Council Regulation (EU) No 1263/2012 of 21 December 2012 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran

COUNCIL REGULATION (EU) No 1263/2012

of 21 December 2012

amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran

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 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran[(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) Regulation (EU) No 267/2012[(2)] gives effect to the measures provided for in Decision 2010/413/CFSP. On 15 October 2012, the Council adopted Decision 2012/635/CFSP[(3)] which amends Decision 2010/413/CFSP and provides for additional restrictive measures against Iran.

(2) Those additional restrictive measures comprise, in particular, an export prohibition on key naval equipment and technology for ship-building, maintenance or refit. Moreover, trade in graphite, raw or semi-finished metals, such as aluminium and steel, and software for certain industrial processes should be prohibited.

(3) The additional restrictive measures also include a ban on the import, purchase or transport of Iranian natural gas. Effective implementation of this prohibition requires that measures be taken to prohibit swaps of natural gas that are known to increase the export of natural gas from Iran in circumvention of the prohibition, or there is reasonable cause to suspect this. The contracts satisfied by use of a pipeline directly connected to the natural gas transmission grid of the Union without any inlet point intended to facilitate the purchase or increase export of natural gas originating in Iran should not be affected by the prohibition on natural gas imports.

(4) Decision 2012/635/CFSP called for the review of restrictive measures concerning dual-use goods and technology set out in Annex I to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items[(4)], with a view to including certain items in Part 2 of category 5 thereof which might be relevant to industries controlled directly or indirectly by the Islamic Revolutionary Guard Corps or which might be relevant to Iran's nuclear, military or ballistic missile programme while taking into account the need to avoid unintended effects on the civilian population in Iran.

(5) In order to ensure the effective implementation of the prohibition on the sale, supply, transfer or export to Iran of additional key equipment or technology which could be used in the key sectors of the oil, natural gas and petrochemical industries, an additional list of such key equipment and technology should be provided.

(6) For the same reason, lists of items subject to trade restrictions on natural gas, graphite, raw or semi-finished metals, such as aluminium and steel, and software for certain industrial processes should also be provided.

(7) Decision 2012/635/CFSP also prohibits transactions between Union and Iranian banks and financial institutions, unless authorised in advance by the relevant Member State.

(8) Furthermore, Decision 2012/635/CFSP provides for prohibitions on the provision of flagging and classification services to Iranian oil tankers and cargo vessels as well as regarding the supply of vessels designed for the transport or storage of oil and petrochemical products to Iranian persons and entities or to other persons and entities for the purpose of transporting or storing Iranian oil and petrochemical products.

(9) In order to protect the environment and the health and safety of workers, it is necessary to provide that the competent authorities of Member States may take all action they deem necessary to ensure that legal obligations concerning the health and safety of workers and environment protection are respected. In cases of urgency, a Member State should be allowed to take such action without prior notification provided that it notifies the other Member States and the Commission as soon as possible afterwards.

(10) Where a Member State had granted a license to engage in the activities of exploitation of hydrocarbons to a designated person, entity or body before that person, entity or body was designated, the competent authority of that Member State may authorise derogation from certain prohibitions provided for in Regulation (EU) No 267/2012 where such derogation is needed to avoid or remediate environmental damage or permanent destruction of the license's value.

(11) These measures fall within the scope of the Treaty and regulatory action at the level of the Union is therefore necessary in order to implement them, in particular with a view to ensuring their uniform application by economic operators in all Member States.

(12) Regulation (EU) No 267/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 267/2012 is amended as follows:

(1) Article 2, is amended as follows:

(a) paragraph 2 is replaced by the following:

2. Annex I shall include goods and technology, including software, which are dual-use items or technology as defined in Regulation (EC) No 428/2009, except for certain goods and technology as specified in part A of Annex I to this Regulation.;

(b) the following paragraph is inserted:

2a. The Member State concerned shall inform the other Member States and the Commission, within four weeks, of authorisations granted in accordance with Regulation (EC) No 428/2009, in respect of the goods and technology as specified in part A of Annex I to this Regulation..

(2) In Article 6, the following points are added:

(d) the execution, until 15 April 2013, of contracts concluded before 22 December 2012 for the sale, supply, transfer or export of goods and technology as specified in Part C of Annex I to this Regulation or ancillary contracts necessary for the execution of such contracts.

(e) the execution, until 15 April 2013, of contracts concluded before 22 December 2012 for the provision of technical assistance or financing or financial assistance related to goods and technology as specified in Part C of Annex I to this Regulation.

With regard to point (d), the Member State concerned shall inform the other Member States and the Commission, within four weeks, of authorisations granted in accordance with Regulation (EC) No 428/2009.

(3) Article 8 is replaced by the following:

Article 8

1 It shall be prohibited to sell, supply, transfer or export key equipment or technology listed in Annexes VI and VIA, directly or indirectly, to any Iranian person, entity or body, or for use in Iran.

2 Annexes VI and VIA shall include key equipment and technology for the following key sectors of the oil and gas industry in Iran:

a exploration of crude oil and natural gas;

b production of crude oil and natural gas;

c refining;

d liquefaction of natural gas.

3 Annexes VI and VIA shall also include key equipment and technology for the petrochemical industry in Iran.

4 Annexes VI and VIA shall not include items included in the Common Military List, or in Annex I, II or III..

(4) Article 9 is replaced by the following:

Article 9

It shall be prohibited:

(a) to provide, directly or indirectly, technical assistance or brokering services related to the key equipment and technology listed in Annexes VI and VIA, or related to the provision, manufacture, maintenance and use of goods listed in Annexes VI and VIA, to any Iranian person, entity or body, or for use in Iran;

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1263/2012. (See end of Document for details)*

(b) to provide, directly or indirectly, financing or financial assistance related to the key equipment and technology listed in Annexes VI and VIA, to any Iranian person, entity or body, or for use in Iran..

(5) Article 10 is replaced be the following:

Article 10

1 The prohibitions in Articles 8 and 9 shall not apply to:

a the execution, until 15 April 2013, of transactions required by a trade contract concerning key equipment or technology in the exploration of crude oil and natural gas, production of crude oil and natural gas, refining, liquefaction of natural gas as listed in Annex VI concluded before 27 October 2010, or ancillary contracts necessary for the execution of such contracts, or by a contract or agreement concluded before 26 July 2010 and relating to an investment in Iran made before 26 July 2010, nor shall they prevent the execution of an obligation arising therefrom;

b the execution, until 15 April 2013, of transactions required by a trade contract concerning key equipment or technology for the petrochemical industry as listed in Annex VI concluded before 24 March 2012, or of ancillary contracts necessary for the execution of such contracts, or by a contract or agreement concluded before 23 January 2012 and relating to an investment in Iran made before 23 January 2012, nor shall they prevent the execution of an obligation arising therefrom;

c the execution, until 15 April 2013, of transactions required by a trade contract concerning key equipment or technology in the exploration of crude oil and natural gas, production of crude oil and natural gas, refining, liquefaction of natural gas and for the petrochemical industry as listed in Annex VIA concluded before 16 October 2012 and relating to an investment in Iran in the exploration of crude oil and natural gas, production of crude oil and natural gas, and the refining, liquefaction of natural gas made before 26 July 2010, or relating to an investment in Iran in the petrochemical industry made before 23 January 2012, nor shall they prevent the execution of an obligation arising therefrom; or

d the provision of technical assistance intended solely for the installation of equipment or technology delivered in accordance with points (a), (b) and (c),

provided that the natural or legal person, entity or body seeking to engage in such transactions, or to provide assistance to such transactions, has notified, at least 20 working days in advance, the transaction or assistance to the competent authority of the Member State in which it is established.

2 Prohibitions in Articles 8 and 9 shall be without prejudice to the execution of obligations arising from contracts referred to in Article 12(1)(b) and 14(1)(b) provided that those obligations arise from service contracts or ancillary contracts necessary for their execution and provided that the execution of those obligations has been authorised in advance by the competent authority concerned and the Member State concerned has informed the other Member States and the Commission of its intention to grant an authorisation.

(6) The following Articles are inserted:

Article 10a

1 It shall be prohibited to sell, supply, transfer or export key naval equipment or technology listed in Annex VIB, directly or indirectly, to any Iranian person, entity or body, or for use in Iran.

2 Annex VIB shall include key naval equipment or technology for ship building, maintenance or refit, including equipment or technology used in the construction of oil tankers.

Article 10b

1 It shall be prohibited:

a to provide, directly or indirectly, technical assistance or brokering services related to the key equipment and technology listed in Annex VIB, or related to the provision, manufacture, maintenance and use of goods listed in Annex VIB, to any Iranian person, entity or body, or for use in Iran;

b to provide, directly or indirectly, financing or financial assistance related to the key equipment and technology listed in Annex VIB, to any Iranian person, entity or body, or for use in Iran.

Article 10c

1 The prohibitions in Articles 10a and 10b shall be without prejudice to the supply of key naval equipment and technology to a vessel which is not owned or controlled by an Iranian person, entity or body and which has been forced into a port in Iran, or into Iranian territorial waters, under force majeure.

2 The prohibitions in Articles 10a and 10b shall not apply to the execution, until 15 February 2013, of contracts concluded before 22 December 2012 or ancillary contracts necessary for the execution of such contracts.

Article 10d

1 It shall be prohibited to sell, supply, transfer or export software as listed in Annex VIIA, directly or indirectly, to any Iranian person, entity or body, or for use in Iran.

2 Annex VIIA shall include software for integrating industrial processes which is relevant to industries controlled directly or indirectly by the Islamic Revolutionary Guard Corps or which is relevant to Iran's nuclear, military or ballistic missile programme.

Article 10e

1 It shall be prohibited:

a to provide, directly or indirectly, technical assistance or brokering services related to the software listed in Annex VIIA, or related to the provision, manufacture, maintenance and use of goods listed in Annex VIIA, to any Iranian person, entity or body, or for use in Iran;

b to provide, directly or indirectly, financing or financial assistance related to the software listed in Annex VIIA, to any Iranian person, entity or body, or for use in Iran.

Article 10f

1 The prohibitions in Articles 10d and 10e shall not apply to the execution, until 15 January 2013, of contracts concluded before 22 December 2012 or ancillary contracts necessary for the execution of such contracts.