

COUNCIL DECISION (CFSP) 2022/266**of 23 February 2022****concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

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

Whereas:

- (1) The European Union remains unwavering in its support for Ukraine's sovereignty and territorial integrity.
- (2) In its conclusions of 24 and 25 June 2021, the European Council called on Russia to fully assume its responsibility in ensuring the full implementation of the Minsk Agreements as the key condition for any substantial change in the Union's stance. The European Council also invited the Commission and the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') to present options for additional restrictive measures, including economic sanctions.
- (3) In its conclusions of 16 December 2021, the European Council stressed the urgent need for Russia to de-escalate tensions caused by the military build-up along its border with Ukraine and its aggressive rhetoric. It reiterated its full support for Ukraine's sovereignty and territorial integrity. While encouraging diplomatic efforts and supporting the Normandy format in achieving the full implementation of the Minsk Agreements, the European Council stated that any further military aggression against Ukraine would have massive consequences and severe cost in response, including restrictive measures coordinated with partners.
- (4) On 24 January 2022, the Council approved conclusions in which it condemned Russia's continued aggressive actions and threats against Ukraine, and called on Russia to de-escalate, to abide by international law and to engage constructively in dialogue through the established international mechanisms. Recalling the European Council Conclusions of 16 December 2021, the Council reiterated that any further military aggression by Russia against Ukraine would have massive consequences and severe costs, including a wide array of sectoral and individual restrictive measures that would be adopted in coordination with partners.
- (5) On 21 February 2022, the President of the Russian Federation signed a decree recognising the independence and sovereignty of the self-proclaimed 'Donetsk People's Republic' and the 'Luhansk People's Republic', and ordered Russian armed forces to be deployed in those areas.
- (6) On 22 February 2022, the High Representative issued a declaration on behalf of the Union condemning the decision of the President of the Russian Federation to recognise the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine as independent entities and the ensuing decision to send Russian troops into those areas. That illegal act further undermines Ukraine's sovereignty and independence and is a severe breach of international law and international agreements, including the United Nations Charter, the Helsinki Final Act, the Paris Charter and the Budapest Memorandum, as well as of the Minsk Agreements and of UN Security Council Resolution 2202 (2015). The High Representative urged Russia, as a party to the conflict, to reverse the recognition, uphold its commitments, abide by international law and return to the discussions within the Normandy format and the Trilateral Contact Group. He announced that the Union would respond to these latest violations by Russia by adopting additional restrictive measures as a matter of urgency.

- (7) In these circumstances, the Council considers that the import into the European Union of goods originating in the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine should be prohibited, with the exception of goods having been granted a certificate of origin by the Government of Ukraine.
- (8) In addition, trade in goods and technology for use in certain sectors in the non-government controlled areas of the Donetsk and Luhansk Oblasts of Ukraine should be restricted. Services in the sectors of transport, telecommunications, energy or the prospecting, exploration and production of oil, gas and mineral resources, as well as services related to tourism activities in the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine should be prohibited.
- (9) Further Union action is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. The import into the Union of goods originating in the non-government controlled areas of Donetsk oblast in Ukraine or in the non-government controlled areas of Luhansk oblast in Ukraine shall be prohibited.
2. It shall be prohibited to provide, directly or indirectly, financing or financial assistance, as well as insurance and reinsurance, related to the import of goods originating in the non-government controlled areas of Donetsk oblast or in non-government controlled areas of Luhansk oblast.

Article 2

The prohibitions set out in Article 1 shall not apply to goods originating in the non-government controlled areas referred to in Article 1 which have been made available for examination to, and have been controlled by, the Ukrainian authorities and which have been granted a certificate of origin by the Government of Ukraine.

Article 3

The prohibitions set out in Article 1 shall be without prejudice to the execution until 24 May 2022 of contracts concluded before 23 February 2022 or of ancillary contracts necessary for the execution of such contracts, to be concluded and executed not later than 24 May 2022.

Article 4

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions laid down in Article 1.

Article 5

1. Any of the following shall be prohibited:
 - (a) the acquisition of, or the extension of a participation in, real estate in the non-government controlled areas referred to in Article 1;
 - (b) the acquisition of, or the extension of a participation in, entities in the non-government controlled areas referred to in Article 1, including the acquisition in full of such entities and the acquisition of shares therein, and the acquisition of other securities of a participating nature;
 - (c) the granting of any financing to entities in the non-government controlled areas referred to in Article 1, or for the documented purpose of financing such entities;

- (d) the creation of any joint venture with entities in the non-government controlled areas referred to in Article 1; and,
- (e) the provision of investment services directly related to the activities referred to in points (a) to (d) of this paragraph.

2. The prohibitions in paragraph 1 shall:

- (a) be without prejudice to the execution of an obligation from contracts concluded before 23 February 2022; and,
- (b) not prevent the extension of a participation, if such extension is an obligation under a contract concluded before 24 February 2022.

3. It shall be prohibited to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in paragraph 1.

4. The prohibitions and restrictions set out in this Article shall not apply to the conduct of legitimate business with entities outside the non-government controlled areas referred to in Article 1, provided the related investments are not destined to entities in the non-government controlled areas referred to in Article 1.

Article 6

1. It shall be prohibited to sell, supply, transfer, or export goods or technology by nationals of Member States, or from the territories of Member States, or using vessels or aircraft under the jurisdiction of Member States, whether or not originating in their territories,

- (a) to any natural or legal person, entity or body in the non-government controlled areas referred to in Article 1; or,
- (b) for use in the non-government controlled areas referred to in Article 1,

in any of the following sectors:

- (i) transport;
- (ii) telecommunications;
- (iii) energy; and
- (iv) the prospecting, exploration and production of oil, gas and mineral resources.

2. The provision of:

- (a) technical assistance or training and other services related to the goods and technology in the sectors referred to in paragraph 1;
- (b) financing or financial assistance for any sale, supply, transfer or export of goods or technology in the sectors referred to in paragraph 1, or for the provision of related technical assistance or training,

shall be prohibited.

3. It shall be prohibited to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibitions set out in paragraphs 1 and 2.

4. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

Article 7

1. It shall be prohibited to provide technical assistance, or brokering, construction or engineering services directly relating to infrastructure in the non-government controlled areas referred to in Article 1 in the sectors referred to in Article 6(1), independently of the origin of the goods or technology.

2. The prohibitions in paragraph 1 shall be without prejudice to the execution, until 24 August 2022 of contracts concluded before 23 February 2022, or ancillary contracts necessary for the execution of such contracts.
3. It shall be prohibited to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in paragraphs 1 and 2.

Article 8

1. The competent authorities may grant an authorisation in relation to the activities referred to in Articles 5(1), 6(2) and 7(1), and in respect of the goods and technology referred to in Article 6(1), provided that they are:
 - (a) necessary for official purposes of consular missions or international organisations enjoying immunities in accordance with international law located in the non-government controlled areas referred to in Article 1; or
 - (b) related to projects exclusively in support of hospitals or other public health institutions providing medical services or civilian education facilities located in the non-government controlled areas referred to in Article 1, or
 - (c) appliances or equipment for medical use.
2. The competent authorities may also grant, under such terms and conditions as they deem appropriate, an authorisation for a transaction in relation to the activities referred to in Article 5(1), provided that the transaction is for the purpose of maintenance in order to ensure the safety of existing infrastructure.
3. The competent authorities may also grant an authorisation in relation to the goods and technology referred to in Article 6(1) and to the activities referred to in Article 6(2) and Article 7, where the sale, supply, transfer or export of the items or the carrying out of those activities is necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety, including the safety of existing infrastructure, or on the environment. In duly justified cases of emergency, the sale, supply, transfer or export may proceed without prior authorisation provided that the exporter notifies the competent authority within five working days after the sale, supply, transfer or export has taken place, providing details about the relevant justification for the sale, supply, transfer or export without prior authorisation.

The Commission and the Member States shall inform each other of the measures taken under this paragraph and share any other relevant information at their disposal.

Article 9

1. It shall be prohibited to provide services directly related to tourism activities in the non-government controlled areas referred to in Article 1, by nationals of Member States, or from the territories of Member States, or using vessels or aircraft under the jurisdiction of Member States.
2. The prohibitions set out in paragraph 1 shall be without prejudice to the execution, until 24 August 2022 of contracts concluded before 23 February 2022, or ancillary contracts necessary for the execution of such contracts.
3. It shall be prohibited to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in paragraph 1.

Article 10

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Decision shall apply until 24 February 2023.

This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

Done at Brussels, 23 February 2022.

For the Council
The President
J.-Y. LE DRIAN
