



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.10.1997
COM(97) 545 final

Proposal for a

COUNCIL REGULATION (EC)

concerning the interruption of certain economic relations with Sierra Leone

COMMON POSITION

defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning measures to be taken in relation to Sierra Leone in view of relevant decisions of the Security Council of the United Nations, in particular its Resolution 1132 (1997)

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Security Council of the United Nations adopted on 8 October 1997 Resolution 1132 (1997) imposing sanctions on Sierra Leone with a view to resolve the crisis and restore the constitutional order in that country. The sanctions consist, inter alia, in a prohibition to supply to Sierra Leone petroleum and petroleum products.

In order to ensure the implementation of those sanctions, which fall under the scope of the Treaty establishing the European Community, a Regulation has to be adopted by the Council on the basis of a proposal of the Commission.

Such a proposal is hereby presented.

With regard to individual provisions of the proposal the following comments can be given.

It is proposed to use both Article 73g and Article 228a as legal basis, since it is assumed that financial activities or capital movements may take place, which, although related to the commercial transactions envisaged, may form separate transactions which would not fall under the scope of Article 228a.

Since the Security Council has based its decision on sanctions against Sierra Leone on Chapter VII of the Charter of the United Nations, and, therefore, the UNSC decision takes precedence over existing international obligations such as the Lomé Convention, there will exist no incompatibility of the Regulation with the provisions of the Lomé Convention.

Paragraph 1 of Article 1 prohibits the export to Sierra Leone of petroleum and petroleum products. In order to create legal certainty a precise description of the products with corresponding harmonised customs classification codes, is given in Annex I to the Regulation. The descriptions are identical to those used in the case of the existing sanctions against Angola, as implemented by Council Regulation (EEC) No 2967/93.

Paragraph 2 contains the rather extensive prohibition of arms exports, and paragraph 3 the usual provision to prevent circumvention in any form of the prohibition.

Article 2 provides for certain exceptions to the prohibitions. The exceptions are only applicable after prior consent of the UNSC Committee established under UNSC Resolution 1132 (1997). The Committee may, furthermore, impose additional requirements necessary for an effective monitoring of allowed deliveries.

Communications with the said Committee should follow the usual route by the competent national authorities of Member States, whose names and addresses are to be found in Annex II to the Regulation.

Article 3 establishes the rule that existing public or private legal obligations cannot be held against the obligations established by the Regulation.

In order to guarantee an optimal effectiveness of the Regulation it is proposed that the sanctions which Member States have introduced in their legislation for cases where Regulation (EEC) No 2967/93 is infringed, shall remain applicable for infringements of the presently proposed Regulation, as long as no new national legislation regarding sanctions concerning the new Regulation has entered into force. (Article 4).

With a view to a coherent sanctions policy regarding Sierra Leone it is proposed that the Commission and Member States inform each other of measures taken under the Regulation and of other relevant data. (Article 5).

Given the chance that within the framework of the present sanctions the UN Security Council or the said Committee might take decisions which would make it necessary to change or supplement Annex I and changes or supplements might also become necessary in respect of names and/or addresses of the competent authorities of the Member States contained in Annex II, it is proposed that the Commission be empowered to amend or supplement Annex I on the basis of these decisions of the UN Security Council or said Committee, and Annex II on the basis of pertinent information from the competent authorities of Member States. (Article 6).

The other Articles contain the usual provisions regarding the territorial limits of the applicability of the Regulation and the date of applicability. In view of an expected timely adoption by the Council of the Regulation and of the existing empowerment by the UN Security Council of ECOWAS (Economic Community of West African States) to inspect and verify cargoes and destinations of maritime transport moving into Sierra Leone, it is not thought necessary to have the Regulation to apply retroactively as of the date of adoption of Resolution 1132 (1997).

COUNCIL REGULATION (EC) No/97

concerning the interruption of certain economic relations with Sierra Leone

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 73g and 228a,

Having regard to the common position of defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning measures to be taken in relation to Sierra Leone in view of the relevant decisions of the Security Council of the United Nations, in particular its Resolution 1132 (1997), ¹⁾

Having regard to the proposal from the Commission,

Whereas the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, decided in its Resolution 1132 (1997) that all States shall take certain measures with regard to Sierra Leone in order to contribute to resolving the crisis in Sierra Leone and obtaining the peaceful restoration of the constitutional order in that country,

Whereas certain of these measures fall under the scope of the Treaty establishing the European Community and, therefore, Community legislation is necessary to implement the pertinent decisions of the Security Council as far as the territory of the European Community is concerned, such territory being deemed to encompass, for the purposes of this Regulation, the territories of the Member States to which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty,

¹⁾ OJ L ..., dd., p. ...

Whereas the Security Council has also called upon the United Nations Member States to apply these measures notwithstanding the existence of any right or obligations conferred or imposed by any international agreement signed, any contract entered into or any licence or permit granted before the adoption of said resolutions;

Whereas, therefore, the fourth ACP-EEC Convention, signed in Lomé on 15 December 1989, to which the Community and Sierra Leone are parties, does not pose an obstacle to the application of the said Security Council measures;

Whereas the competent authorities of the United Nations might change the product coverage of the sanctions against Sierra Leone, and, therefore, Annex I to this Regulation might have to be amended accordingly,

Whereas the Security Council resolution provides for certain exceptions to the restrictions imposed on the condition of prior approval of the Committee established by Resolution 1132 (1997), and of respect of certain arrangements for monitoring delivery,

Whereas approval of this Committee should be obtained through the competent national authorities of the Member States, whose names and addresses should, therefore, be made available in an Annex to this Regulation,

Whereas, for reasons of expediency, the Commission should be empowered to supplement and/or amend Annex I to this Regulation on the basis of pertinent decisions by the competent authorities of the United Nations or, in the case of Annex II, on the basis of notifications by the competent authorities of Member States,

HAS ADOPTED THIS REGULATION:

Article 1

The following shall be prohibited:

1. to sell or supply petroleum and petroleum products listed in Annex I, whether or not originating in the Community, in the territory of Sierra Leone;
2. to sell or supply in the territory of Sierra Leone arms and related matériel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts *and related technology* for the aforementioned;
3. any activity the object or effect of which is, directly or indirectly, to promote the transactions or activities mentioned under this Article.

Article 2.

The prohibition of Article 1 shall not apply in cases of

- a. supplies to the democratically-elected Government of Sierra Leone, at its request, and
- b. supplies for humanitarian purposes or the needs of the Military Observer Group of ECOWAS (ECOMOG), at the request of other governments or United Nations Agencies,

on the condition that, through the competent national authorities, a non-objection declaration has been obtained from the United Nations Security Council Committee created pursuant to Resolution 1132 (1997), and the arrangements determined by this Committee for effective monitoring of delivery are being fully respected.

The names and addresses of the competent national authorities are contained in Annex II.

Article 3

This Regulation shall apply notwithstanding any rights conferred or obligations imposed by any international agreement signed or any contract entered into or any licence or permit granted before the entry into force of this Regulation.

Article 4

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall be those determined by the Member States in order to give effect to Article 4 of Council Regulation (EEC) No 2967/93.²⁾

²⁾ OJ L 281 dd. 29.10.93, p.1

Article 5

The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with other relevant information at their disposal in connection with this Regulation, such as violations and other enforcement problems, judgements made by national courts or decisions by the Committee established by Resolution 1132 (1997) of the Security Council.

Article 6

The European Commission is hereby empowered to supplement and/or amend Annex I to this Regulation on the basis of the information supplied by the competent authorities of the United Nations or, in the case of Annex II, of the Member States.

Such supplement and/or amendments shall be published in the Official Journal of the European Communities.

Article 7

This Regulation shall apply within the territory of the European Community including its air space and on any aircraft or any vessel under the jurisdiction of a Member State and to any person elsewhere who is a national of a Member State and any body which is incorporated or constituted under the law of a Member State.

Article 8

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

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

Done at Brussels, 1997

For the Council

The President

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ANNEX I

CN code	Product description
2709	Petroleum oils and oils obtained from bituminous minerals, crude
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations
2711	Petroleum gases and other gaseous hydrocarbons
2712 10	Petroleum jelly
2712 20 00	Paraffin wax containing by weight less than 0,75 % of oil
ex 2712 90	'Slack wax', 'scale wax'
2713	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals
2714	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphalties and asphaltic rocks
2715 00 00	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cutbacks)
2901	Acyclic hydrocarbons
2902 11 00	Cyclohexane
2902 20	Benzene
2902 30	Toluene
2902 41 00	o-Xylene
2902 42 00	m-Xylene
2902 43 00	p-Xylene
2902 44	Mixed xylene isomers
2902 50 00	Styrene
2902 60 00	Ethylbenzene
2902 70 00	Cumene
2905 11 00	Methanol (methyl alcohol)
3403 19 10	Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations, based on lubricants) and preparations containing, as basic constituents, 70 % or more by weight of petroleum oils or of oils obtained from bituminous minerals but not as the basic constituent
3811 21 00	Additives for lubricating oils containing petroleum oils or oils obtained from bituminous minerals
3823 90 10	Petroleum sulphonates, excluding petroleum sulphonated of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts

ANNEX II

Names and addresses of the authorities referred to in Article 1

BELGIE - BELGIQUE

Ministère des Affaires Étrangères, du Commerce Extérieur et de la Coopération
au Développement

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Direction des relations économiques et bilatérales extérieures

- a) Service Afrique du Sud du Sahara (B.22), tel. 0032 2 501 85 77,
- b) Coordination de la politique commerciale (B.40) tel. 0032 2 501 83 20,
- c) Service Transports (B.42), tel. 0032 2 501 37 62

Fax 00 32 2 501 88 27

Ministerie van Buitenlandse Zaken, Buitenlandse Handel en
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- a) Dienst Afrika ten zuiden van de Sahara (B.22) tel 0032 2 501 85 77,
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Bundesamt für Verkehr
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ELLADA

Ministry of Foreign Affairs
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Ministry of National Economy
Secretariat General for International Economic Relations
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Director Th. Vlassopoulos
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Directorate of Procedure of External Trade
Directors: I. Tseros, tel. 00301 32 86 021/23, fax 32 86 059
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LUXEMBOURG

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Ministerie van Buitenlandse Zaken
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UNITED KINGDOM

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COMMON POSITION

defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning measures to be taken in relation to Sierra Leone in view of relevant decisions of the Security Council of the United Nations, in particular its Resolution 1132 (1997)

THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Treaty on European Union, and in particular its Article J.2,

whereas on 9 October 1997 the Security Council of the United Nations adopted Resolution 1132 (1997) in which it decided, inter alia, that all States shall take certain measures in respect of Sierra Leone in order to contribute to resolving the crisis and restoring peacefully the constitutional order in that country,

whereas said Resolution should be implemented within the European Union, in accordance with its provisions and those of related Resolutions, and in particular the duration of the measures,

HAS DEFINED THE FOLLOWING COMMON POSITION:

Article 1

In relation to Sierra Leone the necessary steps will be taken to implement Resolution 1132 (1997) and related resolutions of the Security Council of the United Nations.

Article 2

This Common Position will enter into force on the date of its adoption.

It shall be published in the Official Journal.

Done at 1997

For the Council
The President

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ISSN 0254-1475

COM(97) 545 final

DOCUMENTS

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11 02 09 10

Catalogue number : CB-CO-97-565-EN-C

ISBN 92-78-26231-5

Office for Official Publications of the European Communities

L-2985 Luxembourg