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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2023/1593

of 28 July 2023

amending Regulation (EU) No 377/2012 concerning restrictive measures in view of the situation in Guinea-Bissau

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision (CFSP) 2023/1598 of 28 July 2023 amending Decision 2012/285/CFSP concerning restrictive measures in view of the situation in Guinea-Bissau ⁽¹⁾,

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

Whereas:

- (1) In May 2012, the Council adopted Decision 2012/285/CFSP ⁽²⁾ and Regulation (EU) No 377/2012 ⁽³⁾.
- (2) Pursuant to Article 5(2) of Decision 2012/285/CFSP and Article 11(4) of Regulation (EU) No 377/2012, the Council reviewed the restrictive measures in view of the situation in Guinea-Bissau and concluded that a provision on a humanitarian exemption applicable to certain actors, as listed in the United Nations Security Council Resolution 2664 (2022), should be inserted in relation to the Union's complementary measures concerning the freezing of funds and economic resources.
- (3) Regulation (EU) No 377/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2 of Regulation (EU) No 377/2012, the following paragraph is added:

- '4. Paragraphs 1 and 2 shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;

⁽¹⁾ See page 23 of this Official Journal.

⁽²⁾ Council Decision 2012/285/CFSP of 31 May 2012 concerning restrictive measures in view of the situation in Guinea-Bissau and repealing Decision 2012/237/CFSP (OJ L 142, 1.6.2012, p. 36).

⁽³⁾ Council Regulation (EU) No 377/2012 of 3 May 2012 concerning restrictive measures in view of the situation in Guinea-Bissau (OJ L 119, 4.5.2012, p. 1).

- (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA);
- (e) the employees, grantees, subsidiaries, or implementing partners of the entities mentioned in points (a) to (d) while and to the extent that they are acting in those capacities.’

Article 2

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

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

Done at Brussels, 28 July 2023.

For the Council
The President
P. NAVARRO RÍOS

COUNCIL REGULATION (EU) 2023/1594**of 3 August 2023****amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to 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 ⁽¹⁾,

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

Whereas:

- (1) On 18 May 2006, the Council adopted Regulation (EC) No 765/2006 ⁽²⁾.
- (2) Regulation (EC) No 765/2006 gives effect to the measures provided for in Decision 2012/642/CFSP.
- (3) Council Decision (CFSP) 2023/1601 ⁽³⁾ prohibits the sale, supply, transfer or export of firearms, their parts and essential components and ammunition to Belarus. Goods subject to that prohibition are also covered by Regulation (EU) No 258/2012 of the European Parliament and of the Council ⁽⁴⁾. In that context, Regulation (EC) No 765/2006 is to be treated as *lex specialis* and therefore, in the event of a conflict, takes precedence over Regulation (EU) No 258/2012.
- (4) Decision (CFSP) 2023/1601 expands the list of items which contribute to Belarus's military and technological enhancement or to the development of its defence and security sector by adding items which have been used by Russia for its war of aggression against Ukraine and items which contribute to the development or production of Belarus's military systems, including semiconductor devices, electronic integrated circuits, manufacturing and testing equipment, photographic cameras and optical components, other electrical/magnetic components, and electronic devices, modules and assemblies.
- (5) It is appropriate to impose an export ban on goods and technology suited for use in aviation and the space industry, including aircraft engines and their parts, for both manned and unmanned aircraft. In addition, Decision (CFSP) 2023/1601 introduces a possibility for the national competent authorities to grant derogations to allow for certain aviation goods that are also widely used in the medical field to be exported for medical, pharmaceutical or humanitarian purposes.

⁽¹⁾ OJ L 285, 17.10.2012, p. 1.

⁽²⁾ Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ L 134, 20.5.2006, p. 1).

⁽³⁾ Council Decision (CFSP) 2023/1601 of 3 August 2023 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (see page 37 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).

- (6) On 26 January 2023, the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') presented a proposal for a Council Decision to amend Decision 2012/642/CFSP and the High Representative and the Commission presented a joint proposal for a Council Regulation to amend Regulation (EC) No 765/2006. In view of the urgency linked to the fight against circumvention regarding certain sensitive goods, the adoption of provisions regarding those goods is being fast-tracked, without prejudice to the remainder of those proposals.
- (7) Regulation (EC) No 765/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 765/2006 is amended as follows:

- (1) the following article is inserted:

'Article 1ba

1. Without prejudice to Article 1a of this Regulation, it shall be prohibited to sell, supply, transfer or export, directly or indirectly, firearms, their parts and essential components and ammunition as listed in Annex I to Regulation (EU) No 258/2012 of the European Parliament and of the Council (*), and firearms and other arms as listed in Annex XVI to this Regulation, 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 to:

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

(*): Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).';

- (2) Articles 1e and 1f are replaced by the following:

'Article 1e

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, dual-use goods and technology, 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 to:

- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and 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; or

- (b) 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 or 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 export of items for use by news media;
- (d) software updates;
- (e) use as consumer communication devices; or
- (f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, 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 point (f) of the first subparagraph, the exporter shall declare in the 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 the date when the first export took place.

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 authorities 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:

- (a) intended for cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;
- (b) intended for intergovernmental cooperation in space programmes;
- (c) intended for 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) intended for maritime safety;
- (e) intended for civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;
- (f) intended for 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) intended for the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; or
- (h) intended for ensuring cyber-security and information security for natural and legal persons, entities and bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government.

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 authorities 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 the authorisation is requested before 1 May 2022.

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

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

- (i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex V, or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 1fa(1), point (a); 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, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).

8. The competent authorities may annul, suspend, modify or revoke an authorisation which they have granted pursuant to paragraphs 4 and 5 if they deem that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Regulation.

Article 1f

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology which might contribute to Belarus's military and technological enhancement, or to the development of its defence and security sector, as listed in Annex Va, 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 to:

- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and 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; or
- (b) 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 or 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 export of items for use by news media;

- (d) software updates;
- (e) use as consumer communication devices; or
- (f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, 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 point (f) of the first subparagraph, the exporter shall declare in the 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 the date when the first export took place.

4. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the 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:

- (a) intended for cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;
- (b) intended for intergovernmental cooperation in space programmes;
- (c) intended for 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) intended for maritime safety;
- (e) intended for civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;
- (f) intended for 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) intended for the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; or
- (h) intended for ensuring cyber-security and information security for natural and legal persons, entities and bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government.

4a. Without prejudice to paragraph 4, point (e), and by way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the 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 the wind-down by 6 February 2024 of contracts and operations which are ongoing on 5 August 2023 and which are necessary for the provision of civil telecommunication services to the Belarusian civilian population.

5. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the goods and technology referred 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 due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that the authorisation is requested before 1 May 2022.

5a. By way of derogation from paragraphs 1 and 2, the competent authority of a Member State may authorise the sale, supply, transfer or export of goods falling under CN codes 8536 69, 8536 90, 8541 30 and 8541 60 as listed in Annex Va until 6 February 2024, or the provision of related technical or financial assistance, insofar as this is necessary for the processing of those goods in Belarus by a joint venture in which a company established in the Union has a majority ownership on 5 August 2023, for the purpose of subsequent import into the Union and subsequent production in the Union of goods destined for use in the health or pharmaceutical sector, or in the area of research and development.

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

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

- (i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex V, or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 1fa(1); 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, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).

8. The competent authorities may annul, suspend, modify or revoke an authorisation which they have granted pursuant to paragraphs 4 and 5 if they deem that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Regulation.;

(3) the following article is inserted:

'Article 1sa

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, as listed in Annex XVII, 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 to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology listed in Annex XVII to any person, entity or body in Belarus or for use in Belarus.

3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology listed in Annex XVII, directly or indirectly, to any natural or legal person, entity or body in Belarus or for use in Belarus.

4. It shall be prohibited to:

- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and 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; or
- (b) 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.

5. The prohibitions in paragraphs 1 and 4 shall not apply to the execution until 4 September 2023 of contracts concluded before 5 August 2023, or of ancillary contracts necessary for the execution of such contracts.

6. By way of derogation from paragraphs 1 and 4, the national competent authorities may authorise, under such conditions as they deem appropriate, the execution of an aircraft financial lease concluded before 5 August 2023 after having determined that:

- (a) it is strictly necessary to ensure lease re-payments to a legal person, entity or body incorporated or constituted under the law of a Member State which does not fall under any of the restrictive measures provided for in this Regulation; and
- (b) no economic resources will be made available to the Belarusian counterpart, with the exception of the transfer of ownership of the aircraft after full reimbursement of the financial lease.

7. By way of derogation from paragraphs 1 and 4, the competent authorities may authorise, under such conditions as they deem appropriate, the sale, supply, transfer or export of the goods falling under CN codes 8517 71 00, 8517 79 00 and 9026 00 00 listed in Annex XVII, or related technical assistance, brokering services, financing or financial assistance, after having determined that it is necessary for medical or pharmaceutical purposes, or for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations.

When deciding on requests for authorisations for medical, pharmaceutical or humanitarian purposes in accordance with this paragraph, the national competent authorities shall not grant an authorisation for exports to any natural or legal person, entity or body in Belarus or for use in Belarus, if they have reasonable grounds to believe that the goods might have a military end-use.

8. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this Article within two weeks of the authorisation.

9. The prohibition in paragraph 1 shall be without prejudice to Articles 1e(4), point (b), and 1f(4), point (b).

10. The prohibition in paragraph 4, point (a), shall not apply to the exchange of information aimed at establishing technical standards in the framework of the International Civil Aviation Organization in relation to goods and technology referred to in paragraph 1.;

(4) Annex Va to Regulation (EC) No 765/2006 is amended in accordance with Annex I to this Regulation;

(5) the text set out in Annex II to this Regulation is added as Annexes XVI and XVII to Regulation (EC) No 765/2006.

Article 2

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

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

Done at Brussels, 3 August 2023.

For the Council
The President
P. NAVARRO RÍOS

ANNEX I

Annex Va to Regulation (EC) No 765/2006 is amended as follows:

- (1) the following heading is inserted after the title 'LIST OF GOODS AND TECHNOLOGY REFERRED TO IN ARTICLES 1f(1) AND 1fa(1)':

'Part A';

- (2) in 'Category I – Electronics', under 'X.A.I.003 Specific processing equipment, other than those specified in the CML or in Regulation (EU) 2021/821, as follows:', point a is replaced as follows:

'a. Frequency changers and their specially designed components, other than those specified in the CML or in Regulation (EU) 2021/821';

- (3) the following part is added:

'Part B

1. Semiconductor devices

CN Code	Description
8541 10	Diodes, other than photosensitive or light-emitting diodes (LED)
8541 21	Transistors, other than photosensitive transistors with a dissipation rate of less than 1 W
8541 29	Other transistors, other than photosensitive transistors
8541 30	Thyristors, diacs and triacs (excl. photosensitive semiconductor devices)
8541 49	Photosensitive semiconductor devices (excl. Photovoltaic generators and cells)
8541 51	Other semiconductor devices: Semiconductor-based transducers
8541 59	Other semiconductor devices
8541 60	Mounted piezo-electric crystals

2. Electronic integrated circuits, manufacturing and testing equipment

CN Code	Description
8486 10	Machines and apparatus for the manufacture of boules or wafers
8486 20	Machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits
8486 40	Machines and apparatus specified in note 11(C) to this chapter
8534 00	Printed circuits
8542 31	Processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits
8542 32	Memories
8542 33	Amplifiers
8542 39	Other Electronic Integrated Circuits
8543 20	Signal generators
9030 20	Oscilloscopes and oscillographs
9030 32	Multimeters with recording device

CN Code	Description
9030 39	Instruments and apparatus for measuring or checking voltage, current, resistance or electrical power, with recording device
9030 82	Instruments and apparatus for measuring or checking semiconductor wafers or devices

3. Photographic cameras and optical components

CN Code	Description
8525 89	Other television cameras, digital cameras and video camera recorders
9013 10	Telescopic sights for fitting to arms; periscopes; telescopes designed to form parts of machines, appliances, instruments or apparatus of this chapter or Section XVI
9013 80	Other optical devices, appliances and instruments

4. Other electrical/magnetic components

CN Code	Description
8532 21	Other fixed capacitors of tantalum
8532 24	Ceramic dielectric multilayer capacitors
8536 69	Plugs and sockets
8536 90	Other apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp holders and other connectors, junction boxes), for a voltage not exceeding 1 000 V; connectors for optical fibres, optical fibre bundles or cables
8548 00	Electrical parts of machinery or apparatus, not specified or included elsewhere in Chapter 85

5. Electronic devices, modules and assemblies

CN Code	Description
8471 50	Processing units other than those of subheading 8471 41 or 8471 49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
8471 80	Units for automatic data-processing machines (excl. processing units, input or output units and storage units)
8517 62	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
8517 69	Other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network
8526 91	Radio navigational aid apparatus
9014 20	Instruments and appliances for aeronautical or space navigation (other than compasses)
9014 80	Other navigational instruments and appliances'

ANNEX II

ANNEX XVI

List of firearms and other arms referred to in Article 1ba

CN Code	Description
9303	Other firearms and similar devices which operate by the firing of an explosive charge
ex 9304	Other arms (for example, spring, air or gas guns and pistols), excluding those of heading 9307

ANNEX XVII

List of goods and technologies referred to in Article 1sa

CN Code	Description
88	Aircraft, spacecraft, and parts thereof
ex 2710 19 83	Hydraulic oils for the usage in vehicles of Chapter 88
ex 2710 19 99	Other lubricating oils and other oils for use in aviation
4011 30 00	New pneumatic tyres of rubber, of a kind used on aircraft
ex 6813 20 00	Brake discs and pads for use on aircraft
6813 81 00	Brake linings and pads
8411 11	Turbojets of a thrust ≤ 25 kN
8411 12	Turbojets of a thrust > 25 kN
8411 21	Turbopropellers of a power ≤ 1 100 kW
8411 22	Turbopropellers of a power > 1 100 kW
8411 91	Parts of turbojets or turbopropellers, n.e.s.
8517 71 00	Aerials and aerial reflectors of all kinds; parts suitable for use therewith
ex 8517 79 00	Other parts related to aerials
9024 10 00	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials: Machines and appliances for testing metals
9026 00 00	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032'

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1595**of 3 August 2023****accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China and amending Implementing Regulation (EU) 2019/1198**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'),Having regard to Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China ⁽²⁾, and, in particular, Article 2 thereof,

Whereas,

A. MEASURES IN FORCE

- (1) On 13 May 2013, the Council imposed a definitive anti-dumping duty on imports into the Union of ceramic tableware and kitchenware ('the product concerned') originating in the People's Republic of China ('the PRC') by Council Implementing Regulation (EU) No 412/2013 ⁽³⁾ ('the original Regulation').
- (2) On 12 July 2019, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission extended the measures of the original Regulation for another five years by Implementing Regulation (EU) 2019/1198.
- (3) On 28 November 2019, following an anti-circumvention investigation pursuant to Articles 13(3) of the basic Regulation, the Commission amended Implementing Regulation (EU) 2019/1198 by Commission Implementing Regulation (EU) 2019/2131 ⁽⁴⁾.
- (4) In the original investigation, sampling was applied for investigating the exporting producers in the PRC in accordance with Article 17 of the basic Regulation.
- (5) The Commission imposed individual anti-dumping duty rates ranging from 13,1 % to 18,3 % on imports of ceramic tableware and kitchenware for the sampled exporting producers from the PRC. For the cooperating exporting producers that were not included in the sample, a duty rate of 17,9 % was imposed. The cooperating exporting producers not included in the sample are listed in Annex 1 of Implementing Regulation (EU) 2019/2131. Furthermore, a country-wide duty rate of 36,1 % was imposed on the product concerned from companies in the PRC which either did not make themselves known or did not cooperate with the investigation.
- (6) Pursuant to Article 2 of Implementing Regulation (EU) 2019/1198, Annex 1 of that Regulation can be amended by granting a new exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of 17,9 %, where that new exporting producer in the PRC provides sufficient evidence to the Commission that:
 - (a) it did not export to the Union the product concerned during the period of investigation on which the measures are based, that is from 1 January 2011 to 31 December 2011 ('the original investigation period');

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 189, 15.7.2019, p. 8.

⁽³⁾ Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China (OJ L 131, 15.5.2013, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/2131 of 28 November 2019 amending Implementing Regulation (EU) 2019/1198 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 321, 12.12.2019, p. 139).

- (b) it is not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1198; and
- (c) it has actually exported to the Union the product concerned after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union.

B. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (7) The company Chaozhou Jingmei Craft Products Co., Ltd. (Jingmei or 'the applicant') submitted a request to the Commission to be granted new exporting producer treatment (NEPT) and hence be subject to the duty rate applicable to the cooperating companies in the PRC not included in the sample, which is 17,9 %. The applicant claimed that it met all three conditions set out in Article 2 of Implementing Regulation (EU) 2019/1198 ('the NEPT conditions').
- (8) In order to determine whether the applicant fulfilled the NEPT conditions, the Commission first sent a questionnaire to the applicant requesting evidence showing that it met the NEPT conditions.
- (9) Following the analysis of the questionnaire reply, the Commission requested further information and supporting evidence, which was submitted by the applicant.
- (10) The Commission sought to verify all information it deemed necessary for the purpose of determining whether the applicant met the NEPT conditions. To this end, the Commission analysed the evidence submitted by the applicant in its questionnaire and deficiency letters replies; and consulted various online databases including Orbis ⁽⁵⁾, D&B ⁽⁶⁾, Qichacha, Aiqicha, Baidu ⁽⁷⁾, the company's Alibaba website as well as other publicly available sources. In parallel, the Commission also informed the Union industry about the applicant's request and invited it to provide any comments if needed. The Union industry provided comments which were considered.

C. ANALYSIS OF THE REQUEST

- (11) With regard to the condition set out in Article 2(a) of the Implementing Regulation (EU) 2019/1198 that the applicant did not export the product concerned to the Union during the period of investigation on which the measures are based, that is from 1 January 2011 to 31 December 2011 ('the original investigation period'), during the investigation the Commission established that the applicant did not export the product concerned during the time.
- (12) The applicant is a company that was established in 1993, but was found to have exported to the Union the product concerned only once – an indirect EU sale – in 2012, thus after the original investigation period, when the applicant sold to an Australian trader, however, dispatching this order directly to the Irish end customer (Dublin, Ireland) of this Australian trader. This indirect sale was confirmed by the shipping and other documentation submitted. As this Australian trader was an important customer of the applicant, and the Commission wanted to exclude the possibility of any other of such indirect sale to have taken place during the original investigation period via this Australian trader, it requested the submission of the full documentation of all transactions of Jingmei with this Australian trader in 2011. No evidence was found of any indirect EU sale among those transactions.
- (13) The Commission also checked all relevant accounting records of the applicant for the original investigation period, including income statements, VAT return statements, sales ledgers, sales registers, sub-ledger of main business income, account payable sub-ledger of the Australian trader as well as the golden tax system. All these were checked by means of video files, screenshots, photographs of physical accounting books and direct extractions from IT

⁽⁵⁾ Orbis is a global data provider of corporate information covering more than 220 million companies across the globe. It mainly provides standardised information on private companies and corporate structures.

⁽⁶⁾ Dun and Bradstreet (D&B) software solution provides commercial data, analytics, and insights for businesses on private companies and corporate structures.

⁽⁷⁾ Qichacha, Aiqicha, Baidu are private, for-profit Chinese-owned databases that deliver business data, credit information, and analytics on China-based private and public companies to consumers/professionals.

systems, reconciling the reported figures. All these checks did not reveal any export sale to the Union during 2011. Therefore, the Commission concluded that the applicant had demonstrated, by providing all the requested very detailed information which was found to be consistent, complete and clear, that it had not exported to the Union in the original investigation period.

- (14) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(a) of Implementing Regulation (EU) 2019/1198.
- (15) With regard to the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198 that the applicant is not related to an exporting producer that exported the product concerned to the Union in the original investigation period, during the investigation the Commission established that Jingmei is not related to any of the Chinese exporting producers that are subject to the anti-dumping measures. During the original investigation period, the applicant had three shareholders, including two natural persons. None of the natural persons was found to be related to Chinese exporting producers that are subject to the anti-dumping measures. The third shareholder – a legal entity – was not found trading the product concerned or being related to any Chinese company subject to the anti-dumping measures. In 2017 there was a change in shareholding of the applicant, when the above-mentioned legal entity as well as one of the two natural persons sold their shares to a new shareholder, who became the general manager of the applicant. This shareholding situation remained unchanged to date, with two shareholders, natural persons. The new shareholder is also director in a holding company named Guangdong Green Sunshine Tourism Co. Ltd., and in possession of 6,87 % of the shares of this company. This holding company is not involved in the product concerned. However, according to Qichacha, one of its shareholders who holds 0,41 % shares, is in parallel shareholder and director of Chaozhou Chenhui Ceramics, which is a Chinese producer subject to the currently applicable anti-dumping measures. As this relationship is very indirect and far below the threshold of 5 % (only 0,41 %), the Commission did not identify any relationship of the current shareholders as defined by the Commission Implementing Regulation (EU) 2015/2447 ⁽⁸⁾. Therefore, the applicant met the second criterion.
- (16) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198.
- (17) With regard to the condition set out in Article 2(c) of the Implementing Regulation (EU) 2019/1198, that the applicant has actually exported the product concerned to the Union after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union, during the investigation the Commission established that the applicant had indeed exported once to the Union (Ireland) in 2012, therefore after the original investigation period. This was an indirect sale to the Union, because the applicant sold to an Australian trader, however, dispatched the order directly to the end customer of this Australian trader to an end-customer in Dublin, Ireland. Full documentation was provided of this transaction, including order, invoice, shipping documents and bank payments and information was crosschecked through these and other documents of the application. Therefore, the applicant met the third criterion.
- (18) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(c) of Implementing Regulation (EU) 2019/1198.
- (19) Accordingly, the Commission concluded that the applicant fulfils all three conditions to be granted NEPT, as set out in Article 2 of Implementing Regulation (EU) 2019/1198 and the request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 17,9 % for cooperating companies not included in the sample of the original investigation.

⁽⁸⁾ Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558) (the EU Customs Code), stipulates that two persons shall be deemed to be related if one of the following conditions is fulfilled: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns or controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; (h) they are members of the same family. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in the preceding sentence.

D. DISCLOSURE

- (20) The applicant and the Union industry were informed of the essential facts and considerations based on which it was considered appropriate to grant the anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation to Chaozhou Jingmei Craft Products Co., Ltd.
- (21) The parties were granted the possibility to submit comments. No comments were received.
- (22) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The following company is added to Annex 1 of Implementing Regulation (EU) 2019/2131 containing the list of cooperating companies not included in the sample:

Company	TARIC additional code
'Chaozhou Jingmei Craft Products Co., Ltd.	C933'

Article 2

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

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

Done at Brussels, 3 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1596**of 3 August 2023****accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China and amending Implementing Regulation (EU) 2019/1198**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'),

Having regard to Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China ⁽²⁾, and, in particular, Article 2 thereof,

Whereas,

A. MEASURES IN FORCE

- (1) On 13 May 2013, the Council imposed a definitive anti-dumping duty on imports into the Union of ceramic tableware and kitchenware ('the product concerned') originating in the People's Republic of China ('the PRC') by Council Implementing Regulation (EU) No 412/2013 ⁽³⁾ ('the original Regulation').
- (2) On 12 July 2019, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission extended the measures of the original Regulation for another five years by Implementing Regulation (EU) 2019/1198.
- (3) On 28 November 2019, following an anti-circumvention investigation pursuant to Articles 13(3) of the basic Regulation, the Commission amended Implementing Regulation (EU) 2019/1198 by Commission Implementing Regulation (EU) 2019/2131 ⁽⁴⁾.
- (4) In the original investigation, sampling was applied for investigating the exporting producers in the PRC in accordance with Article 17 of the basic Regulation.
- (5) The Commission imposed individual anti-dumping duty rates ranging from 13,1 % to 18,3 % on imports of ceramic tableware and kitchenware for the sampled exporting producers from the PRC. For the cooperating exporting producers that were not included in the sample, a duty rate of 17,9 % was imposed. The cooperating exporting producers not included in the sample are listed in Annex 1 of Regulation (EU) 2019/2131. Furthermore, a country-wide duty rate of 36,1 % was imposed on the product concerned from companies in the PRC which either did not make themselves known or did not cooperate with the investigation.
- (6) Pursuant to Article 2 of Implementing Regulation (EU) 2019/1198, Annex 1 of that Regulation can be amended by granting a new exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of 17,9 %, where that new exporting producer in the PRC provides sufficient evidence to the Commission that:
 - (a) it did not export to the Union the product concerned during the period of investigation on which the measures are based, that is from 1 January 2011 to 31 December 2011 ('the original investigation period');

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 189, 15.7.2019, p. 8.

⁽³⁾ Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China (OJ L 131, 15.5.2013, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/2131 of 28 November 2019 amending Implementing Regulation (EU) 2019/1198 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 321, 12.12.2019, p. 139).

- (b) it is not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1198; and
- (c) it has actually exported to the Union the product concerned after the end of the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union.

B. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (7) The company Shenzhen M&G Ceramics Co., Ltd. ('M&G' or the 'applicant') submitted a request to the Commission to be granted new exporting producer treatment ('NEPT') and hence be subject to the duty rate applicable to the cooperating companies in the PRC not included in the sample, which is 17,9 %. The applicant claimed that it met all three conditions set out in Article 2 of Implementing Regulation (EU) 2019/1198 ('the NEPT conditions').
- (8) In order to determine whether the applicant fulfilled the conditions, the Commission first sent a questionnaire to the applicant requesting evidence showing that it met the NEPT conditions.
- (9) Following the analysis of the questionnaire reply, the Commission requested further information and supporting evidence, which was submitted by the applicant.
- (10) The Commission sought to verify all information it deemed necessary for the purpose of determining whether the applicant met the NEPT conditions. To this end, the Commission analysed the evidence submitted by the applicant in its questionnaire and deficiency letters replies; consulted various online databases, including Orbis ⁽⁵⁾, D&B ⁽⁶⁾, and Qichacha ⁽⁷⁾; and cross-checked company information with information submitted in previous cases. In parallel, the Commission also informed the Union industry about the applicant's request and invited it to provide any comments if needed. No comments from Union industry were received.

C. ANALYSIS OF THE REQUEST

- (11) With regard to the condition set out in Article 2(a) of the Implementing Regulation (EU) 2019/1198 that the applicant did not export the product concerned to the Union during the period of investigation on which the measures are based, that is from 1 January 2011 to 31 December 2011 ('the original investigation period'), during the investigation the Commission established that the applicant did not exist at the time. The business and export licences confirmed December 2019 as the date of the establishment of the applicant and this was also cross-checked with other publicly available sources. Therefore, the applicant could not have exported the product concerned to the Union during the period of investigation.
- (12) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(a) of Implementing Regulation (EU) 2019/1198.
- (13) With regard to the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198 that the applicant is not related to an exporting producer that exported the product concerned to the Union in the original investigation period, during the investigation the Commission established that according to the applicant's questionnaire and deficiency letter replies, the two shareholders of M&G hold respectively 60 % and 40 % of the shares. This was confirmed by Qichacha. The investigation confirmed that one of the shareholders did not have any link with other companies subject to the above-mentioned anti-dumping measures. The second shareholder was active in four

⁽⁵⁾ Orbis is a global data provider of corporate information covering more than 220 million companies across the globe. It mainly provides standardised information on private companies and corporate structures.

⁽⁶⁾ Dun and Bradstreet (D&B) software solution provides commercial data, analytics, and insights for businesses on private companies and corporate structures.

⁽⁷⁾ Qichacha is a private, for-profit Chinese-owned database that delivers business data, credit information, and analytics on China-based private and public companies to consumers/professionals.

other companies in the industry since 1995, of which three no longer exist. As far as the still existing company is concerned, after clarifications made through replies to deficiency letters as well as further investigation, this shareholder was not found to have links with producers subject to the original anti-dumping measures. Thus, the Commission did not identify any relationship as defined by Commission Implementing Regulation (EU) 2015/2447 ⁽⁸⁾.

- (14) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(b) of Implementing Regulation (EU) 2019/1198.
- (15) With regard to the condition set out in Article 2(c) of Implementing Regulation (EU) 2019/1198, that the applicant has actually exported the product concerned to the Union after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union, during the investigation the Commission established that M&G first exported to the Union (Spain) in April 2020, therefore after the original investigation period. The applicant provided the order, the invoice, the packing list, the customs declaration form, the bill of lading and bank payment documents. The products of the order were also identified on the website of the EU importer.
- (16) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(c) of Implementing Regulation (EU) 2019/1198.
- (17) Accordingly, the applicant fulfils all three conditions to be granted NEPT, as set out in Article 2 of Implementing Regulation (EU) 2019/1198 and the request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 17,9 % for cooperating companies not included in the sample of the original investigation.

D. DISCLOSURE

- (18) The applicant and the Union industry were informed of the essential facts and considerations based on which it was considered appropriate to grant the anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation to Shenzhen M&G Ceramics Co., Ltd. ("M&G").
- (19) The parties were granted the possibility to submit comments. No comments were received.
- (20) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The following company is added to Annex 1 of Implementing Regulation (EU) 2019/2131 containing the list of cooperating companies not included in the sample:

Company	TARIC additional code
'Shenzhen M&G Ceramics Co., Ltd.	C932'

⁽⁸⁾ Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558) (the EU Customs Code), stipulates that two persons shall be deemed to be related if one of the following conditions is fulfilled: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns or controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; (h) they are members of the same family. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in the preceding sentence.

Article 2

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

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

Done at Brussels, 3 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1597

of 3 August 2023

amending Implementing Regulation (EU) 2023/265 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 14(1) thereof,

Whereas:

- (1) Imports of ceramic tiles originating in India and Türkiye are subject to definitive anti-dumping duties imposed by Commission Implementing Regulation (EU) 2023/265 ⁽²⁾.
- (2) Nehani Tiles Private Limited, TARIC ⁽³⁾ additional code C126, a company subject to the anti-dumping duty rate for cooperating, non-sampled exporting producers of 7,3 %, informed the Commission on 9 March 2023 ('date of the request') that it had changed its name to Nehani Tiles Limited Liability Partnership ('Nehani Tiles LLP').
- (3) The company requested the Commission to confirm that the change of name does not affect the right of the company to benefit from the anti-dumping duty rate applied to it under its previous name.
- (4) The Commission examined the information supplied and concluded that the change of name was properly registered with the relevant authorities, and did not result in any new relationship with other groups of companies which were not investigated by the Commission.
- (5) Accordingly, this change of name does not affect the findings of Regulation (EU) 2023/265 and in particular the anti-dumping duty rate applicable to it. Therefore, the Commission considered it appropriate to amend Regulation (EU) 2023/265 to reflect the changed name of the company previously attributed to TARIC additional code C126.
- (6) The evidence in the file also confirmed that the change of the name was applicable as of 29 December 2022, the day when the Ministry of Corporate Affairs issued the Certificate of Registration of Conversion. Since this change was made effective before the date of imposition of definitive anti-dumping duties, this Regulation should apply as of the entry into force of those measures, namely, as of 10 February 2023.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Annex to Implementing Regulation (EU) 2023/265 is amended as follows:

'India	Nehani Tiles Private Limited Neha Ceramic Industries Orinda Granito LLP Orinda Industries LLP	C126'
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⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye (OJ L 41, 10.2.2023, p. 1).

⁽³⁾ The Integrated Tariff of the European Union.

is replaced by:

'India	Nehani Tiles LLP Neha Ceramic Industries Orinda Granito LLP Orinda Industries LLP	C126'
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2. TARIC additional code C126, previously attributed to inter alia Nehani Tiles Private Limited, shall apply to inter alia Nehani Tiles LLP as of 10 February 2023.

3. Any definitive duty paid on imports of products manufactured by Nehani Tiles LLP, in excess of the anti-dumping duty established in Article 1(2) of Commission Implementing Regulation (EU) 2023/265 as regards Nehani Tiles Private Limited, shall be repaid or remitted in accordance with the applicable customs legislation.

Article 2

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

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

Done at Brussels, 3 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (CFSP) 2023/1598

of 28 July 2023

amending Decision 2012/285/CFSP concerning restrictive measures in view of the situation in Guinea-Bissau

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 of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 31 May 2012, the Council adopted Decision 2012/285/CFSP ⁽¹⁾.
- (2) Pursuant to Article 5(2) of Decision 2012/285/CFSP, the Council reviewed the restrictive measures in view of the situation in Guinea-Bissau and concluded that a provision on a humanitarian exemption applicable to certain actors, as listed in the United Nations Security Council Resolution 2664 (2022), should be inserted in relation to the Union's complementary measures concerning the freezing of funds and economic resources.
- (3) Further action by the Union is necessary to implement certain measures in this Decision.
- (4) Decision 2012/285/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Decision 2012/285/CFSP, the following paragraph is added:

'6. Paragraphs 1 and 2 shall not apply to the provision, processing or payment of funds, other financial assets or economic resources or to the provision of goods and services, which are necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:

- (a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
- (b) international organisations;
- (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); or by
- (e) the employees, grantees, subsidiaries, or implementing partners of the entities mentioned in points (a) to (d) while and to the extent that they are acting in those capacities.'

⁽¹⁾ Council Decision 2012/285/CFSP of 31 May 2012 concerning restrictive measures in view of the situation in Guinea-Bissau and repealing Decision 2012/237/CFSP (OJ L 142, 1.6.2012, p. 36).

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, 28 July 2023.

For the Council
The President
P. NAVARRO RÍOS

COUNCIL DECISION (CFSP) 2023/1599**of 3 August 2023****on a European Union Security and Defence Initiative in support of West African countries of the Gulf of Guinea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 42(4) and 43(2) thereof,

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

Whereas:

- (1) On 23 January 2023, the Council had an exchange of views on Sahel and the coastal countries of West Africa, confirming that that region remains a priority for the Union in spite of the worsening security and political situation. The Council agreed to develop a Crisis Management Concept in order to offer the coastal states of the Gulf of Guinea concrete engagement and targeted training and support. The Council recalled that the Union is also to deploy Military Advisors in Union delegations to guide that effort.
- (2) On 29 June 2023, the Council approved a Crisis Management Concept for a possible security and defence partnership with West African countries of the Gulf of Guinea (the 'Crisis Management Concept'). The Crisis Management Concept is based on an integrated approach for a security and defence partnership with those countries, including the establishment of a Mission under the Common Security and Defence Policy (CSDP) (the 'Mission'), complemented by the deployment of Military Advisors in Union delegations, in conjunction with assistance measures under the European Peace Facility for the provision of military equipment and in synergy with security-related projects. The Crisis Management Concept recommends that the Mission be named 'European Union Security and Defence Initiative in support of West African countries of the Gulf of Guinea'.
- (3) By letter dated 6 July 2023, the President of the Republic of Benin invited the Union to deploy the Mission in its territory.
- (4) By letter dated 10 July 2023, the President of the Republic of Ghana invited the Union to deploy the Mission in its territory.
- (5) The Mission should therefore be established in Benin and Ghana. It should be possible for the Council to later decide to expand the Mission to other West African countries of the Gulf of Guinea set out in the Crisis Management Concept, upon their invitation.
- (6) The Political and Security Committee should exercise, under the responsibility of the Council and of the High Representative of the Union for Foreign Affairs and Security Policy, political control over the Mission, provide it with strategic direction and take the relevant decisions in accordance with the third paragraph of Article 38 of the Treaty on European Union (TEU).
- (7) The Mission should have a civilian pillar, under the strategic command and control of a Civilian Operation Commander, and a military pillar, under the strategic command and control of a Military Commander. The Joint Support Coordination Cell, co-chaired by the Civilian Operation Commander and the Military Commander, should ensure the coherence of the chain of command.
- (8) The Civilian Planning and Conduct Capability should be at the disposal of the Civilian Operation Commander for the planning and conduct of the civilian pillar of the Mission. It should be reinforced for the purpose of the Mission by a civilian command and support cell.

- (9) The Military Planning and Conduct Capability should be the static command and control structure at the military strategic level, and should be responsible for the operational planning and conduct of the military pillar of the Mission. It should be reinforced for the purpose of the Mission by a military command and support cell.
- (10) The head of the civilian command and control cell should exercise the same functions as regards the civilian pillar of the Mission as the Head of Mission in a civilian CSDP mission. The head of the military command and control cell should exercise the same functions as regards the military pillar of the Mission as the Mission Force Commander in a military CSDP mission.
- (11) It is necessary to negotiate and conclude international agreements relating to the status of Union-led units and personnel and to the participation of third States in the Mission.
- (12) Pursuant to Article 41(2) TEU, operational expenditure arising from the civilian pillar of the Mission should be charged to the Union budget, while operational expenditure arising from the military pillar of the Mission should be borne by the Member States in accordance with Council Decision (CFSP) 2021/509 ⁽¹⁾.
- (13) The Mission will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 TEU,

HAS ADOPTED THIS DECISION:

Section I

General provisions

Article 1

Establishment

1. The Union shall conduct a Mission under the Common Security and Defence Policy (CSDP) with the strategic objective to assist the West African countries of the Gulf of Guinea in which that Mission is established in developing the adequate capabilities within their security and defence forces to contain and respond to the pressure exercised by terrorist armed groups.
2. The Mission referred to in paragraph 1 shall be named 'European Union Security and Defence Initiative in support of West African countries of the Gulf of Guinea' (the 'Initiative').
3. The Initiative is hereby established in Benin and Ghana.
4. The Council may decide that the Initiative is also to be established in other West African countries of the Gulf of Guinea set out in the Crisis Management Concept for a possible security and defence partnership with West African countries of the Gulf of Guinea, approved by the Council on 29 June 2023, upon invitation by those countries.

Article 2

Mandate

1. In pursuit of the strategic objective set out in Article 1(1), as regards the countries referred to in Article 1(3), the Initiative shall:
 - a) contribute to enhancing resilience in vulnerable areas in their northern regions through capacity building of their security and defence forces;

⁽¹⁾ Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528 (OJ L 102, 24.3.2021, p. 14).

- b) provide pre-deployment operational training of their security and defence forces;
- c) support the enhancement in technical areas of their security and defence forces;
- d) promote the rule of law and good governance in their security sectors, focusing on their security and defence forces, and support trust-building between civil society and security and defence forces.

2. International humanitarian law, human rights and the principle of gender equality, the protection of civilians and the agendas under United Nations Security Council Resolution (UNSCR) 1325 (2000) on Women, Peace and Security, UNSCR 2250 (2015) on Youth, Peace and Security and UNSCR 1612 (2005) on Children and Armed Conflict shall be fully integrated and proactively mainstreamed in the Initiative's strategic and operational planning, activities and reporting.

3. In a flexible and modular approach, and as necessary to implement its tasks, the Initiative shall in particular deploy mobile training teams, visiting experts and crisis response teams to the countries referred to in Article 1(3). The Initiative shall implement civilian and military projects in those countries in pursuit of its strategic objective set out in Article 1(1) and the tasks set out in Article 2(1).

4. The Initiative shall facilitate the implementation of assistance measures under the European Peace Facility which may be decided by the Council in support of the countries referred to in Article 1(3).

Article 3

Political control and strategic direction

1. Under the responsibility of the Council and of the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), the Political and Security Committee (PSC) shall exercise the political control and strategic direction of the Initiative. The Council hereby authorises the PSC to take relevant decisions in accordance with Article 38 of the Treaty on European Union (TEU). That authorisation shall include powers to amend the planning documents, including the Operation Plan for the civilian pillar of the Initiative and the Mission Plan for the military pillar of the Initiative, and the chain of command. It shall also include powers to take decisions on the appointment of the heads of the civilian and the military command and support cells. Powers of decision with respect to the objectives and termination of the Initiative shall remain vested in the Council.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive, on a regular basis, reports from the chairman of the EU Military Committee (EUMC) regarding the activities of the military pillar of the Initiative. The PSC shall receive, on a regular basis and as required, reports from the Civilian Operation Commander regarding the activities of the civilian pillar of the Initiative. The PSC may invite the Civilian Operation Commander and the Military Commander to its meetings, as appropriate.

Article 4

Chain of command and structure

1. The Initiative shall have a unified chain of command as a crisis management operation.

2. The Initiative shall have its headquarters in Brussels.

3. The Initiative shall have a civilian pillar under the strategic command and control of the Civilian Operation Commander (the 'civilian pillar'), and a military pillar under the strategic command and control of the Military Commander (the 'military pillar').

4. The Joint Support Coordination Cell, co-chaired for the Initiative by the Civilian Operation Commander and the Military Commander, shall ensure the unity of the chain of command.

Section II

Civilian pillar*Article 5***Civilian Operation Commander**

1. The Managing Director of the Civilian Planning and Conduct Capability (CPCC) shall be the Civilian Operation Commander for the civilian pillar.
2. The CPCC shall be at the disposal of the Civilian Operation Commander for the planning and conduct of the civilian pillar.
3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and overall authority of the High Representative, shall exercise command and control of the civilian pillar at the strategic level.
4. The Civilian Operation Commander shall ensure the proper and effective implementation of the decisions of the Council and of the PSC with regard to the conduct of operations, including by issuing instructions at the strategic level to the staff of the civilian pillar as required and by providing them with advice and technical support.
5. The Civilian Operation Commander shall report to the Council through the High Representative.
6. All staff seconded to the civilian pillar shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the European External Action Service (EEAS), as appropriate. The national authority, Union institution or the EEAS, as appropriate, shall transfer operational control of its seconded staff to the Civilian Operation Commander.
7. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged for staff in the civilian pillar.
8. The Civilian Operation Commander and the heads of the Union delegations to the countries referred to in Article 1(3) shall consult each other as required.

*Article 6***Head of the civilian command and support cell**

1. The CPCC shall be reinforced for the purpose of the Initiative by a civilian command and support cell.
2. The head of the civilian command and support cell shall assume responsibility for the civilian pillar and shall exercise command and control thereof, at the operational level. The head of the civilian command and support cell shall be directly responsible to the Civilian Operation Commander and shall act in accordance with the Civilian Operation Commander's instructions.
3. The head of the civilian command and support cell shall be the representative of the civilian pillar in its area of responsibility.
4. The head of the civilian command and support cell shall exercise administrative and logistic responsibility for the civilian pillar, including responsibility for the assets, resources and information placed at the disposal of the civilian pillar. The head of the civilian command and support cell may delegate management tasks relating to staff and financial matters to staff members of the civilian pillar, under the overall responsibility of the head of the civilian command and support cell.
5. The head of the civilian command and support cell shall be responsible for disciplinary control over the staff of the civilian pillar. For seconded staff, disciplinary action shall be exercised by the national authorities of the seconding State in accordance with national rules, by the Union institution concerned or by the EEAS, as appropriate.

6. The head of the civilian command and support cell shall ensure appropriate visibility of the civilian pillar.

Article 7

Staff

1. The civilian pillar shall consist primarily of staff seconded by Member States, by Union institutions or by the EEAS. Each Member State, each Union institution and the EEAS shall bear the costs related to any member of staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances.
2. The Member State, the Union institution or the EEAS, as appropriate, shall be responsible for answering any claims relating to the secondment of or concerning their members of staff seconded to the civilian pillar, and for bringing any actions against such persons.
3. International and local staff may be recruited on a contractual basis by the civilian pillar if the functions required cannot be provided by personnel seconded by Member States. Exceptionally, in duly justified cases where no qualified applicants from the Member States are available, nationals from participating third States may be recruited on a contractual basis.
4. The conditions of employment and the rights and obligations of international and local staff in the civilian pillar shall be laid down in the contracts between the civilian pillar and the staff member concerned.

Article 8

Security

1. The Civilian Operation Commander shall direct the planning of security measures for the civilian pillar and ensure their proper and effective implementation by the Initiative in accordance with Article 5.
2. The head of the civilian command and support cell shall be responsible for the security of the civilian pillar and for ensuring compliance with the minimum security requirements applicable to the Initiative, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V TEU, and its supporting instruments.
3. The staff of the civilian pillar shall undergo mandatory security training before taking up their duties, in accordance with the Operation Plan. They shall also receive regular in-theatre refresher training organised by the Security Officer.
4. The Civilian Operation Commander shall ensure the protection of EU classified information in accordance with Council Decision 2013/488/EU ^(?).

Article 9

Legal arrangements

The civilian pillar shall have the capacity to procure services and supplies, to enter into contracts and administrative arrangements, to employ staff, to hold bank accounts, to acquire and dispose of assets and to discharge its liabilities, and to be a party to legal proceedings, as required in order to implement this Decision.

^(?) Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

*Article 10***Financial arrangements**

1. The financial reference amount intended to cover the expenditure related to the civilian pillar for the six months following the entry into force of this Decision shall be EUR 1 075 000. The financial reference amount for any subsequent period shall be decided by the Council.
2. All expenditure for the civilian pillar shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. Participation of natural and legal persons in the award of procurement contracts by the civilian pillar shall be open without limitations. Moreover, no rule of origin for goods purchased by the civilian pillar shall apply. Subject to the Commission's approval, the civilian pillar may conclude technical arrangements with Member States, countries referred to in Article 1(3), participating third States and other international actors regarding the provision of equipment, services and premises to the civilian pillar.
3. The civilian pillar shall be responsible for the implementation of its budget. For that purpose, the civilian pillar shall sign an agreement with the Commission. The financial arrangements shall respect the chain of command provided for in Articles 4, 5 and 6 and the operational requirements of the Initiative.
4. The civilian pillar shall report fully to, and be supervised by, the Commission as regards the financial activities undertaken in the framework of the agreement referred to in paragraph 3.
5. The expenditure related to the civilian pillar shall be eligible as of the date of adoption of this Decision.

*Article 11***Civilian project cell**

1. The civilian pillar shall have a civilian project cell for identifying and implementing civilian projects in support of its tasks set out in Article 2(1).
2. The civilian project cell shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to the civilian pillar and in support of its objectives.
3. Subject to paragraph 5, the civilian pillar shall be authorised to seek recourse to financial contributions from Member States or from third States to implement projects identified as supplementing the Initiative's other actions in a consistent manner, if the project is:
 - (a) provided for in the financial statement relating to this Decision; or
 - (b) integrated during the mandate of the Initiative by means of an amendment to that financial statement requested by the Civilian Operation Commander.
4. The civilian pillar shall enter into an arrangement with the relevant authorities of the States referred to in paragraph 3, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omission by the civilian pillar in the use of the funds provided by those States.
5. Under no circumstances shall the States referred to in paragraph 3 hold the Union or the High Representative liable for acts or omissions by the civilian pillar in the use of the funds provided by those States.
6. The PSC shall agree on the acceptance of a financial contribution from third States to the civilian project cell.

*Section III***Military pillar***Article 12***Military Commander**

1. The Director of the Military Planning and Conduct Capability (MPCC) shall be the Military Commander for the military pillar.
2. The MPCC shall be the static command and control structure at the military strategic level outside the area of operations, and shall be responsible for the operational planning and conduct of the military pillar.
3. The Military Commander, under the political control and strategic direction of the PSC and overall authority of the High Representative, shall exercise command and control of the military pillar at the strategic level.
4. The Military Commander shall ensure the proper and effective implementation of the decisions of the Council and the PSC with regard to the conduct of operations of the military pillar, including by issuing instructions to its personnel.
5. The Military Commander shall report to the Council through the High Representative.
6. All staff seconded to the military pillar shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the EEAS, as appropriate. The national authority, Union institution or the EEAS, as appropriate, shall transfer operational control of its seconded staff to the Military Commander.
7. The Military Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged for staff in the military pillar.

*Article 13***Head of the military command and support cell**

1. The MPCC shall be reinforced for the purpose of the Initiative by a military command and support cell.
2. The head of the military command and support cell shall assume responsibility for the military pillar and shall exercise command and control thereof, at the operational level.
3. The head of the military command and support cell shall be directly responsible to the Military Commander and shall act in accordance with the Military Commander's instructions.

*Article 14***Military direction**

1. The EUMC shall monitor the proper execution of the tasks by the military pillar, conducted under the responsibility of the Military Commander.
2. The EUMC shall receive, on a regular basis, reports from the Military Commander. The EUMC may invite the Military Commander and the head of the military command and support cell to its meetings, as appropriate.
3. The chairman of the EUMC shall act as the primary point of contact with the Military Commander.

*Article 15***Financial arrangements**

1. The common costs of the military pillar shall be administered in accordance with Decision (CFSP) 2021/509.
2. The financial reference amount for the common costs of the military pillar for the period of six months following the entry into force of this Decision shall be EUR 179 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 30 % for commitments and 15 % for payments. The financial reference amount for any subsequent period shall be decided by the Council.

*Article 16***Military project cell**

1. The military pillar shall have a military project cell for identifying and implementing projects with military implications in support of its tasks set out in Article 2(1).
2. The military project cell shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to the military pillar and in support of its objectives.
3. Subject to paragraph 5, the Military Commander shall be authorised to seek recourse to financial contributions from Member States or from third States to implement projects identified as supplementing other actions by the military pillar in a consistent manner.
4. The European Peace Facility may manage the financial contributions referred to in paragraph 3 of this Article in accordance with Article 30 of Decision (CFSP) 2021/509.
5. Under no circumstances shall the States referred to in paragraph 3 hold the Union or the High Representative liable for acts or omissions by the military pillar in the use of funds from those States.
6. The PSC shall agree on the acceptance of a financial contribution from third States to the military project cell.

Section IV

Final provisions*Article 17***Consistency of the Union's response and coordination**

1. The High Representative shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's development programmes and its humanitarian assistance programmes.
2. The Civilian Operation Commander, the Military Commander and the heads of the Union delegations to the countries referred to in Article 1(3) shall consult each other as required.
3. The heads of the civilian and the military command and support cells shall, without prejudice to the chain of command, receive local political guidance from the heads of the Union delegations to the countries referred to in Article 1(3).
4. The staff deployed in a Union delegation to a country referred to in Article 1(3) shall, without prejudice to the chain of command, receive local political guidance from the head of that delegation.
5. The Initiative shall coordinate its activities with Member States' bilateral activities in the field of security and defence in the countries referred to in Article 1(3) and, as appropriate, with like-minded partners and regional organisations, in particular the Economic Community of West African States and the Accra Initiative.

*Article 18***Participation of third States**

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the Initiative.
2. The Council hereby authorises the PSC to invite third States to offer contributions and to take relevant decisions on acceptance of the proposed contributions, upon the recommendation of the Military Commander and the EUMC, or of the Civilian Operation Commander, respectively.
3. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of the Initiative.
4. Third States making contributions to the civilian pillar or significant military contributions to the military pillar shall have the same rights and obligations in terms of the day-to-day management of the Initiative as Member States taking part in the Initiative.
5. The Council hereby authorises the PSC to take relevant decisions on the establishment of a civilian or a military committee of contributors, should third States make contributions to the civilian pillar or significant military contributions to the military pillar.

*Article 19***Status of the Initiative and its personnel**

The status of the Initiative and its personnel, including the privileges, immunities and further guarantees necessary for the fulfilment and smooth functioning of their mission, shall be the subject of an agreement concluded by the Union with each of the countries referred to in Article 1(3) pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 TFEU.

*Article 20***Release of information**

1. The High Representative shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of the Initiative, EU classified information generated for the purposes of the Initiative, in accordance with Decision 2013/488/EU:
 - (a) up to the level provided in the applicable security of information agreements concluded between the Union and the third State concerned; or
 - (b) up to 'CONFIDENTIEL UE/EU CONFIDENTIAL' level in other cases.
2. In the event of a specific and immediate operational need, the High Representative shall also be authorised to release to the relevant country referred to in Article 1(3) any EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which is generated for the purposes of the Initiative, in accordance with Decision 2013/488/EU. Arrangements between the High Representative and the competent authorities of that country shall be drawn up for that purpose.
3. The High Representative shall be authorised to release to the third States associated with this Decision any EU non-classified documents connected with the deliberations of the Council relating to the Initiative and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽³⁾.

⁽³⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

4. The High Representative may delegate the powers referred to in paragraphs 1 to 3, as well as the ability to conclude the arrangements referred to in paragraph 2, to staff of the EEAS, to the Civilian Operation Commander or to the Military Commander.

Article 21

Planning and launch of the Initiative

The Decision to launch the Initiative shall be adopted by the Council following approval of the Operation Plan for the civilian pillar and of the Mission Plan, including the Rules of Engagement, for the military pillar.

Article 22

Entry into force and termination

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall apply for a period of two years from the launch of the Initiative pursuant to Article 21.
3. This Decision shall be repealed in accordance with the plans approved for the termination of the Initiative, and without prejudice to the procedures regarding the audit and presentation of the accounts of the military pillar laid down in Decision (CFSP) 2021/509.

Done at Brussels, 3 August 2023.

For the Council
The President
P. NAVARRO RÍOS

COUNCIL DECISION (CFSP) 2023/1600**of 3 August 2023****amending Decision (CFSP) 2016/610 on a European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 42(4) and Article 43(2) thereof,

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

Whereas:

- (1) On 19 April 2016, the Council adopted Decision (CFSP) 2016/610 ⁽¹⁾, which established the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) with a mandate until 19 September 2018.
- (2) On 28 July 2022, the Council adopted Decision (CFSP) 2022/1334 ⁽²⁾, which extended EUTM RCA until 20 September 2023 and amended its mandate.
- (3) On 13 July 2023, on the basis of the holistic strategic review of EUTM RCA and the European Union CSDP Advisory Mission in the Central African Republic (EUAM RCA), the Political and Security Committee recommended that the mandate of EUTM RCA be extended, in principle, until 19 September 2024 and that a strategic assessment of both EUTM RCA and EUAM RCA be conducted no later than March 2024.
- (4) Decision (CFSP) 2016/610 should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2016/610 is amended as follows:

- (1) in Article 10, the following paragraph is added:

‘6. The financial reference amount for the common costs of EUTM RCA for the period from 20 September 2023 until 19 September 2024 shall be EUR 5 212 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 15 % in commitments and 0 % for payments.’;

- (2) in Article 13, paragraph 2 is replaced by the following:

‘2. Subject to a strategic assessment to be conducted by the PSC no later than March 2024, EUTM RCA shall end on 19 September 2024.’.

Article 2

This Decision shall enter into force on the date of its adoption.

⁽¹⁾ Council Decision (CFSP) 2016/610 of 19 April 2016 on a European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) (OJ L 104, 20.4.2016, p. 21).

⁽²⁾ Council Decision (CFSP) 2022/1334 of 28 July 2022 amending Decision (CFSP) 2016/610 on a European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) (OJ L 201, 1.8.2022, p. 27).

Done at Brussels, 3 August 2023.

For the Council
The President
P. NAVARRO RÍOS

COUNCIL DECISION (CFSP) 2023/1601**of 3 August 2023****amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine**

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⁾.
- (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) On 2 March 2022, the Council adopted Decision (CFSP) 2022/356 ⁽²⁾, which amended the title of Decision 2012/642/CFSP and introduced further restrictive measures in response to the involvement of Belarus in the Russian aggression against Ukraine.
- (4) In its conclusions of 20 and 21 October 2022, the European Council called on the Belarusian authorities to stop enabling the Russian war of aggression by permitting Russian armed forces to use Belarusian territory and by providing support to the Russian military. The European Council affirmed that the Belarusian regime must fully abide by its obligations under international law and that the Union remains ready to move quickly with further sanctions against Belarus.
- (5) On 18 January 2023, the Union released a statement on the human rights situation in Belarus at the Committee of Ministers of the Council of Europe, in which it expressed grave concern with the dire and deteriorating human rights situation in Belarus under the Lukashenka regime, and further condemned the activities of the regime in Minsk aimed at supporting the barbaric Russian aggression against Ukraine and the renewed attempts to cynically and violently use migrants to create crisis situations at Union borders.
- (6) In its conclusions of 23 March 2023 and 29 and 30 June 2023, the European Council condemned the continued military support for Russia's war of aggression provided by Belarus and stressed that Belarus must stop allowing Russian armed forces to use its territory, including for the deployment of tactical nuclear weapons.
- (7) In view of the gravity of the situation, and in response to Belarus's continued involvement in Russia's aggression against Ukraine, it is appropriate to introduce additional restrictive measures.

⁽¹⁾ 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 (OJ L 285, 17.10.2012, p. 1).

⁽²⁾ Council Decision (CFSP) 2022/356 of 2 March 2022 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus (OJ L 67, 2.3.2022, p. 103).

- (8) In particular, it is appropriate to prohibit the sale, supply, transfer or export of firearms, their parts and essential components and ammunition. Goods subject to that prohibition are also covered by Regulation (EU) No 258/2012 of the European Parliament and of the Council ⁽³⁾. In that context, Decision 2012/642/CFSP is to be treated as *lex specialis* and therefore, in the event of a conflict, takes precedence over Regulation (EU) No 258/2012.
- (9) It is also appropriate to further extend the export ban on dual use and advanced goods and technologies, and introduce further export restrictions on goods which could contribute to Belarus's military and technological enhancement or to the development of its defence and security sector, in particular items which have been used by Russia for its war of aggression against Ukraine.
- (10) It is also appropriate to impose an export ban on goods and technology suited for use in aviation and the space industry, including aircraft engines and their parts, for both manned and unmanned aircraft.
- (11) Further action by the Union is needed in order to implement certain measures.
- (12) Decision 2012/642/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2012/642/CFSP is amended as follows:

- (1) the following Article is inserted:

'Article 1a

1. Without prejudice to Article 1 of this Decision, it shall be prohibited to sell, supply, transfer or export, directly or indirectly, firearms, their parts and essential components and ammunition as listed in Annex I to Regulation (EU) No 258/2012 of the European Parliament and of the Council (*), and firearms and other arms as listed in Annex VI to this Decision, 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 to:

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

(*) Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).;

⁽³⁾ Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).

(2) in Article 2c, paragraph 1 is replaced by the following:

'1. 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.

(*) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting 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) in Article 2c(3), point (c) is replaced by the following:

'(c) temporary export of items for use by news media;';

(4) in Article 2c(3), point (e) is replaced by the following:

'(e) use as consumer communication devices; or;';

(5) in Article 2c(3), point (f) is deleted;

(6) in Article 2c(3), point (g) is replaced by the following:

'(f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.;

(7) in Article 2c(3), the second subparagraph is replaced by the following:

'With the exception of point (f) of the first subparagraph, the exporter shall declare in the 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 the date when the first export took place.;

(8) in Article 2c(4), point (e) is replaced by the following:

'(e) civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;';

(9) in Article 2c(4), point (g) is replaced by the following:

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

(10) in Article 2c(4), the following point is added:

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

(11) in Article 2c, paragraph 5 is replaced by the following:

'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 authorities 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 the authorisation is requested before 1 May 2022.;

(12) in Article 2c, paragraph 6 is replaced by the following:

'6. All authorisations required under this Article shall be granted by the competent authorities in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. The authorisation shall be valid throughout the Union.;

(13) in Article 2c(7), points (i) and (ii) are replaced by the following:

- '(i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex II or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 2da(1), point (a); 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, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).;

(14) in Article 2d(3), point (c) is replaced by the following:

- '(c) temporary export of items for use by news media;';

(15) in Article 2d(3), point (f) is deleted;

(16) in Article 2d(3), point (g) is replaced by the following:

- '(f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.';

(17) in Article 2d(3), the second subparagraph is replaced by the following:

'With the exception of point (f) of the first subparagraph, the exporter shall declare in the 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 the date when the first export took place.';

(18) in Article 2d(4), point (e) is replaced by the following:

- '(e) civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;';

(19) in Article 2d(4), point (g) is replaced by the following:

- '(g) the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; or';

(20) in Article 2d(4), the following point is added:

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

(21) in Article 2d, the following paragraph is inserted:

'4a. Without prejudice to paragraph 4, point (e), and by way of derogation from paragraphs 1 and 2, the competent authority may authorise the sale, supply, transfer or export of the 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 the wind-down by 6 February 2024 of contracts and operations which are ongoing on 5 August 2023 and which are necessary for the provision of civil telecommunication services to the Belarusian civilian population.';

(22) in Article 2d, the following paragraph is inserted:

'5a. By way of derogation from paragraphs 1 and 2, the competent authorities of the Member State may authorise the sale, supply, transfer or export of goods falling under CN codes 8536 69, 8536 90, 8541 30 and 8541 60 until 6 February 2024, or the provision of related technical or financial assistance, insofar as this is necessary for the processing of those goods in Belarus by a joint venture in which a company established in the Union has a majority ownership on 5 August 2023, for the purpose of subsequent import into the Union and subsequent production in the Union of goods destined for use in the health or pharmaceutical sector, or in the area of research and development.';

(23) in Article 2d, paragraph 6 is replaced by the following:

‘6. All authorisations required under this Article shall be granted by the competent authorities in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. The authorisation shall be valid throughout the Union.’;

(24) in Article 2d(7), points (i) and (ii) are replaced by the following:

(i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex II or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 2da(1), point (a); 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, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).;

(25) the following Article is inserted:

‘Article 2sa

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, 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 to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology referred to in paragraph 1 to any person, entity or body in Belarus or for use in Belarus.

3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology referred to in paragraph 1, directly or indirectly, to any natural or legal person, entity or body in Belarus or for use in Belarus.

4. It shall be prohibited to:

(a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and 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; or

(b) 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.

5. The prohibitions in paragraphs 1 and 4 shall not apply to the execution until 4 September 2023 of contracts concluded before 5 August 2023, or of ancillary contracts necessary for the execution of such contracts.

6. By way of derogation from paragraphs 1 and 4, the national competent authorities may authorise, under such conditions as they deem appropriate, the execution of an aircraft financial lease concluded before 5 August 2023 after having determined that:

(a) it is strictly necessary to ensure lease re-payments to a legal person, entity or body incorporated or constituted under the law of a Member State which does not fall under any of the restrictive measures provided for in this Decision; and

(b) no economic resources will be made available to the Belarusian counterpart, with the exception of the transfer of ownership of the aircraft after full reimbursement of the financial lease.

7. By way of derogation from paragraphs 1 and 4, the competent authorities may authorise, under such conditions as they deem appropriate, the sale, supply, transfer or export of the goods falling under CN codes 8517 71 00, 8517 79 00 and 9026 00 00, or related technical assistance, brokering services, financing or financial assistance, after having determined that it is necessary for medical or pharmaceutical purposes, or for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations.

When deciding on requests for authorisations for medical, pharmaceutical or humanitarian purposes in accordance with this paragraph, the national competent authorities shall not grant an authorisation for exports to any natural or legal person, entity or body in Belarus or for use in Belarus, if they have reasonable grounds to believe that the goods might have a military end-use.

8. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this Article within two weeks of the authorisation.

9. The prohibition in paragraph 1 shall be without prejudice to Articles 2c(4), point (b), and 2d(4), point (b).

10. The prohibition in paragraph 4, point (a), shall not apply to the exchange of information aimed at establishing technical standards in the framework of the International Civil Aviation Organization in relation to goods and technology referred to in paragraph 1.

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

(26) the text set out in the Annex to this Decision is added as Annex VI to Decision 2012/642/CFSP.

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, 3 August 2023.

For the Council
The President
P. NAVARRO RÍOS

ANNEX

‘ANNEX VI

List of firearms and other arms referred to in Article 1a

CN Code	Description
9303	Other firearms and similar devices which operate by the firing of an explosive charge
ex 9304	Other arms (for example, spring, air or gas guns and pistols), excluding those of heading 9307’

COMMISSION IMPLEMENTING DECISION (EU) 2023/1602**of 31 July 2023****on the primary dealer network and the definition of eligibility criteria for lead and co-lead mandates for syndicated transactions for the purposes of the borrowing activities by the Commission on behalf of the Union and of the European Atomic Energy Community**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union ⁽¹⁾ and in particular Article 220a(2) thereof,

Whereas:

- (1) In the context of the actions adopted by the Union in the aftermath of the COVID-19 crisis a primary dealer network was established by Commission Decision (EU, Euratom) 2021/625 ⁽²⁾ to function as a qualified network of credit institutions and investment firms on which the Commission calls on for the primary placement of debt securities, for the promotion of such placements and, as the case may be, for the provision of relevant financial services, such as the provision of fair market advice and intelligence.
- (2) In accordance with Article 220a of Regulation (EU, Euratom) 2018/1046 as amended by Regulation (EU, Euratom) 2022/2434 ⁽³⁾, borrowings authorised under Article 5(1) of Council Decision (EU, Euratom) 2020/2053 ⁽⁴⁾ and, except in duly justified cases, borrowing and debt management operations to fund programmes of financial assistance should be done by the Commission under a diversified funding strategy. A diversified funding strategy is a general borrowing method allowing for flexibility regarding the timing and maturity of single funding transactions and for regular and steady disbursements to beneficiaries.
- (3) Following two years of functioning of the primary dealer network, some improvements are needed in particular in relation to the processes of notifications provided by the primary dealers, and in relation to the suspension or exclusion of a primary dealer from the network.
- (4) Recourse to the capital markets takes place on a large scale, and issuances are performed very frequently. As a consequence, the organisation of funding operations should be flexible.

⁽¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽²⁾ Commission Decision (EU, Euratom) 2021/625 of 14 April 2021 on the establishment of the primary dealer network and the definition of eligibility criteria for lead and co-lead mandates for syndicated transactions for the purposes of the borrowing activities by the Commission on behalf of the Union and of the European Atomic Energy Community (OJ L 131, 16.4.2021, p. 170).

⁽³⁾ Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council of 6 December 2022 amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method (OJ L 319, 13.12.2022, p. 1).

⁽⁴⁾ Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

- (5) Primary dealers admitted to the network are entitled to participate in auctions conducted by the Commission for borrowing on capital markets. The definition of the eligibility criteria builds on the Commission's experience in selecting credit institutions and investment firms under existing financial assistance programmes. It also draws on best practice by sovereign and supranational issuers.
- (6) Credit institutions and investment firms should be entitled to membership of the primary dealer network if they fulfil the eligibility criteria. Such criteria aim to guarantee the efficient performance of the primary dealers' function, in particular the proficient conduct of market operations and the compliance with underwriting commitments. In this regard, it is crucial that eligible primary dealers demonstrate a solid organisational structure, professional and management capacity, significant market activity in underwriting sovereign and supranational bond issuance, and compliance with the relevant regulatory framework, especially with regard to Union prudential requirements⁽⁵⁾ and supervision thereof⁽⁶⁾. In compliance with the principle of transparency, those criteria and the decisions admitting a credit institution or an investment firm as a primary dealer should be published in the *Official Journal of the European Union*.
- (7) Membership of primary dealer networks operated by a Member State or a supranational issuer entitles the credit institution or investment firm to participate in public debt auctions of that issuer. Regular and active involvement in sovereign or supranational auction procedures is a reliable demonstration of experience in public debt management operations. Eligibility for membership of the Union primary dealer network should therefore be conditional on membership of at least one Member State or European supranational issuer's primary dealer network or primary dealership mechanism.
- (8) Once admitted to the primary dealer network, primary dealers should be permitted to carry the title of 'Member of the European Union Primary Dealer Network' and to participate in all auctions of debt securities of the Union and the Euratom. These dealers should buy a minimum weighted average of auctioned volumes and should comply with certain reporting obligations.
- (9) The primary dealers should also adhere to the general terms and conditions governing participation in the primary dealer network, in particular the rights, commitments and obligations of the members of the primary dealer network, annual review, reporting obligations, as well as rules on controls, on suspension of membership, on the exclusion and on the possibility to withdraw from the primary dealer network.
- (10) In addition to auctions, the issuance of debt securities under borrowing programmes is carried out through syndication or private placements. To this end, credit institutions or investment firms fulfilling established eligibility requirements for syndicated transactions and private placements are appointed by the Commission for the purpose of each borrowing transaction.
- (11) Members of the primary dealer network which buy a higher weighted average percentage of auctioned volumes than that required to be a member of the primary dealer network, who maintain a sufficient secondary market share in debt securities of the Union and the Euratom and who fulfil the minimum requirements of the quoting arrangements should be eligible to serve as lead managers in syndicated transactions. This group of dealers should also undertake to promote liquidity of debt securities of the Union and the Euratom through an additional market-making activity, to provide fair advice and market intelligence to the Commission and to promote the Union and the Euratom issuances with investors.

⁽⁵⁾ See, in particular, Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽⁶⁾ See, in particular, Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (OJ L 141, 14.5.2014, p. 1) and Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

- (12) The tasks connected with the roles of lead manager and co-lead manager should be considered financial services as referred to in Chapter 1, Section 2, point 11.1, point (j), of Annex I to Regulation (EU, Euratom) 2018/1046. The appointment of eligible primary dealers as members of the syndicate for a specific issuance transaction should therefore be based on a negotiated procedure without prior publication of a contract notice. The procedure for appointment of lead managers should include the sending of a request for proposals to eligible dealers and the evaluation of proposals received by the Commission.
- (13) Taking into account the expected high frequency of the Commission's recourse to the capital markets, it is necessary to establish a smooth, swift and efficient mechanism to appoint banks as lead managers for syndicated transactions. It is therefore necessary to provide a fair and transparent basis for limiting the request for proposals to a subset of the primary dealers eligible to participate in syndicates. This additional selection is necessary to balance the need for competition in the procurement procedure for the services of supporting the syndicate with the need for efficient preparation of time-sensitive transactions, and to avoid duplication of effort by primary dealers in bidding for syndicate mandates. This selection of banks should be based on qualitative and quantitative criteria, relating to the proven capacity of eligible primary dealers in supporting sovereign and supranational issuance in primary and secondary markets, and their ability to distribute debt securities to investors. This process should also provide a rotation mechanism ensuring an equal chance for participation across all eligible primary dealers.
- (14) Primary dealers should notify the Commission of any instances of non-compliance with market practices and ethics, including notifying the Commission of any proceedings, judgements, decisions or sanctions concerning the relevant provisions of Regulation (EU, Euratom) 2018/1046 related to the early-detection and exclusion system, in particular Articles 135 to 142 thereof. These notifications should relate solely to primary dealers themselves and their parent entities. Such notification should be without prejudice to the obligation of primary dealers to immediately inform the Commission of any changes in the situations as declared during the application process.
- (15) In order to provide for greater secondary market liquidity of the Union and the Euratom debt securities, and to improve price discovery and transparency, it is appropriate to introduce a quoting arrangement which should encourage primary dealers to act as market makers and quote the Union and the Euratom debt securities on recognised electronic platforms. Members of the primary dealer network should be provided with appropriate incentives to engage in such market making activities. To this effect it is appropriate to set the criteria for the fulfilment of the quoting arrangement.
- (16) In order to provide additional incentives for all primary dealers to engage in market making activities, it is appropriate to provide simpler access to the co-lead mandates for syndicated transactions also to those primary dealers that support the secondary market liquidity in the Union and the Euratom debt securities and fulfil the minimum criteria of the quoting arrangement, but do not fulfil the eligibility criteria to serve as lead managers for syndicated transactions. Such access to co-lead mandates would allow the Commission to provide additional incentives to a broader range of primary dealer network members, which take steps to support the Union and the Euratom debt issuance. The eligibility criteria for co-lead mandates for syndicated transactions should therefore be established. The Commission should consider co-lead mandates for at least one transaction within the period covered by a funding plan established in accordance with Article 4 of Commission Implementing Decision (EU, Euratom) 2022/2544 ⁽⁷⁾.

⁽⁷⁾ Commission Implementing Decision (EU, Euratom) 2022/2544 of 19 December 2022 establishing the arrangements for the administration and implementation of the EU borrowing and debt management operations under the diversified funding strategy and related lending operations (OJ L 328, 22.12.2022, p. 109).

- (17) It is appropriate to clearly define and distinguish commitments concerning lead and co-lead mandates and to make the co-lead eligibility criteria proportionate to the benefits of the role. To that effect, co-lead mandates may also be awarded to primary dealers which meet the relevant eligibility criteria but may not carry out all additional commitments that are required to receive a lead mandate. All primary dealers fulfilling the co-lead eligibility criteria should be invited to participate as co-leads in a syndicated transaction, except in cases where operational efficiency would be better ensured by a sub-set of eligible co-leads. In such cases the eligible co-leads should be chosen on the basis of an alphabetical order with a rotation mechanism.
- (18) In order to further enhance the protection of the Union's financial interests, suspension and exclusion processes of primary dealers should be clear and efficient. It is important to ensure that in cases of need a suspension of a primary dealer could be done without undue delay. In cases where an exclusion process is initiated, such a process should allow for sufficient time for primary dealers to respond to a notice of non-compliance communicated by the Commission, and, where applicable, to take corrective measures in cases where such non-compliance can be corrected.
- (19) Taking into account the need to protect the financial interests of the Union, monitoring rules should be established in order to ensure compliance by the members of the primary dealer network with the obligations set forth under this Decision and other relevant applicable provisions, in particular the general terms and conditions. The European Anti-Fraud Office (OLAF) should be involved, where appropriate, in that supervision.
- (20) Decision (EU, Euratom) 2021/625 established the primary dealer network and defined in particular eligibility criteria for the selection of its members. Commission Decision (EU) 2021/857⁽⁸⁾ amended Decision (EU, Euratom) 2021/625 and expanded the eligibility criteria by including certain investment firms authorised to carry out the activities of underwriting financial instruments and/or placing financial instruments on a firm commitment basis under Directive 2014/65/EU⁽⁹⁾. This Decision builds upon the principles established by the aforementioned decisions. This Decision should therefore replace Decision (EU, Euratom) 2021/625, which should accordingly be repealed,

HAS ADOPTED THIS DECISION:

CHAPTER 1

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1. This Decision establishes the primary dealer network and lays down the eligibility criteria and procedural provisions for the selection of its members as well as the rights and obligations of those members.
2. This Decision applies to any borrowing and debt management activity carried out by the Commission on behalf of the Union and Euratom, where the Commission selects private financial counterparties.

⁽⁸⁾ Commission Decision (EU) 2021/857 of 27 May 2021 amending Decision (EU, Euratom) 2021/625 as regards the inclusion of certain investment firms in the eligibility criteria for membership of the Union primary dealer network (OJ L 188, 28.5.2021, p. 103).

⁽⁹⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

*Article 2***Definitions**

For the purposes of this Decision, the following definitions apply:

- (1) 'auction' means the issuance process of the Union and Euratom debt securities based on competitive bids through an auction platform on primary market;
- (2) 'borrowing programmes' means the Union and Euratom programmes involving borrowing activities on the financial markets;
- (3) 'credit institution' means credit institution as defined in Article 4, paragraph 1 (1), of Regulation (EU) No 575/2013;
- (4) 'debt securities' means notes and/or short term financial instruments, such as treasury bills, as well as any other financial instrument, issued by the Union and/or Euratom;
- (5) 'investment firms' means investment firms as defined in Article 4(1), point 1 of Directive 2014/65/EU;
- (6) 'interdealer platform' means a dealer to dealer electronic trading venue, established in the European Union, as defined in Article 4(1), point (24) of Directive (EU) 2014/65/EU, where primary dealers participate as market makers for secondary market trading;
- (7) 'quote' means firm bid and ask rates or prices placed on interdealer platforms which lead to the automatic conclusion of a transaction if corresponding bid or ask rates or prices have been provided by another participant (central limit order book);
- (8) 'members of the primary dealer network' means any credit institutions or investment firms fulfilling the eligibility criteria set out in Article 4 and included in the list referred to in Article 15;
- (9) 'European supranational issuer' means the Council of Europe Development Bank, the European Financial Stability Facility, the European Stability Mechanism, the European Investment Bank or the Nordic Investment Bank.

*Article 3***Establishment of the primary dealer network**

The Union primary dealer network ('primary dealer network') shall comprise a group of credit institutions and investment firms that are eligible to participate in the following borrowing and debt management activities of the Commission:

- (a) the placement of debt securities on the primary capital markets, in particular through auctions and syndicated transactions;
- (b) the promotion of liquidity of Union and Euratom debt securities on the financial markets;
- (c) the provision of fair advice and market intelligence to the Commission;
- (d) the promotion and development of the placement of Union and Euratom debt securities.

CHAPTER 2

MEMBERSHIP OF THE PRIMARY DEALER NETWORK*Article 4***Eligibility criteria for the primary dealer network**

Credit institutions and investment firms fulfilling the following criteria shall be eligible for membership of the primary dealer network:

- (a) being a legal entity established and having its head office in the Union or in a European Economic Area country;
- (b) being supervised by a Union competent authority and being authorised to carry out the business as either of the following:
 - (i) a credit institution in accordance with Directive 2013/36/EU of the European Parliament and of the Council ⁽¹⁰⁾; or
 - (ii) an investment firm authorised to carry out the activity of underwriting of financial instruments or placing of financial instruments on a firm commitment basis in accordance with Directive 2014/65/EU; and
- (c) being a member of a European sovereign or supranational primary dealer network established for the purpose of serving as counterparty of a Member State or of a European supranational issuer. For the purpose of this Decision a European sovereign or supranational primary dealer network shall be understood as either of the following entities:
 - (i) a network, group or organised system of financial institutions that is appointed by a sovereign or supranational issuer to serve as market counterparty in the framework of public debt management, whose membership typically entails participation in public debt securities issuances through auctions;
 - (ii) a primary dealership mechanism that is substantially equivalent to the network, group or organised system referred to in point (i).

*Article 5***Commitments**

1. Members of the primary dealer network shall undertake the following commitments:
 - (a) to buy a minimum weighted average of 0,05 % of volumes auctioned by the Union and/or the Euratom on a semi-annual basis in accordance with part 1 of the Annex I;
 - (b) to comply with the obligation to accurately, timely and integrally report on a monthly basis to the Commission the traded volumes on Union and Euratom debt securities, according to the harmonised reporting format for trading on the secondary European sovereign debt market established by the Sub-Committee on EU Sovereign Debt Markets of the European Union Economic and Financial Committee;
 - (c) to submit a signed copy of the 'General terms and conditions for European Union primary dealers ('GTC)';
 - (d) to ensure that the trading authorisations provided to its trading personnel are quarterly reviewed and validly in force;

⁽¹⁰⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

- (e) to comply with market practices and ethics, in particular:
- (i) ensure compliance with conduct rules and highest standards in market practices applicable to their operations on EUR-fixed income business;
 - (ii) primary dealers and their parent entities shall apply measures relating to anti-money laundering (AML) and counterterrorism financing (CTF) in accordance with applicable national and Union laws and regulations in force;
 - (iii) each primary dealer immediately shall notify the Commission of any proceedings initiated against it by a competent authority of a Member State concerning the activity carried out by the primary dealer as credit institution or investment firm. Each primary dealer shall notify the Commission of any measure or decision taken as a result of these proceedings;
 - (iv) each primary dealer shall immediately notify the Commission if the primary dealer or its parent entity is convicted of a criminal charge, including tax evasion, or subjected to administrative or disciplinary sanctions, or suspended or excluded from an industry organisation in any Member State;
 - (v) If a competent authority of a Member State identifies any AML or CTF deficiencies or imposes any AML or CTF sanction, the primary dealers shall notify the Commission immediately and report on their remedial measures;
 - (vi) The primary dealer shall ensure not to conclude transactions concerning Union and Euratom debt securities, which would involve any counterparty incorporated or established in a country included in the EU list of non-cooperative jurisdictions for tax purposes or identified as high risk third countries pursuant to Article 9(2) of Directive (EU) 2015/849 and listed in Delegated Regulation (EU) 2016/1675 or that do not effectively comply with Union or internationally agreed tax standards on transparency and exchange of information or breaches sanction regimes, in particular restrictive measures under Article 215 TFEU;
- (f) to treat all information received from the Commission confidentially.
2. For the purposes of the paragraph 1, point (b), the quality of the reporting shall be regularly assessed and the results notified the interested primary dealer. The primary dealer shall be notified if the data provided are not accurate.
3. For the purposes of the first paragraph 1, point (e), the Commission shall evaluate the primary dealers' conduct during the execution of syndicated transaction and other debt management operations in terms of readiness, market neutrality and, orderly and efficient execution.

Article 6

General terms and conditions

1. The GTC shall apply to any borrowing and debt management activity carried out by the Commission under the borrowing programmes under this Decision.
2. The GTC shall, in accordance with this Decision:
 - (a) establish the details of the obligations for the duration of the participation in the primary dealer network and the details of the eligibility criteria for lead and co-lead mandates;
 - (b) establish the content of and procedure for the annual review;

- (c) establish the detailed rules for reporting obligations;
- (d) establish rules on controls;
- (e) establish the details of the rules and procedure for the suspension of membership, lifting of that suspension, and exclusion from the primary dealer network; and
- (f) regulate the possibility to withdraw from the primary dealer network;
- (g) establish the detailed rules for the quoting arrangements, including the observation period and requirements and the process for recognition of interdealer platform;

3. Any time limit shall be calculated as follows:

- (a) where a time limit is expressed in days or months from a certain date or event, the day or month on which that date falls or that event occurs is not to be counted as falling within the time limit;
- (b) time limits expressed in days shall include business days only. Business days are to be determined in accordance with Luxembourgish calendar of public and bank holidays (<https://www.abbl.lu/fr/topic/bank-holidays/>);
- (c) a time limit expressed in months is to end with the expiry of the day in the last month corresponding to the same day on which the date or the event, from which the time-limit is calculated, fell or occurred;
- (d) if, in a time limit expressed in months, the day on which it should expire does not occur in the last month, the time limit is to end with the expiry of the last day of that month;
- (e) if a time expressed in months expires on a public or bank holiday day, it is to be extended until the end of the first subsequent business day.

Article 7

Rights of members of the primary dealer network

Members of the primary dealer network shall have the following rights:

- (a) to advertise themselves as 'Member of the European Union Primary Dealer Network';
- (b) to participate and bid in any auction of debt securities of the Union or Euratom;
- (c) to receive on a regular basis, at least yearly, feedback on its performance, especially in relation to its ranking in the auctions and in the secondary markets; this feedback shall be based on the internal evaluation process referred to under Article 13 with objective criteria to be communicated to the primary dealers;
- (d) without prejudice to Chapter 3, to be eligible for debt management operations, including the following operations:
 - (i) private placements;
 - (ii) repurchase transactions as defined in Article 3(9) of Regulation (EU) 2015/2365 of the European Parliament and of the Council ⁽¹¹⁾;
 - (iii) swaps as defined in Section 1, point 10, of Annex III to Commission Delegated Regulation (EU) 2017/583 ⁽¹²⁾;

⁽¹¹⁾ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

⁽¹²⁾ Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 31.3.2017, p. 229).

- (e) to resign at any moment its membership of the primary dealer network by notifying such resignation to the Commission; such a resignation shall take effect the first business day of the first month following the date of the notification.

CHAPTER 3

LEAD AND CO-LEAD MANDATES FOR SYNDICATED TRANSACTIONS

Article 8

Eligibility criteria for lead mandates for syndicated transactions

Members of the primary dealer network are eligible to serve as lead managers for syndicated transactions, subject to the fulfilment of the following criteria:

- (a) having bought a minimum share of auctioned volumes by the Union and the Euratom, on weighted average based on the last auctions on a rolling basis;
- (b) having provided evidence, based on the transaction data reported in accordance with this Decision, of having a minimum market share among primary dealers in Union and Euratom debt securities on the secondary markets on a rolling basis;
- (c) having complied with the minimum requirements of the quoting arrangements during the observation period;
- (d) having agreed, as part of the GTC, with the general terms and conditions for mandates for syndicated transactions and with the fee schedule.

The minimum shares referred to in first paragraph, points (a) and (b), the minimum requirements referred to in the first paragraph, point (c), as well as other detailed rules for lead mandates shall be based on best market practices in particular of peer issuers and shall reflect the balance of benefits and obligations for the members of the primary dealer network. Where the criterion includes relative shares, the percentages shall take into account the total number of primary dealers.

Article 9

Eligibility criteria for co-lead mandates for syndicated transactions

Members of the primary dealer network are eligible to serve as co-lead managers for syndicated transactions, subject to the fulfilment of the following criteria:

- (a) having agreed, as part of the GTC, with the general terms and conditions for co-lead mandates for syndicated transactions and with the fee schedule;
- (b) having complied with the minimum requirements of the quoting arrangements during the observation period; and
- (c) not having been awarded the lead mandate during the observation period.

The minimum requirements referred to in the first paragraph, point (b) and the observation period referred to in first paragraph, points (b) and (c), as well as other detailed rules for co-lead mandates shall be based on best market practices including those of peer issuers and shall reflect the balance of benefits and obligations for the members of the primary dealer network.

Article 10

Fee schedule

The fee schedule referred to Article 8, first paragraph, point (d) and Article 9, point (a) shall apply to borrowing and debt management operations. The fee schedule shall establish a remuneration commensurate with the costs and risks born by the eligible primary dealers in carrying out Union and Euratom borrowing and debt management operations, while

ensuring cost-efficiency for the Union and taking into account specificities of the Union's debt issuances, in particular volumes and maturities. The fee schedule shall be referred to in an annex to the general terms and conditions for lead and co-lead mandates for syndicated transactions.

Article 11

Quoting arrangements

The minimum requirements of the quoting arrangements referred to under Article 8, first paragraph, point (c) and Article 9, first paragraph, point (b) shall refer to trading time, number of quotes and spreads quoted for specified Union debt securities and on a recognised interdealer platform during the observation period.

Article 12

Additional commitments for lead mandates

Members of the primary dealer network fulfilling the criteria laid down in Article 8 may be awarded a mandate for lead manager for syndicated transactions on the basis of the assessment of their commitment to carry out any of the following activities:

- (a) on a best effort basis, to promote the liquidity of Union and Euratom debt securities with a market-making activity, thereby contributing to price discovery, to the efficiency of the secondary market and to an orderly execution of trading;
- (b) to provide fair advice and market intelligence to the Commission in order to design and implement the borrowing programmes, and, in particular, to provide advice prior to the publication of the funding programme and in the context of the preparation of the debt management transactions under the borrowing programmes;
- (c) to provide the Commission with regular information on market trends, analysis and research on functioning of fixed-income markets and, in particular, the sovereigns, supranationals and agencies;
- (d) to promote and develop the placement of Union and Euratom debt securities within a diversified and broad investor community as part of their business strategy.

Article 13

Selection of the syndicate

1. Syndicates shall be selected pursuant to Chapter 1, Section 2, point 11.1, point (j), of Annex I to Regulation (EU, Euratom) 2018/1046 in a negotiated procedure without prior publication of a contract notice.
2. The Commission shall send the requests for proposals to a subgroup of eligible members of the primary dealer network fulfilling the criteria laid down in Articles 8 and 12, soliciting an offer for participation as lead managers.
3. The selection of the subgroup of eligible primary dealers to whom the request for proposals shall be sent by the Commission, shall be based on objective qualitative and quantitative criteria, relating to the proven capacity of eligible primary dealers in supporting sovereign and supranational issuance in primary and secondary markets, and their ability to distribute debt securities to investors. Those criteria shall also include an assessment of the performance of the activities listed in Article 12. The Commission shall implement a rotation criterion to ensure that all eligible members of the primary dealer network are regularly invited to respond to requests for proposals.
4. The proposals received from eligible members referred to in paragraph 2 shall be evaluated on the basis of an additional set of objective qualitative and quantitative criteria and in view of the establishment of a syndicate, whose composition is the best possible combination of managers for the optimal performance of a given transaction.

5. The criteria for the transmission of requests for proposals and for the evaluation of the received proposals shall be communicated to the subgroup of members of the primary dealer network together with the request for proposals.
6. The Commission may invite primary dealers to express their interest in a mandate as co-lead managers to a syndicated transaction, in addition to joint lead manager or managers, based on the market circumstances and with a view to ensure the optimal performance of a given transaction. The Commission may invite either all primary dealers eligible in accordance with Article 8 or a subgroup of them based on alphabetical order and a rotation mechanism. Such invitation shall be considered for at least one syndication transaction within the period covered by a funding plan established in accordance with Article 4 of Implementing Decision (EU, Euratom) 2022/2544.
7. The Commission shall award all primary dealers, who accepted the invitation referred to in paragraph 6, with the mandate for co-lead managers.

CHAPTER 4

APPLICATION FOR MEMBERSHIP AND ESTABLISHMENT OF THE LIST OF THE MEMBERS OF THE PRIMARY DEALER NETWORK AND MONITORING

Article 14

Application for membership and list of primary dealers

1. Interested credit institutions and investment firms, shall submit to the Commission an application for membership to the primary dealer network by filling in and submitting the application form and the annexed checklist in respect of admission criteria available on the Commission website.
2. Applications for admission to the primary dealer network shall include proof of compliance with Articles 4 and 5. Evidence and supporting documents to be enclosed are detailed in the application form and its annexes.
3. In the case of an incomplete application form, incomplete information or insufficient data, the applicant may be requested by the Commission to submit necessary additional information. Failure to provide the necessary additional information within a specified deadline shall result in rejection of the application form.
4. Provision of false, misleading or incorrect information or documents during the application process shall result in non-admission to the primary dealer network or, as the case may be, may lead to an exclusion from the primary dealer network in accordance with Article 17.
5. In the application form each primary dealer shall declare its acceptance of the GTC, thereby acknowledging the binding nature of the GTC and committing itself to respecting them.
6. The application form and the GTC shall be signed and the GTC shall also be initialled on each page by a duly authorised representative of the primary dealer who, based on applicable laws of the relevant jurisdiction and on the relevant corporate documents is empowered to validly commit such primary dealer for the purpose of the performance of the obligations and activities under the GTC. To such end, an extract from the relevant company register shall be provided when submitting the application form.
7. Any communication, notice or information relating to this Decision and the GTC shall be sent to the address for notice elected by the primary dealers in their application form and shall be addressed to the person who is designated as 'coordinator' in the application form.

*Article 15***Admission to primary dealer network**

1. The decision as to whether to include an applicant in the list of the primary dealer network shall be adopted, at the latest, within two months of the submission of the relevant application. If an applicant is requested to submit additional information in accordance with paragraph 3 of Article 14, the time limit for a decision relating to that applicant shall be suspended until the date of submission of that additional information. If the applicant informs the Commission that it considers the application to be complete, the decision shall be adopted within 2 months. The decision shall be notified to the applicant.
2. The non-admission decision shall state reasons on which it is based.
3. The up-dated list of members of the primary dealer network shall be published once a year in the *Official Journal of the European Union*.
4. In order to perform the annual review the primary dealers shall be invited to represent and declare to the Commission that they still fulfil all the eligibility criteria for the membership laid down in Article 4.

*Article 16***Monitoring**

The Commission may conduct, or may appoint a third party to conduct, verifications to check the compliance of members of the primary dealer network with this Decision. Members of the primary dealer network shall cooperate with and facilitate the conduct of those verifications, especially by providing necessary information and data as well as access thereto.

Each member of the primary dealer network shall:

- (a) provide the Commission with the risk limit set for the trading activity of the debt securities of the Union and the Euratom in accordance with the GTC;
- (b) notify the Commission of any downgrade by rating agencies in the Union recognised the European Securities and Markets Authority;
- (c) immediately notify the Commission of any supervening non-compliance with any eligibility criterion laid down in Article 4.

By accepting the GTC, the primary dealer gives its consent to possible audits and verification related to the data transmitted to the Commission in the framework of its reporting obligations, in particular with regard to the data to be used to assess its performance on the secondary market.

*Article 17***Suspension and exclusion from the primary dealer network**

1. The membership of the primary dealer in the primary dealer network may be suspended in the following cases:
 - (a) initiation of proceedings against a primary dealer as referred to in Article 5, paragraph 1 point (e)(iii);
 - (b) initiation of procedure, which may result in the cessation of membership in the network or the mechanism referred to in Article, 4 point (c);

- (c) there is a basis for exclusion of the primary dealer pursuant to Article 136 of Regulation (EU, Euratom) 2018/1046.

Primary dealer shall be invited by a pre-suspension notice to submit its observations within a time limit of no less than 3 days from the receipt of the notice, except in duly justified exceptional cases, including in particular those related to reputational risk. The suspension decision shall take effect the first business day following the date of the notification to the non-compliant primary dealer. Suspended primary dealers shall not receive lead or co-lead mandates for the period of their suspension.

The suspension may be lifted upon request from the suspended primary dealer. Along with the request, the primary dealer shall submit sufficient evidence that, as applicable, either the proceedings referred to under first paragraph, point (a) of the first subparagraph are no longer pending and have not resulted in a sanction of whichever nature against the suspended dealer, or the procedure referred to under first paragraph, point (b) of the first subparagraph is no longer pending and has not resulted in the cessation of membership in the network or the mechanism referred to in Article 4 point (c). The presented evidence shall be assessed and a decision taken within 15 working days as of the request being received, provided sufficient evidence has been supplied.

2. Primary dealer shall be excluded from the primary dealer network in the following cases:

- (a) primary dealer ceases to fulfil any of the conditions referred to in Article 4;
- (b) exclusion of the primary dealer pursuant to Articles 135 to 142 of Regulation (EU, Euratom) 2018/1046;
- (c) non-compliance with obligations laid down under points (a) and (c) of Article 5.

3. The following procedure shall apply to the exclusion from the primary dealer network in cases laid down under paragraph 2:

- (a) the primary dealer shall be invited with a pre-exclusion notice to submit its observations within a time-limit of no less than 7 days from the receipt of the notice;
- (b) the exclusion decision shall be notified to the primary dealer. The exclusion decision takes effect the first business day following the date of its notification to the excluded primary dealer.

4. Primary dealer may be excluded from the primary dealer network in the case of:

- (a) non-compliance with obligations laid down under Article 5, points (b), (d) (e) and (f);
- (b) commitment of an infringement referred to in Article 30 of Regulation (EU) No 596/2014 of the European Parliament and of the Council ⁽¹³⁾, as decided in a final decision adopted by relevant competent authority;
- (c) a final decision by the competent authority taken as a result of any proceeding referred to under Article 5, first paragraph point (e)(v) or relating to AML and CTF laws and regulations.

5. The following procedure shall apply in cases laid down under paragraph 4:

- (a) the primary dealer concerned shall receive a notice specifying the grounds for non-compliance, a request to submit observations and corrective measures that it intends to take to restore and/or ensure compliance with the relevant criteria and/or obligations and setting a time-limit to submit observations of no less than 7 days from the receipt by the primary dealer of the notice;

⁽¹³⁾ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

- (b) taking into account the submitted observation and communicated corrective measures, if any, the decision to exclude the non-compliant primary dealer from the primary dealer network may be taken;
- (c) the exclusion decision shall state reasons on which the exclusion is based;
- (d) the exclusion decision shall take effect the first business day following the date of its notification to the excluded primary dealer.

6. Suspension of membership pursuant to paragraph 1, exclusion from a membership pursuant to paragraphs 2 to 5 and resignation on membership in primary dealer network pursuant to Article 7, point (e) shall have no effect on the rights and obligations of the primary dealer in question in respect of contracts concluded prior to the effective date of exclusion, suspension or resignation respectively.

7. Suspension shall not entail the suspension of obligations under Article 5, first paragraph point (f) and under Article 16.

CHAPTER 5

TRANSITIONAL AND FINAL PROVISIONS

Article 18

Decision (EU, Euratom) 2021/625 is hereby repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex II.

Article 19

Article 8(a) and (b) of Decision (EU, Euratom) 2021/625 shall continue to apply to syndicated transactions starting before 1 November 2023.

Articles 8, first paragraph, points (a) and (b), Article 9, first paragraph, points (a) and (c) and Article 11 shall apply to syndicated transactions starting as of 1 November 2023;

Article 8, first paragraph, point (c), Article 9, first paragraph, point (b) and Article 13(6) and (7) shall apply to syndicated transactions starting as of 1 July 2024.

Article 20

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

Done at Brussels, 31 July 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

1. Fulfilment of the obligation to purchase a minimum weighted average of 0,05 % of volumes auctioned by the Union and/or the Euratom on a semi-annual basis

- (a) Auctions shall be carried out through an auction system operated by an auction provider selected by the Commission ("auction provider").
- (b) Participation in the auctions and purchase of auctioned debt securities shall take place in accordance with auction rules arranged by the auction provider and endorsed by the Commission. The primary dealers shall subscribe to the auction rules and comply with them.
- (c) It should be understood by all primary dealers, that they act and participate in the auctions at their own risk and that the Commission shall not be responsible in any manner for the decisions of any participant in the auctions and in particular for any losses, direct or indirect, arising in relation to any transaction entered into by such participants.
- (d) The primary dealers shall take all measures to ensure that they are able to participate in the auction, in particular conclude the contracts with the auction provider, complete any step and formality necessary to participate in the auctions, and have in place the technical infrastructure to participate.
- (e) The Commission shall not bear any costs or responsibility towards the primary dealer in relation to the contracts between the auction provider and the primary dealer or in relation to the technical infrastructure for the auction.
- (f) Primary dealers may only be dispensed from the fulfilment of their obligation under Article 5(a) in cases of force majeure, which shall in particular not comprise cases of malfunctioning or technical issues relating to the infrastructure.
- (g) The calculations of the volume purchased by primary dealers over the relevant 6-month period shall be weighted according to the following table:

Residual maturity	< 3,5 m	3,5 m-1Y	1Y-4Y	4Y-8Y	8Y-12Y	12Y-17Y	17Y-23Y	> 23Y
Coeff.	0,5	1	2,5	5,5	10	15	20	25

- (h) This calculation shall be applied for 6-month periods, running from April to September and from October to March. In 2023, the following period shall apply: from January to June and from July to March of the following period. Article 5(a) of this Decision shall temporarily not apply to primary dealers that have been admitted to the primary dealer network after the beginning of the 6-month period defined in point (h). It shall start applying at the end of the successive 6-month period following the date on which the respective primary dealer is admitted to the primary dealer network.

2. Reporting obligations

- (a) The primary dealers shall, on request, submit information on the risk limit that this primary dealer has set, for the purpose of its own position management, for the trading activity of the debt securities of the Union and the Euratom as well as on the extent to which the risk limit is used. The information to be submitted shall be specified in the request.
- (b) The primary dealers shall immediately notify the Commission in case it is subject to rating upgrades or downgrades by one of the external rating agencies recognised by ESMA in accordance with Article 18(3) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council ⁽¹⁾.

⁽¹⁾ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

-
- (c) The primary dealers shall promptly notify the Commission of non-compliance with any eligibility criterion laid down in Article 4.
 - (d) The primary dealers shall submit to the Commission any change in contact details communicated through the application form by using the template attached to the application form within two weeks of the date when the change took effect.
 - (e) The primary dealers shall submit to the Commission, on its request, any information relevant for the execution of its activities of primary dealer, in particular on its primary or secondary market activities related to the debt securities of the Union and the Euratom.

ANNEX II

Correlation table

Correlation table	
Decision (EU, Euratom) 2021/625 of 14 April 2021	This Decision
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 10
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14
Article 13	Article 15
Article 14	Article 16
Article 15	Article 17
Article 16	Articles 18 and 19
Article 17	Article 20

CORRIGENDA

Corrigendum to Council Regulation (EU) 2023/1529 of 20 July 2023 concerning restrictive measures in view of Iran's military support of Russia's war of aggression against Ukraine

(Official Journal of the European Union L 186 of 25 July 2023)

On page 11, Annex I, under the heading 'Websites for information on competent authorities and the address for notifications to the Commission':

for:

'CZECHIA

www.financnianalytickyurad.cz/mezinarodni-sankce.html

DENMARK',

read:

'CZECHIA

<https://fau.gov.cz/en/international-sanctions>

DENMARK'.

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