Council Regulation (EU) No 697/2013 of 22 July 2013 amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

COUNCIL REGULATION (EU) No 697/2013

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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 Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria[(1)],

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

Whereas:

(1) On 18 January 2012, the Council adopted Regulation (EU) No 36/2012[(2)] in order to give effect to Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria[(3)].

(2) On 29 November 2012, the Council adopted Decision 2012/739/CFSP[(4)] which repealed and replaced Decision 2011/782/CFSP.

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

(4) On 31 May 2013, the Council adopted Decision 2013/255/CFSP.

(5) Annex IX to Regulation (EU) No 36/2012 lists items which are subject to prior authorisation prior to sale, supply, transfer or export in accordance with Article 2b of Regulation No 36/2012. That list should be expanded to include further items. An exception for products identified as consumer goods should be provided.

(6) Those measures fall within the scope of the Treaty on the Functioning of the European Union, and regulatory action at the level of the Union is necessary in order to ensure the uniform application of such measures by economic operators in all Member States.

(7) 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 replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 697/2013. (See end of Document for details)*

"Article 2

1 A Member State may prohibit or impose an authorisation requirement on the export, sale, supply or transfer of equipment which might be used for internal repression other than those listed in Annex IA or Annex IX, whether or not originating in the Union, to any person, entity or body in Syria or for use in Syria.

2 A Member State may prohibit or impose an authorisation requirement on the provision of technical assistance, financing and financial assistance related to the equipment referred to in paragraph 1, to any person, entity or body in Syria or for use in Syria.";

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

"Article 2a

1 It shall be prohibited:

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 intended 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 Article 2c paragraph 2 is replaced by the following:

"2 The seizure and disposal of equipment, goods or technology, the supply, sale, transfer or export of which is prohibited by Article 2a of this Regulation may, in accordance with national legislation or the decision of a competent authority, be carried out at the expense of the person or entity referred to in paragraph 1 or, if it is not possible to recover these expenses from that person or entity, the expenses may, in accordance with national legislation, be recovered from any person or entity who assumes responsibility for the carriage of the goods or equipment in the attempted illicit supply, sale, transfer or export.";

(4) the following Article is inserted:

"Article 2d

A Member State may prohibit or impose an authorisation requirement on the export to Syria of dual-use items referred to in Article 4(2) of Regulation (EC) No 428/2009.";

(5) 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 intended 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.";

(6) the following Article 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 on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude 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, or other civilian purposes;

(ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or 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;

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 697/2013. (See end of Document for details)*

b the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:

(i) the competent authority's determination under points (a) (i) and (ii);

(ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism[(5)] or in Article 2 of Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network[(6)];

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

c In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2 When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the counterparts to the transaction.

3 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 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 on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude 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, or other civilian purposes;

(ii) the activities concerned do not entail funds or economic resources being made available, directly or indirectly, to or 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;

b the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, *inter alia*:

(i) the competent authority's determination under points (a) (i) and (ii);

(ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002;

and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State.

c In the absence of the receipt of views from the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces within 30 days after the request was made to them, the competent authority may proceed with its decision on whether or not to issue the authorisation.

2 When applying the conditions under points (a) and (b) of paragraph 1, the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the end-user and the final destination of the delivery.

3 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 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 or 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 point (a) of Article 13(2), provided that the following conditions are met:

a on the basis of the information available to it, including information provided by the person, entity or body requesting the authorisation, the competent authority has determined that it is reasonable to conclude 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, or other civilian purposes;