



EUROPEAN
COMMISSION

HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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Limited

Joint Proposal for a

COUNCIL REGULATION

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

EXPLANATORY MEMORANDUM

- (1) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran gives effect to the measures provided for in Decision 2010/413/CFSP.
- (2) Article 26c, paragraph 7 of Decision 2010/413/CFSP requires that the procurement of certain nuclear-related goods from Iran by nationals of Member States, or using their flagged vessels or aircraft, shall be subject to approval by the Joint Commission. The goods in question are, on the one hand, those contained in the Nuclear Suppliers Group list and, on the other, any further item if the Member State determines that it could contribute to reprocessing- or enrichment-related or heavy water-related activities inconsistent with the Joint Comprehensive Plan of Action of 14 July 2015.
- (3) This obligation is given effect in Article 2a, paragraph 5 of Council Regulation 267/2012. However, Article 2a(5) of the Regulation only subjects to approval by the Joint Commission transactions concerning items on the Nuclear Suppliers Goods list, leaving out the additional goods covered by Article 26c of Decision 2010/413/CFSP.
- (4) Article 26d of Decision 2010/413/CFSP requires that Member States engaging in the supply, sale or transfer to, or for use in, or the benefit of, Iran of goods mentioned therein shall ensure that they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of those goods.
- (5) This requirement is given effect in Articles 3a paragraph 6, 3c paragraph 2 and 3d paragraph 2 of Council Regulation 267/2012. Those provisions require that competent authorities should ensure that rights to verify the end-use and end-use location of any supplied item have been obtained from Iran and can be exercised effectively.
- (6) This requirement has proved difficult to implement in practice, given that it requires the intervention of a third country in a transaction which essentially occurs between two private economic operators and which is subject to the control of the competent authority in the Union.
- (7) On... April 2017, the Council adopted Decision (CFSP) 2017/... amending Decision 2010/413/CFSP.
- (8) Decision (CFSP) 2017/... replaces, in Article 26c, the requirement to obtain an approval from the Joint Commission with an obligation to notify the latter of any procurement of the relevant goods.
- (9) Decision (CFSP) 2017/... also amends Article 26d and replaces the obligation for Member States to obtain, prior to authorising any transaction mentioned therein, the right to verify the end-use and end-use location of the items, with an obligation to obtain information on the end-use and end-use location of those items.

- (10) Further action by the Union is needed in order to implement these measures as well as to bring the scope of Article 2a, paragraph 5 of Council Regulation 267/2012 in line with that of Article 26c, paragraph 7 of Decision 2010/413/CFSP.
- (11) The High Representative of the Union for Foreign Affairs and Security Policy and the European Commission propose to amend Regulation (EU) No 267/2012 accordingly.

Joint Proposal for a

COUNCIL REGULATION

amending Council 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 and repealing Common Position 2007/140/CFSP¹,

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

Whereas:

- (1) Council Regulation (EU) No 267/2012² gives effect to the measures provided for in Decision 2010/413/CFSP.
- (2) Article 26c of Decision 2010/413/CFSP requires that the procurement of certain nuclear-related goods from Iran by nationals of Member States, or using their flagged vessels or aircraft, shall be subject to approval by the Joint Commission.
- (3) Article 26d of Decision 2010/413/CFSP requires that Member States engaging in the supply, sale or transfer to, or for use in, or the benefit of, Iran of goods mentioned therein shall ensure that they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of those goods.
- (4) On... April 2017, the Council adopted Decision (CFSP) 2017/... amending Decision 2010/413/CFSP.
- (5) Decision (CFSP) 2017/... replaces, in Article 26c, the requirement to obtain an approval from the Joint Commission with an obligation to notify the latter of any procurement of the relevant goods. Decision (CFSP) 2017/... also amends Article 26d to require that Member States obtain, prior to authorising any transaction mentioned therein, information on the end-use and end-use location of any supplied item.

¹ Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 3)9.

² Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 ([OJ L 88, 24.3.2012, p. 1](#)).

- (6) Regulatory action at the level of the Union is necessary in order to implement the measures, in particular with a view to ensuring their uniform application by economic operators in all Member States.
- (7) Regulation (EU) No 267/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) In Article 2a, paragraph 5 is replaced by the following:

'5. The Member State concerned shall notify the Joint Commission of authorisations granted under point (e) of paragraph 1 and authorisations concerning the purchase, import or transport from Iran of the further goods and technology referred to in paragraph 4, whether or not originating in Iran.'

- (2) Article 3a is amended as follows:

- (a) Paragraph 6 is replaced by the following:

'6. The competent authority granting an authorisation in accordance with paragraph 1(a) shall ensure that, except for temporary exports, the applicant has submitted the end-use statement in Annex IIa or an end-use statement in an equivalent document containing information on the end-use and, where possible, end use-location of any supplied item.'

- (b) The following paragraph 6a is inserted:

'Where it is not possible to provide, in accordance with paragraph 6, information on the end-use location of the supplied item with the application for an authorisation the competent authority can request the applicant to supply such information at a later stage. The applicant shall provide the information within a reasonable period of time.'

- (3) Article 3c is amended as follows:

- (a) Paragraph 2 is replaced by the following:

'The competent authority granting an authorisation in accordance with paragraph 1 shall ensure that, except for temporary exports, the applicant has submitted the end-use statement in Annex IIa or an end-use statement in an equivalent document containing information on the end-use and, where possible, end use-location of any supplied item.'

- (b) The following paragraph 2a is inserted:

'2a. Where it is not possible to provide, in accordance with paragraph 2, information on the end-use location of the supplied item with the application for an authorisation the competent authority can request the applicant to supply such information at a later stage. The applicant shall provide the information within a reasonable period of time.'

- (4) Article 3d is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. The competent authority granting an authorisation in accordance with paragraph 1 shall ensure the following:

(a) all activities are undertaken strictly in accordance with the JCPOA;

(b) except for temporary exports, the applicant has submitted the end-use statement in Annex IIa or an end-use statement in an equivalent document containing information on the end-use and, where possible, end use-location of any supplied item.'

(b) The following paragraph 2a is inserted:

'2a. Where it is not possible to provide, in accordance with paragraph 2, information on the end-use location of the supplied item with the application for an authorisation the competent authority can request the applicant to supply such information at a later stage. The applicant shall provide the information within a reasonable period of time.'

(5) The text in the Annex to this Regulation is inserted as Annex IIa.

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