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Committee on Development

PROVISIONAL
2005/0101(CNS)

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DRAFT OPINION

of the Committee on Development

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo
(COM(2005)0227 – C6-xxxx/2005 – 2005/0101(CNS))

Draftswoman: Luisa Morgantini

PA_Leg

SHORT JUSTIFICATION

The Committee on Development had been consulted on a proposal for a regulation aimed at freezing the funds and economic resources of certain persons and entities in view of the "continuing illicit flow of weapons within and into the Democratic Republic of the Congo". The proposal for a regulation seeks to implement United Nations Security Council Resolution 1596(2005) of 18 April 2005, which provides this freezing of assets and economic resources.

As the Security Council was acting under Chapter VII of the Charter of the United Nations, the Community and the Member states are under an obligation to implement this measure.

A list of the individuals and entities subject to this measure will be drawn up confidentially by a Sanctions Committee (Article 8 of Resolution 1533(2004)) so as to prevent, as far as possible, the transfer of funds and economic resources which are to be frozen.

Although the Committee on Development endorses, in principle, this type of sanction which targets leaders without penalising the population, it wishes to express some reservations, which have been set out in the form of amendments:

- it is proposed that a specific reference is made to the Cotonou Agreement ;
- it is not acceptable for Parliament to be consulted on a regulation which does not contain the list; it is therefore proposed that Annex I be deleted and that provision be made, before the list is published, for the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Development to be informed on a confidential basis;
- the freezing of assets and economic resources does not exempt the parties to the conflict from putting an end to the impunity enjoyed by persons suspected of committing serious violations of human rights and international humanitarian law; neither is it an obstacle to the continuation of investigations by the prosecutor of the International Criminal Court and the proceeding before the "pre-trial chamber".

AMENDMENTS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 3 a (new)

¹ Not yet published in OJ.

(3a) When applying the measures provided for in UN Security Council Resolution 1572(2004), the Community shall ensure that such measures are coordinated with the procedures applicable under the Partnership Agreement between the members of the African, Caribbean and Pacific group of states of the one part, and the European Community and its Member States, of the other part, signed in Cotonou (Benin) on 23 June 2000¹, in particular Articles 8 and 96 thereof,

Amendment 2
Recital 3 b (new)

(3b) The measures provided for in this Regulation shall be without prejudice to the adoption of other measures to prosecute and track, in accordance with the provisions of international human rights conventions, persons suspected of committing serious violations of human rights and international humanitarian law, in particular through the International Criminal Court, on the basis of the ad hoc referral to the Court by the authorities of the Democratic Republic of the Congo on 19 April 2004 pursuant to Article 12 of the Rome Statute,

Amendment 3
Article 9

The Commission shall be empowered to:

(a) amend *Annex I* on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee; and

(b) amend Annex *II* on the basis of

The Commission shall be empowered to:

(a) *draw up and* amend on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee *a list of natural and legal persons, entities or bodies referred to in Article 2 whose assets and economic resources are to be frozen*; and

(b) amend *the* Annex on the basis of

¹ OJ L 317, 15.12.2000, p. 3.

information supplied by Member States.

information supplied by Member States.

The Commission shall, on a confidential basis, provide the European Parliament's Committees responsible for Civil Liberties, Justice and Home Affairs and for Development with prior notification of the drawing up and amending of the list referred to in paragraph (a).

Amendment 4

Annex 1

List of natural and legal persons, bodies or entities referred to in Article 2

deleted