

## DECISIONS

## COUNCIL DECISION 2010/231/CFSP

of 26 April 2010

## concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 10 December 2002, the Council adopted Common Position 2002/960/CFSP concerning restrictive measures against Somalia <sup>(1)</sup> following United Nations Security Council Resolutions (UNSCR) 733 (1992), 1356 (2001) and 1425 (2002) relating to an arms embargo against Somalia.
- (2) On 16 February 2009, the Council adopted Common Position 2009/138/CFSP concerning restrictive measures against Somalia and repealing Common Position 2002/960/CFSP <sup>(2)</sup>, implementing 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 in the region.
- (3) On 1 March 2010, the Council adopted Council Decision 2010/126/CFSP amending Common Position 2009/138/CFSP <sup>(3)</sup> and implementing UNSCR 1907 (2009) which called upon all States to inspect, in accordance with their national authorities and legislation and consistent with international law, all cargoes to and from Somalia, 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 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) On 19 March 2010, the United Nations Security Council (hereinafter referred to as the 'Security Council') adopted UNSCR 1916 (2010) which, inter alia, extended the mandate of the monitoring group referred to in paragraph 3 of UNSCR 1558 (2004) and decided to ease some restrictions and obligations under the sanctions regime to enable the delivery of supplies and technical assistance by international, regional and sub-regional organisations and to ensure the timely delivery of urgently needed humanitarian assistance by the United Nations (UN).
- (5) On 12 April 2010, the Sanctions Committee established by paragraph 11 of UNSCR 751 (1992) concerning Somalia (hereinafter referred to as the 'Sanctions Committee') adopted the list of persons and entities which are subject to restrictive measures.
- (6) For the sake of clarity, the measures imposed by Common Position 2009/138/CFSP as amended by Council Decision 2010/126/CFSP and the exemptions provided for in UNSCR 1916 (2010) should be integrated into a single legal instrument.
- (7) Common Position 2009/138/CFSP should therefore be repealed.
- (8) This Decision respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union <sup>(4)</sup> and notably the right to an effective remedy and to a fair trial, the right to property and the right to the protection of personal data. This Decision should be applied in accordance with those rights and principles.
- (9) This Decision also fully respects the obligations of Member States under the Charter of the United Nations and the legally binding nature of Security Council Resolutions.

<sup>(1)</sup> OJ L 334, 11.12.2002, p. 1.

<sup>(2)</sup> OJ L 46, 17.2.2009, p. 73.

<sup>(3)</sup> OJ L 51, 2.3.2010, p. 18.

<sup>(4)</sup> OJ C 364, 18.12.2000, p. 1.

- (10) The procedure for amending the Annex to this Decision should include providing to designated persons and entities the reasons for their listing as transmitted by the Sanctions Committee, so as to give them an opportunity to present observations. Where observations are submitted or where substantial new evidence is presented, the Council should review its decision in the light of those observations and inform the person or entity concerned accordingly.
- (11) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. 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 to Somalia by nationals of Member States or from the territories of Member States shall be prohibited whether originating or not in their territories.

2. The direct or indirect supply to Somalia of technical advice, financial and other assistance and training related to military activities, including in particular technical training and assistance related to the provision, manufacture, maintenance or use of the items mentioned in paragraph 1, by nationals of Member States or from the territories of the Member States, shall be prohibited.

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 AMISOM as stipulated in paragraph 4 of UNSCR 1744 (2007) or for the sole use of States and regional organisations undertaking measures in accordance with paragraph 6 of UNSCR 1851 (2008) and paragraph 10 of UNSCR 1846 (2008);
- (b) the supply, sale or transfer of arms and related material of all types and to the direct or indirect supply of technical advice intended solely for the purpose of helping to develop security sector institutions, consistent with the political process set out in paragraphs 1, 2 and 3 of UNSCR 1744 (2007) and in the absence of a negative decision by the Sanctions Committee within five working days of receiving the relevant notification;
- (c) the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, or of

material intended for institution building programmes of the Union, or Member States, including in the field of security, carried out within the framework of the Peace and Reconciliation Process, as approved in advance by the Sanctions Committee, and to protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by UN personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

#### *Article 2*

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:

- engaging in or providing support for acts that threaten the peace, security or stability of Somalia, including acts that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the TFLs or AMISOM by force,
- having acted in violation of the arms embargo and related measures as referred to in Article 1,
- obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia.

The relevant persons and entities are listed in the Annex.

#### *Article 3*

Member States shall take the necessary measures to prevent the direct and indirect supply, sale or transfer of weapons and military equipment 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 supply, sale, transfer, manufacture, maintenance or use of weapons and military equipment, to persons or entities referred to in Article 2.

#### *Article 4*

1. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to and from Somalia in their territory, including at their airports and seaports, if they have information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited under Article 3.

2. Aircrafts and vessels transporting cargo to and from Somalia 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 the supply, sale, transfer or export of which is prohibited under 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 2.

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:

(a) determines on a case-by-case basis that such entry or transit is justified on the grounds of humanitarian need, including religious obligation,

(b) determines on a case-by-case basis that an exemption would otherwise further the objectives of peace and national reconciliation in Somalia 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 2 or held by entities owned or controlled directly or indirectly by them or by any persons or entities acting on their behalf or at their direction, as designated by the Sanctions Committee, shall be frozen. The persons and entities concerned are identified in the Annex.

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;

(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 before designation by the Sanctions Committee of the person or entity concerned, and is not for the benefit of a person or entity referred to in Article 2, after notification by the Member State concerned to the Sanctions Committee.

4. The exemptions referred to in paragraph 3(a), (b) and (c) may be made after notification to the Sanctions Committee by the Member State concerned of its 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.

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

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

(b) payments 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 remain subject to paragraph 1.

6. Paragraphs 1 and 2 shall not apply to the making available of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the UN, its specialized agencies or programmes, humanitarian organizations having observer status with the UN General Assembly that provide humanitarian assistance, or their implementing partners.

#### Article 7

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

*Article 8*

1. Where the Security Council or the Sanctions Committee lists a person or entity and has provided a statement of reasons for the designation, the Council shall include such person or entity in the Annex. The Council shall communicate its decision and the statement of reasons 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 accordingly.

*Article 9*

The Annex shall include, where available, information provided by the 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 Security Council or by the Sanctions Committee.

*Article 10*

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

*Article 11*

Common Position 2009/138/CFSP is hereby repealed.

*Article 12*

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

Done at Luxembourg, 26 April 2010.

*For the Council*  
*The President*  
C. ASHTON

## ANNEX

## LIST OF PERSONS AND ENTITIES REFERRED TO IN ARTICLE 2

## I. Persons

1. Yasin Ali Baynah (a.k.a. a) Ali, Yasin Baynah, b) Ali, Yassin Mohamed, c) Baynah, Yasin, d) Baynah, Yassin, e) Baynax, Yasiin Cali, f) Beenah, Yasin, g) Beenah, Yassin, h) Beenax, Yasin, i) Beenax, Yassin, j) Benah, Yasin, k) Benah, Yassin, l) Benax, Yassin, m) Beynah, Yasin, n) Binah, Yassin, o) Cali, Yasiin Baynax) Date of birth: circa 1966. Nationality: Somalia. Alt. Nationality: Sweden. Location: Rinkeby, Stockholm, Sweden; Mogadishu, Somalia.
2. Hassan Dahir Aweys (a.k.a. a) Ali, Sheikh Hassan Dahir Aweys, b) Awes, Hassan Dahir, c) Awes, Shaykh Hassan Dahir, d) Aweyes, Hassen Dahir, e) Aweys, Ahmed Dahir, f) Aweys, Sheikh, g) Aweys, Sheikh Hassan Dahir, h) Dahir, Aweys Hassan, i) Ibrahim, Mohammed Hassan, j) O AIS, Hassan Tahir, k) Uways, Hassan Tahir, l) 'Hassan', Sheikh) Date of birth: 1935. Citizen: Somalia. Nationality: Somalia. Location: Somalia; Eritrea.
3. Hassan Abdullah Hersi Al-Turki (a.k.a. a) Al-Turki, Hassan, b) Turki, Hassan, c) Turki, Hassan Abdillahi Hersi, d) Turki, Sheikh Hassan, e) Xirsi, Xasan Cabdilaahi, f) Xirsi, Xasan Cabdulle) Date of birth: circa 1944. Place of birth: Ogaden Region, Ethiopia. Nationality: Somalia. Location: Somalia.
4. Ahmed Abdi aw-Mohamed (a.k.a. a) Abu Zubeyr, Muktar Abdurahman, b) Abuzubair, Muktar Abdulrahim, c) Aw Mohammed, Ahmed Abdi, d) Aw-Mohamud, Ahmed Abdi, e) 'Godane', f) 'Godani', g) 'Mukhtar, Shaykh', h) 'Zubeyr', Abu) Date of birth: 10 July 1977. Place of birth: Hargeysa, Somalia. Nationality: Somalia.
5. Fuad Mohamed Khalaf (a.k.a. a) Fuad Mohamed Khalif, b) Fuad Mohamed Qalaf, c) Fuad Mohammed Kalaf, d) Fuad Mohamed Kalaf, e) Fuad Mohammed Khalif, f) Fuad Khalaf, g) Fuad Shongale, h) Fuad Shongole, i) Fuad Shangole, j) Fuad Songale, k) Fouad Shongale, l) Fuad Muhammad Khalaf Shongole) Nationality: Somalia. Location: Mogadishu, Somalia. Alt. Location: Somalia.
6. Bashir Mohamed Mahamoud (a.k.a. a) Bashir Mohamed Mahmoud, b) Bashir Mahmud Mohammed, c) Bashir Mohamed Mohamud, d) Bashir Mohamed Mohamoud, e) Bashir Yare, f) Bashir Qorgab, g) Gure Gap, h) 'Abu Muscab', i) 'Qorgab') Date of birth: circa 1979-1982. Alt. date of birth: 1982. Nationality: Somalia. Location: Mogadishu, Somalia.
7. Mohamed Sa'id (a.k.a. a) 'Atom', b) Mohamed Sa'id Atom, c) Mohamed Siad Atom) Date of birth: circa 1966. Place of birth: Galgala, Somalia. Location: Galgala, Somalia. Alt. Location: Badhan, Somalia.
8. Fares Mohammed Mana'a (a.k.a.: a) Faris Mana'a, b) Fares Mohammed Mana'a) Date of birth: 8 February 1965. Place of birth: Sadah, Yemen. Passport No.: 00514146; place of issue: Sanaa, Yemen. ID Card No.: 1417576; place of issue: Al-Amana, Yemen; date of issue: 7 January 1996.

## II. Entities

AL-SHABAAB (a.k.a. a) Al-Shabab, b) Shabaab, c) The Youth, d) Mujahidin Al-Shabaab Movement, e) Mujahideen Youth Movement, f) Mujahidin Youth Movement, g) MYM, h) Harakat Shabab Al-Mujahidin, i) Hizbul Shabaab, j) Hisb'ul Shabaab, k) Al-Shabaab Al-Islamiya, l) Youth Wing, m) Al-Shabaab Al-Islaam, n) Al-Shabaab Al-Jihaad, o) The Unity Of Islamic Youth, p) Harakat Al-Shabaab Al-Mujaahidiin, q) Harakatul Shabaab Al Mujaahidiin, r) Mujaahidiin Youth Movement) Location: Somalia.

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