DECISIONS

COUNCIL DECISION (CFSP) 2022/356

of 2 March 2022

amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

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

Whereas:

(1) On 15 October 2012, the Council adopted Decision 2012/642/CFSP ([1]) concerning restrictive measures against Belarus.

(2) On 24 February 2022, the President of the Russian Federation announced a military operation in Ukraine and Russian armed forces began an attack on Ukraine, including from the territory of Belarus. That attack is a blatant violation of the territorial integrity, sovereignty and independence of Ukraine.

(3) In its conclusions of 24 February 2022, the European Council condemned in the strongest possible terms the Russian Federation's unprovoked and unjustified military aggression against Ukraine. By its illegal military actions, Russia is grossly violating international law and the principles of the United Nations Charter and undermining European and global security and stability. The European Council also strongly condemned the involvement of Belarus in that aggression against Ukraine and called on it to refrain from such action and to abide by its international obligations. It called for the urgent preparation and adoption of a package of further individual and economic sanctions, also covering Belarus.

(4) In view of the gravity of the situation, and in response to Belarus's involvement in Russia's aggression against Ukraine, it is appropriate to amend the title of Decision 2012/642/CFSP and to introduce further restrictive measures.

(5) In particular, is appropriate to introduce further restrictions related to the trade of goods used for the production or manufacturing of tobacco products, mineral fuels, bituminous substances and gaseous hydrocarbon products, potassium chloride ('potash') products, wood products, cement products, iron and steel products and rubber products. It is also appropriate to impose further restrictions on exports of dual-use goods and technology and on the provision of related services, as well as restrictions on exports of certain goods and technology which might contribute to Belarus's military, technological, defence and security development, together with restrictions on the provision of related services.

(6) Further action by the Union is needed in order to implement certain measures.

(7) Decision 2012/642/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2012/642/CFSP is amended as follows:

([1]) Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus (OJ L 285, 17.10.2012, p. 1).

(1) the title is replaced by the following:

'Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine';

(2) Article 2c is replaced by the following:

'*Article 2c*

1. Without prejudice to Article 2b of this Decision, the direct or indirect sale, supply, transfer or export of all dual-use goods and technology listed in Annex I to Regulation (EU) 2021/821 of the European Parliament and of the Council (*) to any natural or legal person, entity or body in Belarus or for use in Belarus by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited, whether such goods and technology originate or not in their territories.

2. It shall be prohibited:

(a) to provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1, or to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus;

(b) to provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus.

3. Without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the prohibitions in paragraphs 1 and 2 of this Article shall not apply to the sale, supply, transfer or export of dual-use goods and technology, or to the related provision of technical and financial assistance, for non-military use and to a non-military end-user, intended for:

(a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or on the environment, or as a response to natural disasters;

(b) medical or pharmaceutical purposes;

(c) temporary use by news media;

(d) software updates;

(e) use as consumer communication devices;

(f) ensuring cyber-security and information security for natural or legal persons, entities or bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government; or

(g) personal use of natural persons travelling to Belarus, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of points (f) and (g), the exporter shall declare in its customs declaration that the items are being exported under the relevant exception set out in this paragraph, and shall notify the competent authority of the Member State in which it is resident or established of the first use of the relevant exception within 30 days from that first export.

4. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authority may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end user, after having determined that such goods or technology or the related technical or financial assistance are intended for:

(a) cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;

(b) intergovernmental cooperation in space programmes;

(c) the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;

(d) maritime safety;

(e) civilian telecommunications networks, including the provision of internet services;

(f) the exclusive use of entities owned, or solely or jointly controlled, by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;

(g) the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions.

5. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authority may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or such related technical or financial assistance are due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that such authorisation is requested before 1 May 2022.

6. Authorisations required under this Article shall be granted by the relevant competent authority in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. Such authorisations shall be valid throughout the Union.

7. When deciding on a request for authorisation pursuant to paragraphs 4 and 5, the competent authority shall not grant an authorisation if it has reasonable grounds to believe that:

(i) the end-user might be a military end-user or a natural or legal person, entity or body listed in Annex II, or that the goods might have a military end-use; or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1, or the provision of related technical or financial assistance, is intended for aviation or the space industry.

8. The competent authority may annul, suspend, modify or revoke an authorisation which it has granted pursuant to paragraphs 4 and 5 if it deems that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Decision.

9. The partner countries as referred to in points 4(f) and (g) of this Article and in points (f) and (g) of Article 2d(4), and which apply substantially equivalent export control measures, are listed in Annex IV.

(*) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1).';

(3) Article 2d is replaced by the following:

'*Article 2d*

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology which might contribute to the military and technological enhancement of Belarus, or to the development of its defence and security sector, whether or not originating in the Union, to any natural or legal person, entity or body in Belarus or for use in Belarus.

2. It shall be prohibited:

(a) to provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1, or to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus;

(b) to provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus.

3. The prohibitions in paragraphs 1 and 2 shall not apply to the sale, supply, transfer or export of the goods and technology referred to in paragraph 1, or to the related provision of technical and financial assistance, for non-military use and for a non-military end-user, intended for:

(a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or on the environment, or as a response to natural disasters;

(b) medical or pharmaceutical purposes;

(c) temporary use by news media;

(d) software updates;

(e) use as consumer communication devices;

(f) ensuring cyber-security and information security for natural or legal persons, entities or bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government; or

(g) personal use of natural persons travelling to Belarus, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of points (f) and (g), the exporter shall declare in its customs declaration that the items are being exported under the relevant exception set out in this paragraph and shall notify the competent authority of the Member State in which it is resident or established of the first use of the relevant exception within 30 days from that first export.

4. By way of derogation from paragraphs 1 and 2 of this Article, the competent authority may authorise the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are intended for:

(a) cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;

(b) intergovernmental cooperation in space programmes;

(c) the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;

(d) maritime safety;

(e) civilian telecommunications networks, including the provision of internet services;

(f) the exclusive use of entities owned, or solely or jointly controlled by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;

(g) the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions.

5. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authority may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that such authorisation is requested before 1 May 2022.

6. Authorisations required under this Article shall be granted by the relevant competent authority in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. Such authorisations shall be valid throughout the Union.

7. When deciding on a request for authorisation pursuant to paragraphs 4 and 5, the competent authority shall not grant an authorisation if it has reasonable grounds to believe that:

(i) the end-user might be a military end-user or a natural or legal person, entity or body listed in Annex II, or that the goods might have a military end-use; or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1, or the provision of related technical or financial assistance, is intended for aviation or the space industry.

8. The competent authority may annul, suspend, modify or revoke an authorisation which it has granted pursuant to paragraphs 4 and 5 if it deems that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Decision.

9. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.';

(4) the following Article is inserted after Article 2d:

'*Article 2da*

1. With regard to the entities listed in Annex II, by way of derogation from Article 2c(1) and (2) and Article 2d(1) and (2), and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authority may only authorise the sale, supply, transfer or export of dual-use goods and technology and goods and technology referred to in Article 2d, or the provision of related technical or financial assistance, after having determined that such goods or technology or the related technical or financial assistance are:

(a) necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment; or

(b) due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that such authorisation is requested before 1 May 2022.

2. Authorisations required under this Article shall be granted by the competent authorities of the Member State in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. Such authorisations shall be valid throughout the Union.

3. The competent authority may annul, suspend, modify or revoke an authorisation which it has granted pursuant to paragraph 1 if it deems that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Decision.';

(5) Article 2e is amended as follows:

(a) the following paragraph is inserted after paragraph 1:

'1a. It shall be prohibited to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in paragraph 1.';

(b) paragraph 3 is deleted;

(6) Article 2f is amended as follows:

(a) paragraph 5 is deleted;

(b) paragraph 6 is renumbered as paragraph 5;

(c) in paragraphs 1, 4, and 5, the words 'petroleum and gaseous hydrocarbon products' are replaced by 'mineral fuels, bituminous substances and gaseous hydrocarbon';

(7) Article 2g is amended as follows:

(a) the following paragraph is inserted after paragraph 1:

'1a. It shall be prohibited to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in paragraph 1.';

(b) paragraph 3 is deleted;

(8) in Article 2i, paragraph 4 is deleted;

(9) in Article 2j, paragraph 3 is deleted;

(10) the following Articles are inserted:

'*Article 2o*

1. It shall be prohibited:

(a) to import, directly or indirectly, wood products into the Union if they:

(i) originate in Belarus; or

(ii) have been exported from Belarus;

(b) to purchase, directly or indirectly, wood products referred to in point (a) which are located in or which originated in Belarus;

(c) to transport wood products referred to in point (a) if they originated in Belarus or are being exported from Belarus to any other country;

(d) to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in points (a), (b) and (c).

2. The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts.

3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

Article 2p

1. It shall be prohibited:

(a) to import, directly or indirectly, cement products into the Union if they:

(i) originate in Belarus; or

(ii) have been exported from Belarus;

(b) to purchase, directly or indirectly, cement products referred to in point (a) which are located in or which originated in Belarus;

(c) to transport cement products referred to in point (a) if they originated in Belarus or are being exported from Belarus to any other country;

(d) to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in points (a), (b) and (c).

2. The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts.

3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

Article 2q

1. It shall be prohibited:

(a) to import, directly or indirectly, iron and steel products into the Union if they:

(i) originate in Belarus; or

(ii) have been exported from Belarus;

(b) to purchase, directly or indirectly, iron and steel products referred to in point (a) which are located in or which originated in Belarus;

(c) to transport iron and steel products referred to in point (a) if they originated in Belarus or are being exported from Belarus to any other country;

(d) to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in points (a), (b) and (c).

2. The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts.

3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

Article 2r

1. It shall be prohibited:

(a) to import, directly or indirectly, rubber products into the Union if they:

(i) originate in Belarus; or

(ii) have been exported from Belarus;

(b) to purchase, directly or indirectly, rubber products referred to in point (a) which are located in or which originated in Belarus;

(c) to transport rubber products referred to in point (a) if they originated in Belarus or are being exported from Belarus to any other country;

(d) to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in points (a), (b) and (c).

2. The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts.

3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

Article 2s

1. It shall be prohibited:

(a) to sell, supply, transfer or export, directly or indirectly, certain machinery, whether or not originating in the Union, to any person, entity or body in Belarus or for use in Belarus;

(b) to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions in point (a).

2. The prohibitions in paragraph 1 shall not apply to the sale, supply, transfer or export of the machinery referred to in paragraph 1 or to the related provision of technical and financial assistance, for non-military use and for a non-military end-user, intended for:

(a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or on the environment, or as a response to natural disasters;

(b) medical or pharmaceutical purposes;

(c) temporary use by news media;

(d) software updates;

(e) use as consumer communication devices;

(f) ensuring cyber-security and information security for natural or legal persons, entities or bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government; or

(g) personal use of natural persons travelling to Belarus, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of points (f) and (g), the exporter shall declare in its customs declaration that the items are being exported under the relevant exception set out in this paragraph and shall notify the competent authority of the Member State where the exporter is resident or established of the first use of the relevant exception within 30 days from that first export.

3. The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts.

4. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.';

(11) the Annexes to Decision 2012/642/CFSP are amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 2 March 2022.

For the Council
The President
J.-Y. LE DRIAN

ANNEX

(1) Annex II to Decision 2012/642/CFSP is replaced by the following:

'ANNEX II

LIST OF LEGAL PERSONS, ENTITIES OR BODIES REFERRED TO IN ARTICLE 2d

Belarus Ministry of Defence';

(2) the following Annex is added:

'ANNEX IV

LIST OF PARTNER COUNTRIES REFERRED TO IN ARTICLE 2c(9)'.