COUNCIL DECISION (CFSP) 2015/335

of 2 March 2015

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,

Whereas:

(1) On 26 April 2010, the Council adopted Decision 2010/231/CFSP ([1]).

(2) On 24 October 2014, the United Nations Security Council adopted Resolution (UNSCR) 2182 (2014) on the situation in Somalia and Eritrea which, inter alia, reaffirms the arms embargo on Somalia.

(3) UNSCR 2182 (2014) authorises UN Member States to inspect in Somali territorial waters and on the high seas off the coast of Somalia vessels bound to or from Somalia, where there are reasonable grounds to believe that they are carrying charcoal in violation of the charcoal ban, or weapons or military equipment in violation of the arms embargo or weapons or military equipment to designated individuals or entities.

(4) Decision 2010/231/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following Article is inserted in Decision 2010/231/CFSP:

'Article 4a

1. Member States may, in accordance with paragraphs 15 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:

(i) carrying charcoal from Somalia in violation of the charcoal ban;

(ii) carrying weapons or military equipment to Somalia, directly or indirectly, in violation of the arms embargo on Somalia;

(iii) carrying weapons or military equipment to individuals or entities designated by the Sanctions Committee.

2. Member States shall, when carrying out an inspection as referred to in paragraph 1, make efforts, in good faith, to first seek the consent of the vessel's flag State prior to inspections.

3. Member States may, when carrying out an inspection as referred to in paragraph 1, use all necessary measures commensurate with the circumstances, in full compliance with international humanitarian law and international human rights law, as may be applicable, and making every possible effort to avoid undue delay to, or undue interference with, the exercise of the right of innocent passage or freedom of navigation.

4. Member States may, upon discovery of any items the delivery, import or export of which is prohibited by the arms embargo on Somalia or the charcoal ban, seize and dispose of (such as through their destruction, rendering them inoperable or unusable, storage, or transferring them to a State other than the originating or destination States for disposal) such items. Member States may collect evidence directly relating to the carriage of such items in the course of inspection. Member States may dispose of seized charcoal through resale which shall be monitored by the Somalia and Eritrea Monitoring Group (SEMG). The disposal should be carried out in an environmentally responsible manner. Member States may authorise vessels and their crews to divert to a suitable port to facilitate

([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).

such disposal, with the consent of the port State. A Member State cooperating in the disposal of such items shall provide a written report, on the steps taken to dispose or destroy them, to the Sanctions Committee no later than 30 days after such items enter its territory.

5. Member States shall promptly notify to the Sanctions Committee any inspections as referred to in paragraph 1, including by submitting a report on the inspection containing all relevant details, including an explanation of the grounds for, and the results of, the inspection and where possible including the flag of the vessel, the name of the vessel, the name and identifying information of the master of the vessel, the owner of the vessel, and the original seller of the cargo, and efforts made to seek the consent of the vessel's flag State.

6. Paragraph 1 shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations under the United Nations Convention on the Law of the Sea, including the general principle of exclusive jurisdiction of a flag State over its vessels on the high seas, with respect to any other situation than that referred to in that paragraph.'

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 2 March 2015.

For the Council
The President
D. REIZNIECE-OZOLA