



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.10.1999
COM(1999) 460 final

Proposal for a

COUNCIL REGULATION

**concerning a ban on the supply to Indonesia of equipment which might be used
for internal repression or terrorism**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Council of the European Union has agreed to impose a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism for at least a period of four months, as reflected in Common Position 1999/624/CFSP.

The present proposal for a Council Regulation intends to implement that Common Position as far as the European Community is concerned.

The approach followed is similar to the one chosen in the case of the Council Regulation prohibiting the sale and supply of the items concerned to the Federal Republic of Yugoslavia (Council Regulation (EC) No 926/98, OJ No L 130 of 1.5.1998, p. 1).

As the Common Position is to apply until 17 January 2000, the need to maintain the Regulation will have to be reviewed at the beginning of January 2000 in function of the Council's examination of the continued need for the measures foreseen by the Common Position.

Proposal for a

COUNCIL REGULATION

concerning a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Common Position 1999/624/CFSP of 16 September 1999, adopted by the Council on the basis of Article 15 of the Treaty on European Union concerning restrictive measures against the Republic of Indonesia¹,

Having regard to the proposal from the Commission²,

Whereas:

- (1) The said Common Position, in view of the current situation in East Timor, where serious violations of human rights and international humanitarian law are taking place, provides for a ban on the supply to Indonesia of equipment which might be used for internal repression or terrorism;
- (2) That measure falls within the scope of the Treaty establishing the European Community;
- (3) Therefore, and with a view to avoiding distortion of competition, Community legislation is necessary as far as the territory of the Community is concerned, whereas such territory is deemed to encompass, for the purposes of this Regulation, all the territories of the Member States to which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty;
- (4) A procedure should be provided to amend, if necessary, the list of equipment which might be used for internal repression or terrorism;
- (5) There is a need for the Commission and the Member States to inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation, without prejudice to existing obligations with regard to certain items concerned;

¹ OJ L 245, 17.9.1999, p. 53.

² OJ C

- (6) In view of the possibly limited duration of the Regulation, it should be provided that sanctions can be imposed immediately where the provisions of the Regulation are infringed,

HAS ADOPTED THIS REGULATION:

Article 1

1. It shall be prohibited, knowingly and intentionally, to
 - (a) sell, supply, export or ship, directly or indirectly, equipment, listed in the Annex I, parts A and B, to this Regulation, whether or not originating in the Community, to any person or body in the Republic of Indonesia or to any person or body for the purpose of any business carried on in, or operated from, the territory of the Republic of Indonesia;
 - (b) participate in related activities the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in subparagraph (a).
2. The competent authorities of the Member States, listed in Annex II to this Regulation, may authorise the transactions or activities referred to in paragraph 1 (a), in respect of the items listed in part B of Annex I, when they have obtained conclusive evidence that the end-use of these items is not for internal repression or terrorism.

Article 2

The Council shall adopt by qualified majority amendments to the list set out in Annex I on the basis of a proposal from the Commission.

The annex shall not include items specially designed or modified for military use already subject to the arms embargo established on the basis of Article 1 of Common Position 1999/624/CFSP.

Article 3

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 accordance with Article 4 of Regulation (EC) No 926/98³.

³ OJ L 130, 1.5.99, p. 1.

Article 4

The Commission and the Member States shall, insofar as they are not otherwise already obliged to do so, inform each other of the measures taken under this Regulation and supply each other with other relevant information at their disposal, such as breaches and enforcement problems, judgments handed down by national courts or decisions of international fora and authorisations granted under Article 1, paragraph 2.

Article 5

This Regulation shall apply within the territory of the Community including its air space and on board 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 6

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,

For the Council
The President

ANNEX I

Equipment for internal repression or terrorism, envisaged by Article 1

(The following list does not include items which have been specially designed or modified for military use and are covered by the arms embargo established on the basis of Common Position 1999/624/CFSP)

Part A

Helmets providing ballistic protection, anti-riots helmets, anti-riots shields and ballistic shields and specially designed components therefor.

Specially designed fingerprint equipment.

Power controlled searchlights.

Construction equipment provided with ballistic protection.

Hunting knives.

Specially designed production equipment to make shotguns.

Ammunition hand-loading equipment.

Communications intercept devices.

Solid-state optical detectors.

Image-intensifier tube.

Telescopic weapon sights.

Smooth bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor;

except: (1) signal pistols;

(2) air or cartridge powered guns designed as industrial tools or humane animal stunners.

Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.

Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.

Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.

All-wheel-drive utility vehicles capable of off road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.

Water cannon and specially designed or modified components therefor.

Vehicles equipped with water cannon.

Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.

Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.

Leg-irons, gangchains, shackles and electric-shock belts, specially designed for restraining human beings;

except: handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.

Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.

Electronic equipment capable of detecting concealed explosives and specially designed components therefor;

except: TV or X-rayons inspection equipment.

Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.

Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor:

except: those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (*e.g.*, car air bag inflaters, electri-surge arresters of fire sprinkler actuators).

Equipment and devices designed for explosive ordnance disposal;

except:

- (1) bomb blankets;
- (2) containers designed for holding objects known to be, or suspected of being improvised explosive devices.

Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

Software specially designed and technology required for all listed items.

Part B

Linear cutting explosive charges.

Explosives and related substances as follows:

- amatol,
- nitrocellulose (containing more than 12,5 % nitrogen),
- nitroglycol,
- pentaerythritol tetranitrate (PETN),
- picryl chloride,
- trinitrophenylmethylnitramine (tetryl),
- 2, 4, 6-trinitrotoluene (TNT).

Software specially designed and technology required for all listed items.

ANNEX II

List of authorities referred to in Article 1 point 2

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