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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	26 October 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	JOIN(2018) 22 final/2
Subject:	Joint Proposal for a COUNCIL REGULATION amending Council Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan

Delegations will find attached document JOIN(2018) 22 final/2.

Encl.: JOIN(2018) 22 final/2



EUROPEAN
COMMISSION

HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Brussels, 26.10.2018
JOIN(2018) 22 final/2

2018/0300 (NLE)

This document replaces JOIN(2018) 22 final of 25.7.2018.
Change of the sensitivity level, deletion of the marking "LIMITED".

Joint Proposal for a

COUNCIL REGULATION

**amending Council Regulation (EU) 2015/735 concerning restrictive measures in respect
of the situation in South Sudan**

EXPLANATORY MEMORANDUM

1. Council Regulation (EU) 2015/735 gives effect to measures provided for in Council Decision (CFSP) 2015/740¹.
2. On 13 July 2018, the United Nations Security Council (UNSC) adopted Resolution 2428 (2018), in which it expressed deep concern at the failures of South Sudan's leaders to bring an end to the country's hostilities, condemned the continued and flagrant violations of the 17 August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan, the 21 December 2017 Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access, and the 27 June 2018 Khartoum Declaration, and reinforced the restrictive measures towards South Sudan measures imposed by UNSC Resolution 2206 (2015).
3. Amongst others, the UNSC amends the exemptions to the arms embargo and related technical and financial assistance and amends the designation criteria for the persons and entities subject to the asset freeze.
4. Council Decision (CFSP) 2018/XXX amended Council Decision (CFSP) 2015/740 in order to give effect to the measures imposed by UNSC Resolution 2428 (2018).
5. These measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary.
6. The High Representative for Foreign Affairs and Security Policy and the Commission should therefore propose to amend Regulation (EU) 2015/735 accordingly.

¹ OJ L 117 8.5.2015, p. 52

Joint Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Decision (CFSP) 2015/740 of 7 May 2015 concerning restrictive measures in view of the situation in South Sudan and repealing Decision 2014/449/CFSP²,

Having regard to the joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Whereas:

- (1) Council Regulation (EU) 2015/735 gives effect to measures provided for in Council Decision (CFSP) 2015/740.
- (2) On 13 July 2018, the United Nations Security Council (UNSC) adopted Resolution 2428 (2018), in which it expressed deep concern at the failures of South Sudan's leaders to bring an end to the country's hostilities, condemned the continued and flagrant violations of the 17 August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan, the 21 December 2017 Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access, and the 27 June 2018 Khartoum Declaration, and reinforced the restrictive measures towards South Sudan measures imposed by UNSC Resolution 2206 (2015).
- (3) Amongst others, the UNSC amends the exemptions to the arms embargo and related technical and financial assistance and amends the designation criteria for the persons and entities subject to the asset freeze.
- (4) Council Decision (CFSP) 2018/XXX amended Decision (CFSP) 2015/740 in order to give effect to the measures imposed by UNSC Resolution 2428 (2018).
- (5) These measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary.
- (6) Regulation (EU) 2015/735 should therefore be amended accordingly,

² OJ L 117 8.5.2015, p. 52

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2015/735 is amended as follows:

1. Article 2 is replaced by the following:

'Article 2

It shall be prohibited to provide:

1) technical assistance or brokering services related to military activities or 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 therefor, directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan;

(2) financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical assistance or brokering services directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan.

(3) technical assistance, financing or financial assistance or brokering services related to the provision of armed mercenary personnel in South Sudan or for use in South Sudan.'

2. Article 3 is replaced by the following:

'Article 3

The prohibitions referred to in Article 2 shall not apply to the provision of financing and financial assistance, technical assistance and brokering services related to:

(a) Arms and related materiel, intended solely for support of or use by UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA);

(b) Protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.'

3. Article 4 is replaced by the following:

'Article 4

1. By way of derogation from Article 2, the competent authorities may authorise the provision of financing and financial assistance, technical assistance and brokering services related to:

(a) Non-lethal military equipment intended solely for humanitarian or protective use, provided that the Member State has notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

(b) Arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, provided that the Member State notifies the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

(c) Arms and related materiel, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, provided that the Member State had notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

(d) Arms and related materiel solely in support of the implementation of the terms of the peace agreement, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

(e) Other sales or supply of arms and related materiel, or provision of assistance or personnel, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

2. The Member State concerned shall notify the other Member States and the Commission of any authorisation granted pursuant to paragraph 1.'

4. Paragraph 1 of Article 5 is replaced by the following:

'1. All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I shall be frozen. Annex I shall include natural or legal persons, entities and bodies identified by the Committee of the UN Security Council established pursuant to paragraph 16 of UNSCR 2206 (2015) ('Sanctions Committee') as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan, in accordance with paragraphs 6, 7, 8 and 12 of UNSCR 2206 (2015) and paragraph 14 of UNSCR 2428 (2018).'

Article 2

This Regulation shall enter into force on the day 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