Council Regulation (EU) No 509/2012 of 15 June 2012 amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

COUNCIL REGULATION (EU) No 509/2012

of 15 June 2012

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 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria[(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 January 2012, the Council adopted Regulation (EU) No 36/2012[(2)] with a view to giving effect to most of the measures provided for in Decision 2011/782/CFSP.

(2) In view of the continued brutal repression and violation of human rights by the Government of Syria, Council Decision 2012/206/CFSP[(3)], amending Decision 2011/782/CFSP, provides for additional measures, namely a prohibition or prior authorisation requirement on the sale, supply, transfer or export of goods and technology which might be used for internal repression, and a ban on exports of luxury goods to Syria.

(3) Those 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.

(4) Therefore, Regulation (EU) No 36/2012 should be amended to give effect to the new measures,

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) the following articles are inserted:

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 509/2012. (See end of Document for details)*

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.

Article 2b

1 A prior authorisation shall be required for the sale, supply, transfer or export, directly or indirectly, of 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 IX, whether or not originating in the Union, to any person, entity or body in Syria or for use in Syria.

2 The competent authorities in the Member States, as identified on the websites listed in Annex III, shall not grant any authorisation for any sale, supply, transfer or export of the equipment, goods or technology listed in Annex IX, if they have reasonable grounds to determine that the equipment, goods or technology the sale, supply, transfer or export of which is in question is or might be used for internal repression or for the manufacture and maintenance of products which might be used for internal repression.

3 The authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be in accordance with the detailed rules laid down in Article 11 of 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)]. The authorisation shall be valid throughout the Union.;

(2) Article 3 is replaced by the following:

Article 3

1 It shall be prohibited:

a to provide, directly or indirectly, technical assistance related to the goods and technology listed in the Common Military List of the European Union[(5)] (“Common Military List”) or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in Syria or for use in Syria;

b to provide, directly or indirectly, technical assistance or brokering services related to equipment, goods or technology which might be used for internal repression as listed in Annexes I and IA, to any person, entity or body in Syria or for use in Syria;

c to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List or in Annexes I and IA, including in particular grants, loans and export credit insurance, 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;

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

2 By way of derogation from paragraph 1, the prohibitions referred to therein shall not apply to the provision of technical assistance, financing and financial assistance related to:

— technical assistance intended solely for the support of the United Nations Disengagement Observer Force (UNDOF),

— non-lethal military equipment, or equipment which might be used for internal repression, intended solely for humanitarian purposes or protective use or for institution building programmes of the UN and the Union, or for Union or UN crisis management operations, or

— non-combat vehicles fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the Union and its Member States in Syria,

provided that such provision shall first have been approved by the competent authority of a Member State, as identified on the websites listed in Annex III.

3 By way of derogation from point (b) of 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 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.

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

4 Prior authorisation from the competent authority of the relevant Member State, as identified on the websites listed in Annex III, shall be required for the provision of:

a technical assistance or brokering services related to equipment, goods or technology listed in Annex IX, and to the provision, manufacture, maintenance and use of such equipment, goods or technology, directly or indirectly to any person, entity or body in Syria or for use in Syria;

b financing or financial assistance related to goods and technology listed in Annex IX, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such goods and technology, or for any provision of related technical assistance to any person, entity or body in Syria or for use in Syria.

The competent authorities shall not grant any authorisation for the transactions referred to in the first subparagraph, if they have reasonable grounds to determine that those transactions are or may be intended to contribute to internal repression or for the manufacture and maintenance of products which might be used for internal repression.;

(3) the following article is inserted:

Article 11b

1 It shall be prohibited:

a to sell, supply, transfer or export, directly or indirectly, luxury goods as listed in Annex X, to Syria;

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b to participate, knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibition referred to in point (a).

2 By way of derogation from point (a) of paragraph 1, the prohibition referred to therein shall not apply to goods of a non-commercial nature, for personal use, contained in travellers' luggage..

Article 2

The text set out in Annex I to this Regulation is added to Regulation (EU) No 36/2012 as Annex IA.

Article 3

The text set out in Annex II to this Regulation is added to Regulation (EU) No 36/2012 as Annex IX.

Article 4

The text set out in Annex III to this Regulation is added to Regulation (EU) No 36/2012 as Annex X.

Article 5

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 Luxembourg, 15 June 2012.

For the Council

The President

M. LIDEGAARD

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EU) No 509/2012. (See end of Document for details)*

ANNEX I

ANNEX Ia

LIST OF EQUIPMENT, GOODS AND TECHNOLOGY REFERRED TO IN ARTICLE 2a

PART 1

Introductory Notes

1. This Part comprises goods, software and technology listed in Annex I to Regulation (EC) No 428/2009[(6)].

2. Unless otherwise stated, the reference numbers used in the column below entitled "No" refer to the control list number and the column below entitled "Description" refers to the control descriptions of dual-use items set out in Annex I to Regulation (EC) No 428/2009.

3. Definitions of terms between 'single quotation marks' are given in a technical note to the relevant item.

4. Definitions of terms between "double quotation marks" can be found in Annex I to Regulation (EC) No 428/2009.

General Notes

1. The object of the controls contained in this Annex should not be defeated by the export of any non-controlled goods (including plant) containing one or more controlled components when the controlled component or components is/are the principal element of the goods and can feasibly be removed or used for other purposes.

NB: In judging whether the controlled component or components is/are to be considered the principal element, it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured.

2. The items specified in this Annex include both new and used goods.

General Technology Note (GTN)(To be read in conjunction with Section B of this Part)

1. The sale, supply, transfer or export of "technology" which is "required" for the "development", "production" or "use" of goods the sale, supply, transfer or export of which is controlled in Sections A, B, C and D of this Part, is controlled in accordance with the provisions of Section E.

2. The "technology""required" for the "development", "production" or "use" of goods under control remains under control even when it is applicable to non-controlled goods.

3. Controls do not apply to that "technology" which is the minimum necessary for the installation, operation, maintenance (checking) and repair of those goods which are not controlled or the export of which has been authorised in accordance with this Regulation.

4. Controls on "technology" transfer do not apply to information "in the public domain", to "basic scientific research" or to the minimum necessary information for patent applications.

A. **EQUIPMENT**

No	Description