EUROPEAN
COMMISSION

HIGH REPRESENTATIVE OF THE
EUROPEAN UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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2013/0199 (NLE)

Joint Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

EXPLANATORY MEMORANDUM

(1) Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria gave effect to Council Decision 2011/782/CFSP of 1 December 2011. Decision 2011/782/CFSP was repealed and replaced by Council Decision 2012/739/CFSP.

(2) On 1 June 2013 Decision 2012/739/CFSP expired.

(3) On 31 May 2013 the Council adopted Decision 2013/255/CFSP concerning restrictive measures against Syria.

(4) Further action by the Union is needed in order to implement Decision 2013/255/CFSP.

(5) The High Representative of the Union for Foreign Affairs and Security Policy and the Europan Commission propose to amend Regulation (EU) No 36/2012 accordingly.

2013/0199 (NLE)

Joint Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

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

Whereas:

(1) Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria[1] gave effect to Council Decision 2011/782/CFSP of 1 December 2011[2]. Council Decision 2012/739/CFSP[3] of 29 November 2012 repealed and replaced Decision 2011/782/CFSP.

(2) On 1 June 2013 Decision 2012/739/CFSP expired.

(3) On 31 May 2013 the Council adopted Decision 2013/255/CFSP[4] concerning restrictive measures against Syria.

(4) Decision 2013/255/CFSP calls for measures which fall within the scope of the Treaty on the Functioning of the European Union and, therefore, in particular with a view to ensuring their uniform application by economic operators in all Member States, action at the level of the Union is necessary in order to implement them.

(5) Regulation (EU) No 36/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 36/2012 is amended as follows:

(1) Article 2 is deleted.

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

"*Article 2a*

1. It shall be prohibited:

[1] OJ L 16, 19.1.2012, p. 1.
[2] OJ L 319, 2.12.2011, p 56.
[3] OJ L 330, 30.11.2012, p. 21.
[4] OJ L 147, 1.6.2013, p. 14.

(a) to sell, supply, transfer or export, directly or indirectly, equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which might be used for internal repression, as listed in Annex IA, whether or not originating in the Union, to any person, entity or body in Syria or for use in Syria;

(b) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in point (a).

2. By way of derogation from paragraph 1, the competent authorities in the Member States, as identified on the websites listed in Annex III, may grant, under such terms and conditions as they deem appropriate, an authorisation for a transaction in relation to equipment, goods or technology as listed in Annex IA, provided that the equipment, goods or technology are for food, agricultural, medical or other humanitarian purposes, or for the benefit of United Nations personnel, personnel of the Union or its Member States."

(3) In paragraph 2 of Article 2c, the words "prohibited by Articles 2 and 2a of this Regulation" are replaced by the following:

"prohibited by Article 2a of this Regulation"

(4) Article 3 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. It shall be prohibited:

(a) to provide, directly or indirectly, technical assistance or brokering services related to equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which could be used for internal repression as listed in Annex IA, to any person, entity or body in Syria or for use in Syria;

(b) to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in Annex IA, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in Syria or for use in Syria;

(c) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a) and (b).

(b) Paragraph 2 is deleted.

(c) Paragraph 3 is replaced by the following:

"3. By way of derogation from paragraph 1, the competent authorities of the Member States, as identified on the websites listed in Annex III, may grant, under such terms and conditions as they deem appropriate, an authorisation for technical assistance "or brokering services, or financing or financial assistance related to equipment, goods or technology, as listed in Annex IA, provided that the equipment, goods or technology are for food, agricultural, medical or other humanitarian purposes, or for the benefit of United Nations personnel, personnel of the Union or its Member States.

The Member State concerned shall inform the other Member States and the Commission, within four weeks, of any authorisation granted under the first subparagraph."

(5) The following Article 6a is inserted:

"*Article 6a*

1. By way of derogation from Article 6, the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the import, purchase or transport of crude oil or petroleum products, or the provision of related financing or financial assistance, including financial derivatives, as well as insurance and reinsurance, provided that the following conditions are met:

(a) the competent authority has consulted in advance the competent person, entity or body of the Syrian National Coalition for Opposition and Revolutionary Forces;

(b) the competent authority has determined that:

(i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity;

(ii) the activities concerned are not, directly or indirectly, for the benefit of a person, entity or body referred to in Article 14;

(iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation; and

(c) the competent authority has required adequate safeguards against the misuse of the authorisation granted, including information concerning the counterparts to the transaction.

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

(6) The following Article 9a is inserted:

"*Article 9a*

1. By way of derogation from Articles 8 and 9, the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the sale, supply, transfer or export of the key equipment or technology as listed in Annex VI, or the provision of related technical assistance or brokering services, or financing or financial assistance, provided that the following conditions are met:

(a) the competent authority has consulted in advance the competent person, entity or body of the Syrian National Coalition for Opposition and Revolutionary Forces;

(b) the competent authority has determined that:

(i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity;

(ii) the activities concerned are not, directly or indirectly, for the benefit of a person, entity or body referred to in Article 14;

(iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation; and

(c) the competent authority has required adequate safeguards against the misuse of the authorisation granted, including information concerning the end-user, the date, the itinerary and the final destination of the delivery.

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

(7) The following Article 13a is inserted:

"Article 13a

1. By way of derogation from Article 13(1), the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the granting of any financial loan or credit to, the acquisition or extension of a participation in, or the creation of any joint venture with any Syrian person, entity or body referred to in Article 13(2)(a), provided that the following conditions are met:

(a) the competent authority has consulted in advance the competent person, entity or body of the Syrian National Coalition for Opposition and Revolutionary Forces;

(b) the competent authority has determined that:

(i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity;

(ii) the activities concerned are not, directly or indirectly, for the benefit of a person, entity or body referred to in Article 14;

(iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation; and

(c) the competent authority has required adequate safeguards against the misuse of the authorisation granted, including information concerning the purpose of, and the counterparts to the transaction.

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

(8) The following Article 25a is inserted:

"Article 25a

1. By way of derogation from points (a) and (c) of Article 25(1), the competent authorities of the Member States as identified on the websites listed in Annex III, may authorise, under such terms and conditions as they deem appropriate, the opening of a new bank account or a new representative office, or the establishment of a new branch or subsidiary, provided that the following conditions are met:

(a) the competent authority has consulted in advance the competent person, entity or body of the Syrian National Coalition for Opposition and Revolutionary Forces;

(b) the competent authority has determined that:

(i) the activities concerned are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity;

(ii) the activities concerned are not, directly or indirectly, for the benefit of a person, entity or body referred to in Article 14;

(iii) the activities concerned do not breach any of the prohibitions laid down in this Regulation; and

(c) the competent authority has required adequate safeguards against the misuse of the authorisation granted, including information concerning the purpose of, and the counterparts to the activities concerned.

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

(9) Annex I is deleted.

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,

For the Council
The President