military activities, to the Government of Liberia are no longer prohibited. Pursuant to this Resolution, the Council has adopted Decision 2010/129/CFSP<sup>2</sup>, amending Common Position 2008/109/CFSP.
- (4) The High Representative of the Union for Foreign Affairs and Security Policy and the Commission jointly propose to amend Regulation (EC) No 234/2004 accordingly.

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<sup>1</sup> OJ L 40, 12.2.2004, p. 1.

<sup>2</sup> OJ L 51. 2.3.2010, p 23

Proposal for a

**COUNCIL REGULATION (EU) No .../2010**

**amending Regulation (EC) No 234/2004 concerning certain restrictive measures in respect of Liberia**

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 2010/129/CFSP<sup>3</sup> amending Common Position 2008/109/CFSP concerning restrictive measures imposed against Liberia<sup>4</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) Common Position 2004/137/CFSP provided for the implementation of the measures set out in UN Security Council Resolution (UNSCR) 1521 (2003), including a ban on technical assistance relating to military activities. It also provided for a ban on financial assistance related to military activities. Pursuant to that Common Position, Council Regulation (EC) No 234/2004<sup>5</sup> imposes a general ban on the provision of technical assistance, financing or financial assistance related to military activities, to any person, entity or body in, or for use in, Liberia.
- (2) On 12 February 2008, the Council adopted Common Position 2008/109/CFSP of 12 February 2008 which confirmed these measures, and consolidated these and other measures into a single legal act.
- (3) On 17 December 2009, the UN Security Council adopted Resolution 1903 (2009), which amended the UN restrictive measures on arms and related materiel, and the provision of assistance, advice and training relating to military activities, by confining the effect of these restrictive measures to non-governmental entities and individuals operating in the territory of Liberia. Pursuant to this Resolution, the Council has adopted Decision 2010/129/CFSP, amending Common Position 2008/109/CFSP.
- (4) Regulation (EC) No 234/2004 should be amended accordingly.

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<sup>3</sup> OJ L 51. 2.3.2010, p 23

<sup>4</sup> OJ L 38, 13.2.2008, p. 26.

<sup>5</sup> OJ L 40, 12.2.2004, p. 1.

- (5) Any processing of personal data of natural persons under this Regulation should respect Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals and bodies and on the free movement of such data<sup>6</sup> and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>7</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

Council Regulation (EC) No 234/2004 is hereby amended as follows:

1. In Article 1, the following definition is added:

“Sanctions Committee” means the Committee established by paragraph 21 of United Nations Security Council Resolution 1521 (2003);”

2. Article 2 is replaced by the following:

*“Article 2*

1. It shall be prohibited

- (a) to provide technical assistance related to military activities, including to the provision, manufacture, maintenance and use of arms and of related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any non-governmental person, entity or body in or for use in Liberia;
- (b) to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical assistance, directly or indirectly to any non-governmental person, entity or body in or for use in Liberia; or
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in (a) or (b) above.

2. The Member State concerned shall notify the Sanctions Committee in advance of the provision of any technical assistance, financing or financial assistance to any governmental or other person, entity or body in Liberia, or for use in Liberia, which is provided other than in accordance with Article 3(1)(a) below. Such notification shall contain all relevant information, including, where

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<sup>6</sup> OJ L 8, 12.1.2001, p. 1.

<sup>7</sup> OJ L 281, 23.11.1995, p. 31.

appropriate, the end-user, the proposed date of delivery and the itinerary of shipments.”

3. Article 3 is replaced by the following:

*“Article 3*

1. By way of derogation from Article 2, the competent authority in the Member State where the service provider is established, as indicated in the websites listed in Annex 1, may authorise the provision of:
  - (a) technical assistance intended solely for support of or use by the United Nations Mission in Liberia; and
  - (b) technical assistance related to non-lethal equipment which is intended solely for humanitarian or protective use, provided that the Member State concerned has notified the provision of such technical assistance to the Sanctions Committee in accordance with Article 2(2) above.
2. Decisions on requests for authorisation shall be taken by competent authorities on a case by case basis, taking account of all relevant considerations including the criteria set out in the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment<sup>8</sup>. Competent authorities shall require safeguards against misuse of such authorisations, and shall, where appropriate, make provisions for the repatriation of the delivered arms and related materiel.
3. No authorisations shall be granted for activities that have already taken place.”

4. Article 4 is deleted.

*Article 2*

This Regulation shall enter into force on the day following the date 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  
[...]*

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<sup>8</sup> OJ L 335, 13.12.2008, p. 99.