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COUNCIL DECISION (CFSP) 2024/1804

of 24 June 2024

amending Decision (CFSP) 2022/2319 concerning restrictive measures in view of the situation in Haiti

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Decision (CFSP) 2022/2319 of 25 November 2022 concerning restrictive measures in view of the situation in Haiti ([1]), and in particular Article 8(1) thereof,

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

Whereas:

(1) On 25 November 2022, the Council adopted Decision (CFSP) 2022/2319.

(2) On 2 October 2023, the United Nations Security Council ('the Security Council') adopted Resolution 2699 (2023), determining that the situation in Haiti continues to constitute a threat to international peace and security and to the stability of the region.

(3) United Nations Security Council Resolution ('UNSCR') 2699 (2023) condemns the increasing violence, criminal activities, and human rights abuses and violations which undermine the peace, stability and security of Haiti and the region, including kidnappings, sexual and gender-based violence, trafficking in persons and the smuggling of migrants, homicides, extrajudicial killings and arms smuggling. UNSCR 2699 (2023) also recognises the importance and urgency of curbing the illicit trafficking of arms and ammunition to Haiti to the creation of a safe operating environment for international security support, including the deployment of a multinational security support mission.

(4) Paragraph 14 of UNSCR 2699 (2023) requires that the targeted arms embargo related to arms and related materiel to be applied pursuant to paragraph 11 of UNSCR 2653 (2022) to persons or entities designated by the Committee established by paragraph 19 of UNSCR 2653 (2022) be replaced by an arms embargo related to small arms, light weapons and ammunition to be applied to the whole of the territory of Haiti.

(5) In order to ensure the effective implementation of paragraph 14 of UNSCR 2699 (2023), it is appropriate to apply the arms embargo to small arms and light weapons, their components and accessories, and ammunition as set out in the Annex to Council Decision (CFSP) 2021/38 ([2]), as well as firearms, their parts and essential components, and ammunition as defined in Council Regulation (EU) No 258/2012 ([3]).

(6) On 19 October 2023, the Security Council adopted UNSCR 2700 (2023), which in paragraph 11 calls upon States to submit a written report to the Sanctions Committee established by paragraph 19 of UNSCR 2653 (2022) in cases where an inspection carried out in accordance with paragraph 13 of UNSCR 2653 (2022) results in the seizure of items the supply, sale or transfer of which is prohibited under paragraph 14 of UNSCR 2699 (2023).

(7) Decision (CFSP) 2022/2319 should therefore be amended accordingly.

(8) Further action by the Union is needed in order to implement certain measures,

([1]) OJ L 307, 28.11.2022, p. 135.
([2]) Council Decision (CFSP) 2021/38 of 15 January 2021 establishing a common approach on the elements of end-user certificates in the context of the export of small arms and light weapons and their ammunition (OJ L 14, 18.1.2021, p. 4).
([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).

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision (CFSP) 2022/2319 is replaced by the following:

'*Article 1*

1. The direct or indirect supply, sale, transfer or export of small arms and light weapons, their components and accessories, and ammunition as set out in the Annex to Council Decision (CFSP) 2021/38 (*), as well as firearms, their parts and essential components, and ammunition as defined in Council Regulation (EU) No 258/2012 (**), to Haiti by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2. It shall be prohibited to:

(a) provide technical assistance, training or other assistance, including the provision of armed mercenary personnel, related to the provision, manufacture, maintenance and use of items mentioned in paragraph 1 directly or indirectly to Haiti;

(b) provide related financing or financial assistance, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of items mentioned in paragraph 1, or for the provision of related technical or other assistance, directly or indirectly to Haiti.

3. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to Haiti in their territory, including seaports and airports, if they have information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited under this Article.

4. Member States shall report in a timely manner to the Committee established by paragraph 19 of United Nations Security Council Resolution ("UNSCR") 2653 (2022) ("the Sanctions Committee") cases of violations of the measures under paragraphs 1 and 2. Member States shall also submit to the Sanctions Committee a written report on any seizure of items as a result of an inspection carried out pursuant to paragraph 3.

5. Member States shall ensure that adequate marking and record-keeping measures are in place to trace arms, in accordance with the international and regional instruments to which they are parties, and to consider how best to assist, where relevant and upon their request, neighbouring countries in preventing and detecting illicit trafficking and diversion in violation of measures imposed in paragraphs 1 and 2.

6. The prohibitions set out in paragraphs 1 and 2 shall not apply to:

(a) the supply, sale, transfer or export of items as referred to in paragraph 1, or the provision of technical assistance, training or other assistance or of financing or financial assistance as referred to in paragraph 2, points (a) and (b), to the UN or a UN-authorised mission or to a security unit that operates under the command of the Government of Haiti, intended to be used by or in coordination with those entities and intended solely to further the objectives of peace and stability in Haiti;

(b) the supply, sale, transfer or export of items as referred to in paragraph 1, or the provision of technical assistance, training or other assistance or of financing or financial assistance as referred to in paragraph 2, points (a) and (b), where approved in advance by the Sanctions Committee to further the objectives of peace and stability in Haiti.

(*) Council Decision (CFSP) 2021/38 of 15 January 2021 establishing a common approach on the elements of end-user certificates in the context of the export of small arms and light weapons and their ammunition (OJ L 14, 18.1.2021, p. 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).'.

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 Luxembourg, 24 June 2024.

For the Council

The President

J. BORRELL FONTELLES