A.L. 213 ta' l-2005

ATT DWAR POTERI LI JSIRU REGOLAMENTI FL-INTERESS NAZZJONALI (KAP. 365)

Regolamenti ta' l-2005 li jemendaw ir-Regolamenti dwar Sanzjonijiet tan-Nazzjonijiet Uniti fir-rigward tar-Repubblika Demokratika tal-Kongo

BIS-SAĦĦA tas-setgħat mogħtija bl-artikolu 3 ta' l-Att dwar Poteri li jsiru Regolamenti fl-Interess Nazzjonali, il-Prim Ministru għamel dawn ir-regolamenti li ġejjin:-

Titolu u applikabilità.

1. It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2005 li jemendaw ir-Regolamenti dwar Sanzjonijiet tan-Nazzjonijiet Uniti fir-rigward tar-Repubblika Demokratika tal-Kongo, u għandhom jinqraw u jiftiehmu ħaġa waħda mar-Regolamenti ta' l-2003 dwar Sanzjonijiet tan-Nazzjonijiet Uniti fir-rigward tar-Repubblika Demokaratika tal-Kongo, hawnhekk iżjed 'il quddiem imsejħin "ir-regolamenti prinipali". A.L. 378 ta' l-2003.

Jemenda r-regolament 3 tar-regolamenti prinipali.

2. Ir-regolament 3 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:-

(a) minflok in-nota marġinali li tinsab miegħu, għandhom jidħlu l-kliem "Test tar-Risoluzzjonijiet"; u

(b) ir-regolament kollu għandu jiġi enumerat mill-ġdid bħala s-subregolament (1) tar-regolament; u

(ċ) minnufih wara s-subregolament (1) kif enumerat mill-ġdid, għandu jiżdied dan is-subregolament ġdid li ġej:-

"(2) Għall-fini ta' l-artikolu 3 (4) ta' l-Att, Risoluzzjoni numru 1596 (2005) adottata mill-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti fit-18 ta' April, 2005 qegħda tiġi pubblikata fl-ilsien Ingliż fit-Tieni Skeda li tinsab ma' dawn ir-regolamenti.".

Jemenda r-regolament 4 tar-regolamenti prinċipali.

3. Ir-regolament 4 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subregolament (1) tiegħu, minnufih wara l-kliem "u l-provvista ta' kull assistenza," għandhom jidħlu l-kliem "inkluża assistenza ta' finanzjament u dik finanzjara," u minflok il-kliem minn "lil gruppi armati u milizji, kemm barranin" sa "*and All-inclusive agreement*, fir-Repubblika" għandhom jidħlu l-kliem "lil kull riċevitur fit-territorju tar-Repubblika"; u

(b) minnufih wara s-subregolament (2), għandu jiżdied dan is-subregolament ġdid li ġej:-

"(3) Persuna msemmija bħala li tkun qegħda taġixxi bi ksur tad-disposizzjonijiet tas-subregolament (1) ta' dan ir-regolament u li ma tkunx ċittadin ta' Malta, ma għandhiex titħalla tidħol ġewwa Malta jew tgħaddi minn Malta f'dak iż-żmien li matulu d-disposizzjonijiet ta' dak is-subregolament ikunu għadhom fis-seħħ.".

Jenumera mill-ġdid ir-regolament 5 tar-regolamenti prinċipali.

4. Ir-regolament 5 tar-regolamenti prinċipali għandu jiġi enumerat mill-ġdid bħala s-subregolament 6 tar-regolament.

Iżid ir-regolament 5 mar-regolamenti prinċipali.

5. Minnufih wara r-regolament 4 tar-regolamenti prinċipali, għandu jiżdied dan ir-regolament ġdid li ġej:-

"Iffriżar ta' flejjes u attiv finanzjarju.

5. (1) Kull flejjes, attiv finanzjarju ieħor u riżorsi ekonomiċi li jkunu jinsabu f'Malta u li jkunu jappartjenu lil, jew ikunu direttament jew indirettament kontrollati mill-persuni msemmija konformement mar-regolament 4 (3) ta' dawn ir-regolamenti, jew li jkunu miżmuma minn entitajiet li direttament jew indirettament ikollhom bħala sidien jew ikunu kontrollati minn persuni li jaġixxu f'isimhom jew fuq ordni mogħtija minnhom, kif imsemmi mill-Kumitat, għandhom jiġu ffriżati minnufih.

(2) Dawk il-flejjes, attiv finanzjarju jew riżorsi ekonomiċi ma għandhomx jitħallew jintgħamlu disponibbli minn xi persuna f'Malta lil jew għall-benefiċċju ta' dawk il-persuni jew entitajiet.

(3) Id-disposizzjonijiet ta' dan ir-regolament ma japplikawx għal flejjes, attiv finanzjarju ieħor u riżorsi ekonomiċi li jkunu ġew stabbiliti mill-awtoritajiet f'Malta:

(a) bħala meħtieġa għal spejjeż bażiċi, inkluż il-ħlas għall-ikel, kera jew *mortgage*, mediċini u kura medika, taxxi, *premiums* ta' l-assigurazzjoni, u ħlasijiet għal utilitajiet pubbliċi, jew esklusivament għall-ħlas ta' drittijiet professjonali raġonevoli u l-ħlas lura ta' spejjeż imġarrba assoċjati ma' l-għoti ta' servizzi legali, jew drittijiet jew ħlasijiet għal servizzi ta' rutina għaż-żamma jew manutenzjoni ta' flejjes iffriżati, attiv finanzjarju ieħor u riżorsi ekonomiċi, wara li jingħata avviż ta' l-intenzjoni li tiġi awtorizzata, meta dan ikun adatt, l-aċċessibilità għal dawk il-flejjes, attiv finanzjarju ieħor u riżorsi ekonomiċi, u sakemm ma tingħatax deċiżjoni negattiva dak hawn qabel imsemmi għandu jsir fi żmien erbat ijiem minn meta jingħata dak l-avviż;

(b) bħala meħtieġa għal spejjeż straordinarji, sakemm deċiżjoni bħal dik tkun ġiet avżata u approvata; jew

(c) bħala l-mertu ta' rahan ġudizzjarju, amministrattiv jew ta' arbitraġġ, jew ta' sentenza, f'liema każ il-flejjes, attiv finanzjarju ieħor u riżorsi ekonomiċi jistgħu jintużaw biex jissodisfaw dak ir-rahan jew dik is-sentenza:

Iżda dak ir-rahan jew dik is-sentenza għandhom ikunu ingħataw b'seħħ qabel it-18 ta' April, 2005 u ma jkunux għall-benefiċċju ta' persuna minn dawk imsemmija fis-subregolament (1) ta' dan ir-regolament jew ta' individwu jew entità identifikati bħala persuna msemmija u li jkunu ġew avżati bħala tali.".

Iżid it-Tieni Skeda mar-regolamenti prinċipali.

6. Minnufih wara l-Ewwel Skeda li tinsab mar-regolamenti prinċipali, għandha tiżdied din l-iskeda ġdida li ġejja:-

"IT-TIENI SKEDA

(Regolament 3)

Resolution 1596 (2005)

Adopted by the Security Council at its 5163rd meeting, on 18 April 2005

The Security Council,

Recalling its resolutions concerning the Democratic Republic of the Congo, in particular resolutions 1493 of 28 July 2003, 1533 of 12 March 2004, 1552 of 27 July 2004, 1565 of 1 October 2004 and 1592 of 30 March 2005, and *recalling* also the statements by its President concerning the Democratic Republic of the Congo, in particular on 7 December 2004,

Reiterating its serious concern regarding the presence of armed groups and militias in the Eastern part of the Democratic Republic of the Congo, particularly in the provinces of North and South Kivu and in the Ituri district, which perpetuate a climate of insecurity in the whole region,

Welcoming the fact that some of these groups and militias have started to submit an inventory of arms and related materiel in their possession, as well as their location, with a view to their participation in the programmes of disarmament, and *encouraging* those who have not yet done so rapidly to do so,

Expressing its readiness to review the provisions of its resolutions 918 of 17 May 1994, 997 of 9 June 1995 and 1011 of 16 August 1995 in a broader perspective, taking into account the implications of continued instability in the Eastern part of the Democratic Republic of the Congo for peace and security in the Great Lakes Region of Africa,

Condemning the continuing illicit flow of weapons within and into the Democratic Republic of the Congo, and *declaring* its determination to continue closely monitoring implementation of the arms embargo imposed by resolution 1493 of 28 July 2003,

Recalling the importance for the Government of National Unity and Transition to implement without delay the integration for which it bears responsibility of the armed forces of the Democratic Republic of the Congo, by continuing to work within the framework of the Joint Commission on Security Sector Reform, and *encouraging* the donor community to provide coordinated financial and technical assistance for this task,

Commending the efforts made by the Secretary-General, the African Union and other actors concerned to restore peace and security in the Democratic Republic of the Congo and *welcoming in this regard* the Declaration adopted in Dar es Salaam on 20 November 2004 at the conclusion of the first summit of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region of Africa,

Taking note of the reports of the Group of Experts established by paragraph 10 of resolution 1533, dated 15 July 2004 (S/2004/551) and 25 January 2005 (S/2005/30), transmitted by the Committee established in accordance with paragraph 8 of that resolution (hereafter the Committee), and of their recommendations,

Noting that the situation in the Democratic Republic of the Congo continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reaffirms* the measures established by paragraph 20 of resolution 1493, dated 28 July 2003, and extended until 31 July 2005 by resolution 1552, dated 27 July 2004, *decides* that these measures shall from now on apply to any recipient in the territory of the Democratic Republic of the Congo, and *reiterates* that assistance includes financing and financial assistance related to military activities;

2. *Decides* that the measures above shall not apply to:

(a) Supplies of arms and related materiel or technical training and assistance intended solely for support of or use by units of the army and police of the Democratic Republic of the Congo, provided that the said units:

– have completed the process of their integration, or

– operate under the command, respectively, of the état-major intégré of the Armed Forces or of the National Police of the Democratic Republic of the Congo, or

– are in the process of their integration, in the territory of the Democratic Republic of the Congo outside the provinces of North and South Kivu and the Ituri district,

(b) Supplies of arms and related materiel as well as technical training and assistance intended solely for support of or use by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC),

(c) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee in accordance with paragraph 8 (e) of resolution 1533;

3. *Requests* MONUC, within its existing capabilities and without prejudice to the performance of its current mandate, and the Group of Experts referred to in paragraph 21 below to continue to focus their monitoring activities in North and South Kivu and in Ituri;

4. *Decides* that all future authorized shipments of arms and related materiel consistent with such exemptions noted in paragraph 2 (a) above shall only be made to receiving sites as designated by the Government of National Unity and

Transition, in coordination with MONUC, and notified in advance to the Committee;

5. *Demands* that all parties other than those referred to in paragraph 2 (a) above with military capabilities in Ituri, in North Kivu or in South Kivu, help the Government of National Unity and Transition implement its commitments regarding disarmament, demobilization and reintegration of foreign and Congolese combatants, and regarding security sector reform;

6. *Decides* that, during the period of enforcement of the measures referred to in paragraph 1 above, all governments in the region, and in particular those of the Democratic Republic of the Congo and of States bordering Ituri and the Kivus, shall take the necessary measures:

– To ensure that aircraft operate in the region in accordance with the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, in particular by verifying the validity of documents carried in aircraft and the licences of pilots,

– To prohibit immediately in their respective territories operation of any aircraft inconsistent with the conditions in that Convention or the standards established by the International Civil Aviation Organization, in particular with respect to the use of falsified or out-of-date documents, and to notify the Committee, and to maintain such prohibition until the Committee is informed by States or by the Group of Experts that these aircraft meet the said conditions and standards set forth in Chapter V of the Chicago Convention and determines that they will not be used for a purpose inconsistent with the resolutions of the Security Council,

– To ensure that all civilian and military airports or airfields on their respective territories will not be used for a purpose inconsistent with the measures imposed by paragraph 1 above;

7. *Further decides* that each government in the region, in particular those of States bordering Ituri and the Kivus, as well as that of the Democratic Republic of the Congo, shall maintain a registry for review by the Committee and the Group of Experts of all information concerning flights originating in their respective territories en route to destinations in the Democratic Republic of the Congo, as well as flights originating in the Democratic Republic of the Congo en route to destinations in their respective territories;

8. *Calls upon* the Government of National Unity and Transition to strengthen the monitoring of the activity of all airports and airfields, in particular those located in Ituri and in the Kivus, to ensure in particular that only customs airports are used for international air service, and *requests* MONUC, in airports and airfields where it has a permanent presence, to cooperate within its existing capability with the competent Congolese authorities, with a view to enhancing the capability of those authorities to monitor and control the use of airports;

9. *Recommends* in this context to States in the region, and in particular to those parties to the Declaration adopted in Dar es Salaam on 20 November 2004, to promote regional cooperation in the field of air traffic control;

10. *Decides* that, during the period of enforcement of the measures referred to in paragraph 1 above, the Government of the Democratic Republic of the Congo

on the one hand, and those of States bordering Ituri and the Kivus on the other hand, shall take the necessary measures:

– To strengthen, as far as each of them is concerned, customs controls on the borders between Ituri or the Kivus and the neighbouring States,

– To ensure that all means of transport on their respective territories will not be used in violation of the measures taken by Member States in accordance with paragraph 1 above, and notify MONUC of such actions,

and *requests* MONUC and the United Nations Operation in Burundi (ONUB), in accordance with their respective mandates, to provide assistance to this end, where they have a permanent presence, to the competent customs authorities of the Democratic Republic of the Congo and of Burundi;

11. *Reiterates its call* upon the international community, in particular the specialized international organizations concerned, notably the International Civil Aviation Organization and the World Customs Organization, to provide financial and technical assistance to the Government of National Unity and Transition with a view to helping it exercise effective control over its borders and its airspace, and *invites in this regard* the International Monetary Fund and the World Bank to provide assistance with a view to evaluating and improving the performance and enhancing the capacity of the Customs of the Democratic Republic of the Congo;

12. *Urges* all States to conduct inquiries into the activities of their nationals who operate or are associated with the operation of aircraft or other means of transport such as those referred to in paragraphs 6 and 10 above used for the transfer of arms or related materiel in violation of the measures imposed by paragraph 1 above, and if necessary to institute the appropriate legal proceedings against them;

13. *Decides* that, during the period of enforcement of the measures referred to in paragraph 1 above, all States shall take the necessary measures to prevent the entry into or transit through their territories of all persons designated by the Committee as acting in violation of the measures taken by Member States in accordance with paragraph 1 above, provided that nothing in this paragraph shall oblige a State to refuse entry into its territory to its own nationals;

14. *Decides* that the measures imposed by the previous paragraph shall not apply where the Committee determines in advance and on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation, or where the Committee concludes that an exemption would further the objectives of the Council's resolutions, that is peace and national reconciliation in the Democratic Republic of the Congo and stability in the region;

15. *Decides* that all States shall, during the period of enforcement of the measures referred to in paragraph 1 above, immediately freeze the funds, other financial assets and economic resources which are on their territories from the date of adoption of this resolution, which are owned or controlled, directly or indirectly, by persons designated by the Committee pursuant to paragraph 13 above, or that are held by entities or controlled, directly or indirectly, by any persons acting on their behalf or at their direction, as designated by the Committee, and *decides further* that all States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any persons within their territories, to or for the benefit of such persons or entities;

16. *Decides* that the provisions of the previous paragraph do not apply to funds, other financial assets and economic resources that:

(a) have been determined by relevant States to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within four working days of such notification,

(b) have been determined by relevant States to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee, or

(c) have been determined by relevant States to be the subject of a judicial, administrative or arbitration lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement was entered prior to the date of the present resolution, is not for the benefit of a person or entity designated by the Committee pursuant to paragraph 15 above, and has been notified by the relevant States to the Committee;

17. *Decides* that, no later than 31 July 2005, it shall review the measures set forth in paragraphs 1, 6, 10, 13 and 15 above, in the light of progress accomplished in the peace and transition process in the Democratic Republic of the Congo, in particular with regard to the integration of the Armed Forces and of the National Police;

18. *Decides* that the Committee shall undertake, in addition to the tasks listed in paragraph 8 of resolution 1533, those hereafter:

(a) to designate persons and entities with respect to the measures set forth in paragraphs 6, 10, 13 and 15 above, including aircraft and airlines, and regularly to update its list,

(b) to seek from all States concerned, and particularly those in the region, information regarding the actions taken by them to enforce the measures imposed by paragraphs 1, 6, 10, 13 and 15 above, and any further information it may consider useful, including by providing all States with an opportunity to send representatives to meet the Committee to discuss in more detail any relevant issues,

(c) to call upon all States concerned, and particularly those in the region, to provide the Committee with information regarding the actions taken by them to investigate and prosecute as appropriate individuals designated by the Committee pursuant to subparagraph (a) above,

(d) to consider and decide on requests for the exemptions set out in paragraphs 14 and 16 above,

(e) to promulgate guidelines as may be necessary to facilitate the implementation of paragraphs 6, 10, 13 and 15 above;

19. *Demands* that all parties and all States cooperate fully with the work of the Group of Experts referred to in paragraph 21 below and of MONUC, and that they ensure:

– the safety of their members,

– unhindered and immediate access for the members of the Group of Experts, in particular by supplying them with any information on possible violations of the measures taken by Member States in accordance with paragraphs 1, 6, 10, 13 and 15 above, and by facilitating access of the Group of Experts to persons, documents and sites it deems relevant to the execution of its mandate;

20. *Requests* all States concerned, in particular those in the region, to report to the Committee, within forty-five days from the date of adoption of this resolution, on the actions they have taken to implement the measures imposed by paragraphs 6, 10, 13 and 15 above, and *authorizes* the Committee thereafter to request from all Member States any information it may consider necessary to fulfil its mandate;

21. *Requests* the Secretary-General, in consultation with the Committee, to re-establish, within thirty days from the date of adoption of this resolution, and for a period expiring on 31 July 2005, the Group of Experts referred to in paragraph 10 of resolution 1533 with the addition of a fifth expert for financial issues, and requests further that the Secretary-General provide the Group of Experts with the necessary resources to fulfil its mandate;

22. *Requests* the Group of Experts above to report to the Council in writing before 1 July 2005, through the Committee, including on the implementation of the measures set forth in paragraphs 1, 6, 10, 13 and 15 above;

23. *Decides* to remain seized of the matter.