



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.07.1998
COM(1998) 445 final

Proposal for a

COUNCIL REGULATION (EC)

concerning the interruption of certain economic relations with Angola
in order to induce the 'União Nacional para a Independência Total de Angola' (UNI
to fulfil its obligations in the peace process and
repealing Council Regulation (EC) No 2229/97

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. This Commission proposal is for an amendment of the text of Council Regulation (EC) No 2229/97 interrupting certain economic relations with Angola in order to induce the 'União Nacional para a Independência Total de Angola' (UNITA) to fulfil its obligations in the peace process. This amendment is to be made pursuant to Resolution 1173 (1998) of the UN Security Council and Common Position 98/ /CFSP defined by the Council on the basis of Article J.2 of the Treaty on European Union.
2. For the sake of clarity the Commission proposal contains both the existing measures laid down by Council Regulation (EC) No 2229/97 and the new measures that should be taken pursuant to Article 1 of the Common Position.
3. Article 1 prohibits the importation of diamonds not accompanied by a certificate of origin delivered by the Government of Unity and National Reconciliation of Angola; sales and supplies of mining equipment and motorised vehicles to persons or entities in areas of Angola to which that State's administration has not been extended and the provision of ground or waterborne transportation services and mining services to the same persons or entities. These measures are added to the existing prohibitions, concerning in particular sales and supplies of petroleum and petroleum products through points of entry other than those listed, the ban on the supply of aircraft and provision of engineering and maintenance services to certain aircraft, and the ban on the use of Community territory by aircraft taking off from or destined to land at an airport in Angola other than one listed.
4. Article 2 provides for the freezing of funds and financial resources belonging to UNITA, its senior officials and adult members of their immediate families. The names of these persons will have to be included in a list. The Article also defines funds and financial resources and the freezing of funds.
5. Article 3 authorises Member States to require banks and financial institutions to provide all relevant information needed to ensure compliance with the provision on the freezing of UNITA funds and related funds.
6. Article 4 is taken from Council Regulation (EC) No 2229/97 and provides that the Sanctions Committee created pursuant to Security Council Resolution 864 (1993) may authorise certain activities prohibited by the Regulation.
7. Article 5 deals with circumvention of the prohibitions.
8. The Articles 6 to 12 repeat the existing text of Council Regulation (EC) No 2229/97 with minor amendments in Articles 8 and 9 which should allow for a more expeditious updating and exchange of information process.

Council Regulation (EC) No ____/98 of ____ 1998
concerning the interruption of certain economic relations with Angola
in order to induce the 'União Nacional para a Independência Total de Angola' (UNITA)
to fulfil its obligations in the peace process and
repealing Council Regulation (EC) No 2229/97

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 common positions 97/759/CFSP of 30 October 1997 ⁽¹⁾ and 98/____/CFSP of 1998 ⁽²⁾ defined by the Council on the basis of Article J.2 of the Treaty on European Union, concerning Angola and aimed at inducing the 'União Nacional para a Independência Total de Angola' (UNITA) to fulfil its obligations in the peace process in view of the relevant decisions of the Security Council of the United Nations, in particular its Resolutions 864 (1993), 1127 (1997), 1130 (1997), 1173 (1998) and 1176 (1998).

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), 1127 (1997) and 1173 (1998) that all States should take certain measures with regard to their economic relations with Angola in order to obtain the implementation by the 'União Nacional para a Independência 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, notably with a view to avoiding distortion of competition, Community legislation is necessary to implement the relevant 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;

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 the aforementioned Resolutions;

Whereas, therefore, the fourth ACP-EC Convention, signed at 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 areas of Angola to which that State's administration has not been extended, points of entry in Angola for supplies of petroleum, petroleum products, aircraft and aircraft components, aircraft registered in Angola and

¹ OJ No L 309, 12. 11.1997, p. 8

² OJ No L _____, ____ 1998, p. ____

places in Angola for aircraft to take off or land should 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 aforesaid 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 supplement and/or amend the Annexes to this Regulation on the basis of pertinent notifications from the relevant Security Council Committee or, in the case of Annex VI, the competent authorities of Member States;

Whereas competent authorities of the Member States should be empowered to ensure compliance with the provisions of this Regulation on the freezing of funds and financial resources;

Whereas there is a need for the Member States and the Commission to inform each other of the measures taken under this Regulation and other relevant information at their disposal in connection with this Regulation;

Whereas, for reasons of transparency and simplicity, the interruption of certain economic relations with Angola should be governed by only one legal instrument;

Whereas therefore, the provisions of Council Regulation (EC) No 2229/97 of 30 October 1997⁽³⁾, concerning the interruption of certain economic relations with Angola in order to induce the 'União Nacional para a Independência Total de Angola' (UNITA) to fulfil its obligations in the peace process, should be incorporated in this Regulation, and that Regulation should be repealed,

HAS ADOPTED THIS REGULATION:

TITLE I: TRADE AND PROVISION OF SERVICES

Article 1

The following shall be prohibited:

1. to import, be it directly or indirectly, diamonds originating in or coming from Angola into the territory of the Community which are not accompanied by a Certificate of Origin delivered by the Government of Unity and National Reconciliation of Angola;
2. 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;

³ OJ No L 309, 12. 11. 1997, p. 1

3. to sell or supply equipment used in mining to persons or entities in the areas of Angola listed in Annex III;
4. to sell or supply motorised vehicles, including watercraft, or components or parts of such vehicles to persons or entities in areas of Angola listed in Annex III,
5. 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 II;
6. to provide ground or waterborne transportation services to persons or entities in areas Angola listed in Annex III;
7. 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 II,
8. to provide mining services to persons or entities in areas of Angola listed in Annex III;
9. 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 II;
10. to start or continue, in any form, any operational activity of any UNITA office.

TITLE II: FREEZING OF FUNDS

Article 2

1. All funds and financial resources held outside the territory of Angola and belonging to either the 'União Nacional para a Independência Total de Angola' (UNITA) or to senior officials of that organisation or adult members of their immediate families listed in Annex V, shall be frozen.
2. No funds or financial resources shall be made available, be it directly or indirectly, to or for the benefit of UNITA, senior officials of that organisation or adult members of their immediate families.
3. For the purpose of this Regulation
 - (a) funds and financial resources shall mean both funds and financial assets of any kind, including cash, liquid assets, interest, dividends, other income on shares, bonds, debt obligations or other securities, and other value accruing to or from any such assets and funds derived or generated from any interest in property of either UNITA or senior officials of that organisation or adult members of their immediate families listed in Annex V;
 - (b) freezing of funds and financial resources shall mean preventing any change in volume, amount, location, ownership, possession, character, destination or any other change that would enable the use of the funds and financial resources concerned.

Without prejudice to Community rules on confidentiality, the competent authorities of the Member States shall have the power to require banks, other financial institutions and other bodies and persons to provide all relevant information necessary for ensuring compliance with Article 2.

TITLE III: EXCEPTIONS AND GENERAL PROVISIONS

Article 4

The prohibition of the transactions or activities referred to in Articles 1 and 2 shall not apply to cases of medical urgency or to flights of aircraft carrying food, medicine or supplies for essential humanitarian needs, on 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 5

The participation, knowingly and intentionally, in related activities the object or effect of which is, directly or indirectly, to promote the transactions or activities referred to in Article 1 or to circumvent the provisions of this Regulation shall be prohibited.

Article 6

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 7

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 Regulation (EC) No 2229/97.

Article 8

The Commission and the competent authorities of Member States, including in particular the customs authorities and the authorities listed in Annex VI, 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 violation and other enforcement problems or judgments made by national courts.

Article 9

The Commission is hereby empowered to supplement and/or amend the Annexes on the basis of the information and notifications supplied by the competent authorities of the United Nations, the Government of Unity and National Unification of Angola or, in the case of Annex VI, the Member States.

Any supplements or amendments made pursuant to the first subparagraph shall be published in the Official Journal of the European Communities.

Article 10

Regulation (EC) No 2229/97 is hereby repealed and replaced by the provisions of this Regulation.

Article 11

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 12

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

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

Done at _____, _____ 1998.

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, eutbacks)
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

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ANNEX II

Points of entry referred to in points 2, 5., 7 and 9 of 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).

ANNEX III

Areas of Angola to which that State's administration has not been extended

Andulo
Bailundo
Mungo
Nharea

ANNEX IV

Aircraft referred to in point 7 of Article 1

ANNEX V

list of UNITA persons established pursuant to par. 11 SC Res. 1127(1997)

ANNEX VI

Names and addresses of authorities referred to in Article 4.
to be revised where necessary

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