



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.2005
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Proposal for a

COUNCIL REGULATION

imposing certain restrictive measures in respect of Uzbekistan

(presented by the Commission)

EXPLANATORY MEMORANDUM

- (1) On 23 May 2005, the Council strongly condemned the “reported excessive, disproportionate and indiscriminate use of force by the Uzbek security forces” in Andijan, Eastern Uzbekistan, earlier that month. The Council called upon the Uzbek authorities to respond adequately to the United Nations’ call for an independent international inquiry and on, 13 June 2005, urged these authorities to reconsider their position by the end of June 2005.
- (2) In view of the absence of any adequate response up to now, Common Position 2005/.../CFSP provides, inter alia, for the immediate imposition of a ban on exports of internal repression equipment and of a ban on the provision of technical and financial assistance related to such equipment, to military activities, and to arms and military equipment.
- (3) Since these restrictive measures fall within the scope of the Treaty establishing the European Community, the Commission proposes a Regulation in order to interrupt or to reduce economic relations with Uzbekistan to the extent foreseen in the Common Position.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2005/.../CFSP of ... October 2005 concerning restrictive measures against Uzbekistan,¹

Having regard to the proposal from the Commission,

Whereas:

- (1) On 23 May 2005, the Council strongly condemned the “reported excessive, disproportionate and indiscriminate use of force by the Uzbek security forces in Andijan, Eastern Uzbekistan”, earlier that month. The Council expressed its deep regret regarding the failure of the Uzbek authorities to respond adequately to the United Nations’ call for an independent international inquiry. On 13 June 2005, it urged these authorities to reconsider their position by the end of June 2005.
- (2) In view of the absence of any adequate response up to now, Common Position 2005/.../CFSP provides that certain restrictive measures should be imposed for an initial period of one year, during which period the measures will be kept under constant review.
- (3) The restrictive measures provided for by Common Position 2005/.../CFSP include, *inter alia*, a ban on the export of equipment which might be used for internal repression and a ban on technical assistance, financing and financial assistance related to military activities, to arms and related materiel, and to equipment which might be used for internal repression.
- (4) These measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, Community legislation is necessary to implement them as far as the Community is concerned. For the purposes of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

¹ OJ C [...], [...], p. [...].

- (5) In due course, the list of equipment which might be used for internal repression should be supplemented by the reference numbers taken from the Combined Nomenclature as set out in Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff².
- (6) Member States should determine the penalties applicable to infringements of the provisions of this Regulation. The penalties provided for should be proportionate, effective and dissuasive.
- (7) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions shall apply:

1. 'equipment which might be used for internal repression' means the goods listed in Annex I;
2. "technical assistance" means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; technical assistance includes verbal forms of assistance;
3. 'territory of the Community' means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

Article 2

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression, whether or not originating in the Community, to any person, entity or body in, or for use in, Uzbekistan;
- (b) to provide, directly or indirectly, technical assistance related to the equipment referred to in point (a), to any person, entity or body in, or for use in, Uzbekistan;
- (c) to provide, directly or indirectly, financing or financial assistance related to the equipment referred to in point (a), to any person, entity or body in, or for use in, Uzbekistan.

² OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 493/2005 (OJ L 82, 31.3.2005, p. 1).

- (d) to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in points (a), (b) or (c).

Article 3

It shall be prohibited:

- (a) to provide, directly or indirectly, technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts of the aforementioned, to any person, entity or body in, or for use in, Uzbekistan;
- (b) to provide, directly or indirectly, financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, or for any provision of related technical assistance and other services, to any person, entity or body in, or for use in, Uzbekistan.
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is to promote the transactions referred to in points (a) and (b).

Article 4

1. By way of derogation from Articles 2 and 3, the competent authorities of the Member States as listed in Annex II, may authorise:
 - (a) the sale, supply, transfer or export of equipment which might be used for internal repression, provided it is intended
 - (i) for use by the forces of contributors to the International Security Assistance Force (ISAF) and “Operation Enduring Freedom” (OEF) to support and participate in operations in Afghanistan, or
 - (ii) solely for humanitarian or protective use;
 - (b) the provision of financing, financial assistance or technical assistance related to equipment referred to at (a);
 - (c) the provision of financing, financial assistance and technical assistance related to:
 - (i) non-lethal military equipment intended solely for humanitarian or protective use, for institution building programmes of the United Nations, the European Union and the Community, or for EU and UN crisis management operations; or

- (ii) military equipment for use by the forces of contributors to the International Security Assistance Force (ISAF) and “Operation Enduring Freedom” (OEF) to support and participate in operations in Afghanistan.

2. No authorisations shall be granted for activities that have already taken place.

Article 5

Articles 2 and 3 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Uzbekistan by United Nations personnel, personnel of the European Union, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only.

Article 6

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

Article 7

The Commission shall be empowered to amend Annex II on the basis of information supplied by Member States.

Article 8

The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

The Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 9

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any natural person inside or outside the territory of the Community who is a national of a Member State;
- (d) to any legal person, entity or body which is incorporated or constituted under the law of a Member State;

- (e) to any legal person, entity or body in respect of any business done, in whole or in part, within the Community.

Article 10

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

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

List of equipment which might be used for internal repression referred to in Articles 1(1) and 2(1)

Note:

The list below does not comprise the articles that have been specially designed or modified for military use.

1. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.
2. Specially designed fingerprint equipment.
3. Power-controlled searchlights.
4. Construction equipment provided with ballistic protection.
5. Hunting knives.
6. Specially designed production equipment to make shotguns.
7. Ammunition hand-loading equipment.
8. Communications intercept devices.
9. Solid-state optical detectors.
10. Image-intensifier tubes.
11. Telescopic weapon sights.
12. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; *except*:
 - signal pistols;
 - air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
13. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
14. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
15. Body armour, other than that manufactured to military standards or specifications, and specially designed components therefor.
16. 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.

17. Water cannon and specially designed or modified components therefor.
18. Vehicles equipped with a water cannon.
19. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
20. Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
21. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings, *except*
 - handcuffs for which the maximum overall dimension including chain does not exceed 240mm when locked.
22. 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.
23. 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) and components therefor specially designed or modified for that purpose.
24. Electronic equipment capable of detecting concealed explosives and specially designed components therefor, *except*
 - TV or X-ray inspection equipment.
25. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.
26. 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, electric-surge arresters of fire sprinkler actuators).
27. Equipment and devices designed for explosive ordnance disposal; *except*:
 - bomb blankets;
 - containers designed for folding objects known to be, or suspected of being improvised explosive devices.
28. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

29. Linear cutting explosive charges.
30. Explosives and related substances as follows:
 - amatol,
 - nitrocellulose (containing more than 12,5% nitrogen),
 - nitroglycol,
 - pentaerythritol tetranitrate (PETN),
 - picryl chloride,
 - tinitorphenylmethylnitramine (tetryl), 2,4,6-trinitrotoluene (TNT)
31. Software specially designed and technology required for all listed items.

ANNEX II

List of competent authorities referred to in Article 4

(to be completed by the Member States)

BELGIUM

CZECH REPUBLIC

DENMARK

GERMANY

ESTONIA

GREECE

SPAIN

FRANCE

IRELAND

ITALY

CYPRUS

LATVIA

LITHUANIA

LUXEMBOURG

HUNGARY

MALTA

NETHERLANDS

AUSTRIA

POLAND

PORTUGAL

SLOVENIA

SLOVAKIA

FINLAND

SWEDEN

UNITED KINGDOM

EUROPEAN COMMUNITY

Commission of the European Communities

Directorate-General for External Relations

Directorate Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP): Commission Coordination and contribution

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