



EUROPEAN COMMISSION

HIGH REPRESENTATIVE OF THE
EUROPEAN UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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2011/0158 (NLE)

Joint Proposal for a

COUNCIL REGULATION

**amending Council Regulation (EC) No 765/2006 concerning restrictive measures against
President Lukashenko and certain officials of Belarus**

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 765/2006 provides for a freezing of the assets of President Lukashenko and certain officials of Belarus.

By Council Decision 2011/.../CFSP of ... June 2011¹ amending Council Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus, the Council has decided to take certain additional restrictive measures in relation to Belarus, in particular an arms embargo and a prohibition on internal repression equipment.

Some elements of these 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 therefore necessary in order to implement them, in particular with a view to ensuring their uniform application by economic operators in all Member States.

The High Representative of the Union for Foreign Affairs and Security Policy and the European Commission propose to amend Council Regulation (EC) No 765/2006 accordingly.

¹ OJ L ... , ... June 2011, p.

Joint Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus

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/.../CFSP of ... June 2011² amending Council Decision 2010/639/CFSP concerning restrictive measures against certain officials of Belarus

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

Whereas:

- (1) Council Regulation (EC) No 765/2006 of 18 May 2006³ provides for a freezing of the assets of President Lukashenko and certain officials of Belarus.
- (2) By Decision 2011/.../CFSP of ... June 2011, the Council has decided to take certain additional restrictive measures in relation to Belarus, in particular by imposing an arms embargo and a prohibition on internal repression equipment.
- (3) Some elements of these 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 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) Regulation (EU) No 765/2006 should therefore be amended accordingly.
- (5) In order to ensure that the measures in this Regulation are effective, this Regulation should enter into force immediately.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 765/2006 is amended as follows:

² OJ L ... , ... June 2011, p.

³ OJ L 134, 20 May 2006, p.1

- (1) The title of the Regulation is to be replaced by the following:
“Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus”
- (2) Article 1 is amended as follows:
 - (a) Point (5) is replaced by the following:
 - (5) “territory of the Community” means the territories of the Member States, including their airspace, to which the Treaty is applicable, under the conditions laid down in the Treaty.”
 - (b) The following point (6) is added:
 - (6) 'technical assistance' means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance;
- (3) The following Articles are inserted:

“Article 1a

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex III, whether or not originating in the Union, to any person, entity or body in Belarus or to any other person, entity or body for use in Belarus;
- (b) to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in point (a).

“Article 1b

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 (‘Common Military List’)⁴, or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in Belarus or for use in Belarus;
- (b) to provide, directly or indirectly, technical assistance or brokering services related to equipment which might be used for internal repression

⁴ OJ C 69, 18.3.2010, p. 19.

as listed in Annex III, to any person, entity or body in Belarus or for use in Belarus;

- (c) to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List or in Annex III, 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 Belarus or for use in Belarus;
 - (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
- (a) 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 United Nations (“UN”) and the Union, or for Union or UN crisis management operations; or
 - (b) 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 Belarus;
- 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 II.
3. Paragraph 1 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Belarus by UN personnel, personnel of the Union or its Member States, representatives of the media or humanitarian and development workers and associated persons exclusively for their personal use.”

Article 2

The contents of the Annex to this Regulation shall be inserted as Annex III to Regulation (EC) No 765/2006.

Article 3

This Regulation shall enter into force on the day 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*

ANNEX

“ANNEX III

List of equipment which might be used for internal repression as referred to in Article 1a and Article 1b

1. Fire-arms, ammunition and related accessories therefor, as follows:
 - 1.1 Firearms not controlled by ML 1 and ML 2 of the Common Military List of the European Union ('Common Military List')⁵;
 - 1.2 Ammunition specially designed for the firearms listed in item 1.1 and specially designed components therefor;
 - 1.3 Weapon-sights not controlled by the Common Military List.
2. Bombs and grenades not controlled by the Common Military List.
3. Vehicles as follows:
 - 3.1 Vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
 - 3.2 Vehicles specially designed or modified to be electrified to repel borders;
 - 3.3 Vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
 - 3.4 Vehicles specially designed for the transport or transfer of prisoners and/or detainees;
 - 3.5 Vehicles specially designed to deploy mobile barriers;
 - 3.6 Components for the vehicles specified in items 3.1 to 3.5 specially designed for the purposes of riot control.

Note 1 This item does not control vehicles specially designed for the purposes of fire-fighting.

Note 2 For the purposes of item 3.5 the term "vehicles" includes trailers.
4. Explosive substances and related equipment as follows:
 - 4.1 Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of

⁵ OJ L 88, 29.3.2007, p. 58.

which is not the creation of explosions (e.g., car air-bag inflaters, electric-surge arresters of fire sprinkler actuators);

- 4.2 Linear cutting explosive charges not controlled by the Common Military List;
- 4.3 Other explosives not controlled by the Common Military List and related substances as follows:
 - a. amatol;
 - b. nitrocellulose (containing more than 12,5 % nitrogen);
 - c. nitroglycol;
 - d. pentaerythritol tetranitrate (PETN);
 - e. picryl chloride;
 - f. 2,4,6-trinitrotoluene (TNT).
5. Protective equipment not controlled by ML 13 of the Common Military List as follows:
 - 5.1 Body armour providing ballistic and/or stabbing protection;
 - 5.2 Helmets providing ballistic and/or fragmentation protection, anti-riot helmets, antiriot shields and ballistic shields.

Note: This item does not control:

 - *equipment specially designed for sports activities;*
 - *equipment specially designed for safety of work requirements.*
6. Simulators, other than those controlled by ML 14 of the Common Military List, for training in the use of firearms, and specially designed software therefor.
7. Night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the Common Military List.
8. Razor barbed wire.
9. Military knives, combat knives and bayonets with blade lengths in excess of 10 cm.
10. Production equipment specially designed for the items specified in this list.
11. Specific technology for the development, production or use of the items specified in this list.”