



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.09.1997
COM(97) 474 final

Proposal for a

COUNCIL REGULATION (EC)

concerning the interruption of certain economic
relations with Angola in order to induce UNITA to fulfill
its obligations in the peace process

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Security Council of the United Nations adopted on 28 August 1997 Resolution 1127 (1997) imposing additional sanctions on the Uniao Nacional para a Independencia Total de Angola (UNITA) in case of failure by the UNITA to implement its obligations under the "Accordos de Paz" of 1993, the Lusaka Protocol of 1994 and the relevant Security Resolutions adopted since 1991.

The sanctions shall be applicable as of 30 September 1997, unless UNITA complies with the said obligations.

The additional sanctions consist, inter alia, in a prohibition to supply to the UNITA aircraft or aircraft components, servicing or insuring of aircraft at its disposal, closure of UNITA offices and denial of landing, take off or overfly permissions.

These sanctions are additional to the existing prohibition by the Security Council to supply certain petroleum or petroleum products to UNITA. This last prohibition is contained in Council Regulation (EEC) No 2967/93.

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

For reasons of transparency and simplicity, the Commission has decided to propose a Regulation, integrating old and new sanctions, thereby enabling the repeal of Regulation (EEC) No 2967/93.

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

It is proposed to use Article 73g and Article 228a as legal basis, although at first sight the implementation of UNSC Resolution requires only the use of Article 228a. The main reason for using Article 73g is the prohibition to make available **in any form** any aircraft, which can be understood as including the prohibition to provide capital to buy or lease aircraft, or any other financial activity having that effect. Paragraph 6 of Article 1 deals with such types of activities.

As in 1993, when Regulation (EEC) No 2967/93 was adopted, questions might arise regarding the compatibility of the Regulation with the fourth Lomé Convention. As in 1993, the Security Council has based its decision on sanctions against UNITA 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.

Article 1 (1) reflects the existing sanctions contained in UNSC Resolution 864 (1993) and implemented through Regulation 2967/93, Article 1. The present proposal does not contain the provision of Article 2 of that Regulation, i.e. the obligation to obtain an export licence for non-prohibited exports. As far as the Commission is aware, this provision only adds to the administrative burden of the interested companies without adding any significant control. Therefore, its deletion seems advisable.

Paragraphs 2 to 5 reflect almost literally the prohibitions contained in UNSC Resolution 1127 (1997), while paragraph 6 is the usual provision to prevent circumvention in any form of the prohibitions.

Article 2 provides for a number of exceptions to the prohibitions. The exceptions are only applicable after prior consent of the UNSC Committee established under UNSC Resolution 864 (1993).

Communications with this Committee will follow the usual route by the competent national authorities of Member States.

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 the immediate 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).

In order to achieve a optimal coherence of the sanctions policy regarding the UNITA 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).

UNSC Resolution 1127 (1997) provides for specific information to be given by the government of Angola regarding points of entry for supplies, places in Angola where aircraft will be allowed to land or take off and the registration of aircraft. This information will be contained in the Annexes provided for in this proposal. As it can be expected that over time changes will be required to these data with some urgency, it is proposed that the Commission be empowered to amend the Annexes to the Regulation in accordance with the changes indicated by the Government of Angola. The amendments of the Annexes will be published in the Official Journal of the European Communities.

The same applies with regard to possible changes in the names and addresses of the competent authorities of Member States. (Article 6).

By the integration of the main provisions of Regulation (EEC) No 2967/93 in the proposed regulation, the former can be repealed. The result will be that the interested economic operators will be faced with only one Regulation dealing with the economic sanctions regarding the UNITA. (Article 7).

The other Articles contain the usual provisions regarding the territorial limits of the applicability of the Regulation and the date of applicability as provided for in UNSC Resolution 1127 (1997), i.e. 30 September 1997.

COUNCIL REGULATION (EC) No .../97
of
concerning the interruption of certain economic
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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 the interruption of certain economic relations with Angola in view of the pertinent decisions of the Security Council of the United Nations, in particular its Resolutions 864 (1993) and 1127 (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 Resolutions 864 (1993) and 1127 (1997) that all States shall take certain measures with regard to their economic relations with Angola in order to obtain the implementation by the Uniao Nacional para a Independencia Total de Angola (UNITA) of its obligations under the "Acordos de Paz", the Lusaka Protocol and the relevant Security Council Resolutions,

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,

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;

¹⁾ OJ L ..., dd., p. ..

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

Whereas the data contained in the Annexes to this Regulation concerning points of entry in Angola for supplies, aircraft registered in Angola and places in Angola for aircraft to take off or land shall be based on the data provided by the Government of Angola to the Committee created pursuant to Resolution 864 (1993) of the Security Council and notified to the Member States of the United Nations by this Committee,

Whereas the Security Council resolutions provide for certain exceptions to the restrictions imposed on the condition of prior approval of said Committee,

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 amend the Annexes to this Regulation on the basis of pertinent notifications from the relevant Security Council Committee or competent authorities of Member States,

Whereas, for reasons of transparency and simplicity, the interruption of certain economic relations with Angola should be governed by only one legal instrument, and, therefore, the provisions of Council Regulation (EEC) No 2967/93 of 25 October 1993 prohibiting the supply of certain goods to UNITA should be incorporated in the present Regulation, and Regulation No. 2967/93 be repealed, ²⁾

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 Angola through points of entry other than those referred to in Annex II;

²⁾ OJ L 268, dd. 29.10.93, p. 1

2. to supply or make available in any form any aircraft or aircraft components to the territory of Angola other than through the points of entry referred to in Annex III;
3. to provide engineering and maintenance services, certification of airworthiness, payment of new claims against existing insurance contracts or provision or renewal of direct insurance with respect to any aircraft registered in Angola other than those listed in Annex IV, or with respect to any aircraft which entered the territory of Angola other than through a point of entry referred to in Annex V;
4. to permit any aircraft to take off from, land in or overfly the territory of the Community if it has taken off from or is destined to land at a place in the territory of Angola other than one listed in Annex V;
5. to start or continue, in any form, any operational activity of any UNITA office;
6. 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 to cases of medical urgency or to flights of aircraft carrying food, medicine or supplies for essential humanitarian needs, on the condition that, through the competent national authorities, a prior approval has been obtained from the United Nations Security Council Committee created pursuant to Resolution 864 (1993).

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

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 respect of Council Regulation (EEC) No 2967/93.

Article 5

The Commission and the Member States shall inform each other of the measures taken under this Regulation and other relevant information at their disposal in connection with this Regulation, such as violation and other enforcement problems or judgements made by national courts.

Article 6

The European Commission is hereby empowered to amend the Annexes to this Regulation on the basis of the information supplied by the competent authorities of the United Nations or the Member States.

Such amendments shall be published in the Official Journal of the European Communities.

Article 7

Regulation (EEC) No 2967/93 is hereby repealed and replaced by the provisions of this Regulation.

Article 8

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 9

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

It shall apply from 30 September 1997.

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

Done at Brussels, 1997

**For the Council
The President**

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

Points of entry referred to in Article 1

The airports of Luanda and Katumbela (Benguela province) and the ports of Luanda, Malongo (Cabinda province), Lobito (Benguela province) and Namibe (Namibe province).

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