(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION 2003/680/CFSP
of 29 September 2003
amending Common Position 2002/829/CFSP on the supply of certain equipment into the Democratic Republic of Congo

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) Following the decision by the Member States on 7 April 1993 to impose an arms embargo on Zaire (now the Democratic Republic of Congo) and the adoption by the Council on 11 March 2002 of Common Position 2002/203/CFSP concerning European Union support for the implementation of the Lusaka ceasefire agreement and the peace process in the Democratic Republic of Congo [1], the Council adopted on 21 October 2002 Common Position 2002/829/CFSP on the supply of certain equipment into the Democratic Republic of Congo [2] allowing certain exemptions from the arms embargo.

(2) On 28 July 2003, the United Nations Security Council adopted Resolution 1493 (2003) imposing an arms embargo and an embargo on assistance, advice or training related to military activities against all foreign and Congolese armed groups operating in the territory of North and South Kivu and of Ituri in the Democratic Republic of Congo and to groups not party to the Global and All-inclusive Agreement on the Transition signed in Pretoria on 17 December 2002 and allowing certain exemptions. These exemptions require national authorisation.

(3) Common Position 2002/829/CFSP should be amended in order to implement UNSC Resolution 1493 (2003).

(4) Action by the Community is needed in order to implement certain measures,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Common Position 2002/829/CFSP is hereby amended as follows:

Article 1 shall be replaced by the following:

'Article 1

1. (a) The direct or indirect supply, sale or transfer of arms and any related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to the Democratic Republic of the Congo by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

(b) The direct or indirect provision to any person, entity or body in the Democratic Republic of the Congo of any assistance (including financing and financial assistance), advice or training related to military activities, including in particular technical training and assistance related to the provision, manufacture, maintenance or use of the items mentioned in subparagraph (a), by nationals of Member States or from the territories of Member States shall be prohibited.

2. Paragraph 1 shall not apply to:

(a) the supply, sale or transfer of arms and any related material or the provision of assistance, advice or training, referred to in paragraph 1, to the United Nations Organisation Mission in the Democratic Republic of Congo and the integrated Congolese national army and police forces;

[1] OJ L 68, 12.3.2002, p. 1.
[2] OJ L 285, 23.10.2002, p. 1.

(b) the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, or the provision of assistance and training related to such non-lethal equipment, provided that such supply or provision is notified in advance to the UN Secretary-General through its Special Representative.

3. The supply, sale or transfer of arms and related material or the provision of services, referred to in paragraph 2, shall be subject to an authorisation granted by the competent authorities of the Member States.

4. Member States shall consider deliveries under paragraph 2 on a case-by-case basis, taking full account of the criteria set out in the European Union code of conduct on arms exports. Member States shall require adequate safeguards against misuse of authorisation granted pursuant to paragraph 3 and, where appropriate, make provisions for repatriation of the delivered arms and related material.'

Article 2

This Common Position shall take effect on the date of its adoption.

Article 3

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Brussels, 29 September 2003.

For the Council

The President

F. FRATTINI