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# COUNCIL DECISION 2010/127/CFSP

**of 1 March 2010**

**concerning restrictive measures against Eritrea**

(OJ L 51, 2.3.2010, p. 19)

Amended by:

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# COUNCIL DECISION 2010/127/CFSP

## of 1 March 2010

## concerning restrictive measures against Eritrea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

(1) On 16 February 2009, the Council adopted Common Position 2009/138/CFSP concerning restrictive measures against Somalia ([1]) implementing United Nations Security Council Resolution (UNSCR) 1844 (2008) which introduced restrictive measures against those who seek to prevent or block a peaceful political process, or those who threaten the Transitional Federal Institutions (TFIs) of Somalia or the African Union Mission in Somalia (AMISOM) by force, or take action that undermines stability in Somalia or the region.

(2) On 14 January 2009, the United Nations Security Council adopted UNSCR 1862 (2009) concerning the border dispute between Djibouti and Eritrea and its possible impact on subregional stability and security.

(3) On 23 December 2009, the United Nations Security Council adopted UNSCR 1907 (2009) imposing an arms embargo against Eritrea and calling upon all States to inspect, in accordance with their national authorities and legislation and consistent with international law, all cargoes to and from Eritrea, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under that resolution or under the general and complete arms embargo to Somalia established pursuant to paragraph 5 of UNSCR 733 (1992) and elaborated and amended by subsequent resolutions.

(4) UNSCR 1907 (2009) also introduces restrictive measures against individuals and entities, including but not limited to the Eritrean political and military leadership, designated by the Committee established pursuant to UNSCR 751 (1992) and expanded by UNSCR 1844 (2008).

(5) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Member States shall take the necessary measures to prevent the sale or supply of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to Eritrea by nationals

([1]) OJ L 46, 17.2.2009, p. 73.

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of Member States or from the territories of Member States or by using the flag vessels or aircraft of Member States whether originating or not in their territories.

2. The supply to Eritrea of technical assistance, training, financial and other assistance related to military activities or the provision, manufacture, maintenance or use of the items referred to in paragraph 1, by nationals of Member States or from the territories of the Member States, shall be prohibited.

3. The procurement by nationals of Member States, or by using their flag vessels or aircraft, of items referred to in paragraph 1 from Eritrea, as well as the provision to nationals of Member States by Eritrea of technical assistance, training, financial and other assistance related to military activities or the provision, manufacture, maintenance or use of the items referred to in paragraph 1, shall also be prohibited, whether or not originating in the territory of Eritrea.

*Article 2*

1. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to and from Eritrea in their territory, including at their airports and seaports, if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under this Decision.

2. Aircrafts and vessels transporting cargo to and from Eritrea shall be subject to the requirement of additional pre-arrival or pre-departure information for all goods brought into or out of a Member State.

3. Member States shall, upon discovery, seize and dispose of (either by destroying or rendering inoperable) items whose supply, sale, transfer or export is prohibited under this Decision.

*Article 3*

Restrictive measures as provided for in Articles 4, 5(1), 6(1) and (2) shall be imposed against persons and entities, including but not limited to the Eritrean political and military leadership, as well as governmental and parastatal entities, or any persons or entities acting on their behalf or at their direction, designated by the Committee established pursuant to UNSCR 751 (1992) and expanded by UNSCR 1844 (2008) ('the Sanctions Committee') as:

— having acted in violation of the arms embargo and related measures as referred to in Article 1,

— providing support from Eritrea to armed opposition groups which aim to destabilise the region,

— obstructing implementation of UNSCR 1862 (2009) concerning Djibouti,

— harbouring, financing, facilitating, supporting, organising, training or inciting individuals or groups to perpetrate acts of violence or terrorist acts against other States or their citizens in the region,

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— obstructing the investigations or work of the Monitoring Group re-established by UNSCR 1853 (2008),

The relevant persons and entities are listed in the Annex.

*Article 4*

Member States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned and the direct or indirect supply of technical assistance or training, financial and other assistance, including investment, brokering or other financial services related to military activities or to the provision, manufacture, maintenance or use of weapons and military equipment by nationals of Member States or from the territories of the Member States or by using the flag vessels or aircraft of Member States to persons and entities referred to in Article 3.

*Article 5*

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons referred to in Article 3.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall not apply where the Sanctions Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligations, or where the Sanctions Committee concludes that an exemption would otherwise further the objectives of peace and stability in the region.

4. In cases where, pursuant to paragraph 3, a Member State authorises the entry into, or transit through, its territory of persons designated by the Sanctions Committee, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

*Article 6*

1. All funds and economic resources owned or controlled directly or indirectly by the persons or entities referred to in Article 3 shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the persons or entities referred to in paragraph 1.

3. Member States may allow for exemptions from the measures referred to in paragraphs 1 and 2 in respect of funds and economic resources which are:

(a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

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(b) intended exclusively for the payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;

(c) intended exclusively for the payment of fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds and economic resources;

(d) necessary for extraordinary expenses, after notification by the Member State concerned to, and approval by, the Sanctions Committee;

(e) the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds and economic resources may be used to satisfy that lien or judgment, provided that the lien or judgment was entered prior to the date of adoption of UNSCR 1907 (2009) and is not for the benefit of a person or entity referred to in paragraph 1 of this Article, after notification by the Member State concerned to the Sanctions Committee.

4. Paragraph 2 shall not apply to the addition to frozen accounts of:

(a) interest or other earnings on those accounts; or

(b) payments to frozen accounts due under contracts, agreements or obligations that were concluded or arose before the date on which those accounts became subject to restrictive measures,

provided that any such interest, other earnings and payments continue to be subject to paragraph 1.

5. The exemptions referred to in points (a), (b) and (c) of paragraph 3 may be made after notification by the Member State concerned to the Sanctions Committee of the intention to authorise, where appropriate, access to such funds and economic resources and in the absence of a negative decision by the Sanctions Committee within three working days of such notification.

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*Article 7*

The Council shall establish the list contained in the Annex and amend it in accordance with determinations made by either the United Nations Security Council or the Sanctions Committee.

*Article 7a*

1. Where the United Nations Security Council or the Sanctions Committee lists a person or entity, the Council shall include such person or entity in the Annex. The Council shall communicate its decision, including the grounds for listing, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing such person or entity an opportunity to present observations.

2. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.

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*Article 7b*

1. The Annex shall include the grounds for listing of listed persons and entities as provided by the United Nations Security Council or the Sanctions Committee.

2. The Annex shall also include, where available, information provided by the United Nations Security Council or by the Sanctions Committee necessary to identify the persons or entities concerned. With regard to persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known and function or profession. With regard to entities, such information may include names, place and date of registration, registration number and place of business. The Annex shall also include the date of designation by the United Nations Security Council or by the Sanctions Committee.

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*Article 8*

This Decision shall be reviewed, amended or repealed as appropriate, in accordance with relevant decisions of the United Nations Security Council.

*Article 9*

This Decision shall enter into force on the date of its adoption.

*Article 10*

This Decision shall be published in the *Official Journal of the European Union*.

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*ANNEX*

**List of persons and entities referred to in Article 3**