

**COUNCIL DECISION (CFSP) 2023/1574****of 28 July 2023****amending Decision (CFSP) 2022/2319 concerning restrictive measures in view of the situation in Haiti**

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) On 25 November 2022, the Council adopted Decision (CFSP) 2022/2319 <sup>(1)</sup>, which concerns restrictive measures in view of the situation in Haiti. That Decision implements United Nations Security Council (UNSC) Resolution 2653 (2022), which established a sanctions regime for Haiti, including asset-freeze, travel-restriction and targeted arms-embargo measures.
- (2) The Union considers that the situation in Haiti continues to constitute a threat to international peace and security in the region, and remains concerned about the high levels of gang violence and other criminal activities, sexual and gender-based violence, the embezzlement of public funds, ongoing impunity for perpetrators, and the dire humanitarian situation in Haiti, all of which have devastating consequences for the Haitian population.
- (3) The situation in Haiti remains characterised by marked instability, which is linked to the fragility of the State. The general security conditions are extremely precarious due to the pervasive presence of armed gangs involved in illegal activities, hindering also the delivery of humanitarian aid. This situation risks compromising, inter alia, the holding of peaceful, free, fair and transparent legislative and presidential elections, which the Haitian Government is willing to call by 2024 if general security conditions permit, and obstructing the fragile democratic path of the country.
- (4) The Haitian authorities have repeatedly called upon the international community to provide support in re-establishing the authority of the State and the rule of law, including in the fight against armed gangs and other criminal organisations, in particular by asking the United Nations to deploy an international specialised force to assist the Haitian National Police and the Organization of American States in creating a dedicated working group to follow the development of the situation and liaise with the United Nations and the Caribbean Community.
- (5) In this context and in light of the further deteriorating political, economic, humanitarian and security situation in Haiti, the Council considers it appropriate to establish a dedicated framework for targeted restrictive measures against natural or legal persons, entities or bodies responsible for actions that threaten the peace, stability and security of Haiti and for actions that undermine democracy or the rule of law in Haiti, as well as against natural or legal persons, entities or bodies associated with them.
- (6) A threat to the peace, stability and security of Haiti is posed in particular by persons who engage in or support criminal activities and violence involving armed groups and criminal networks, support illicit trafficking and the diversion of arms, act in violation of the UN arms embargo, commit acts that violate international human rights law or that constitute human rights abuses, or obstruct humanitarian action in Haiti.
- (7) A threat to stability, democracy and the rule of law in Haiti is also posed by persons who engage in serious financial misconduct concerning public funds and the unauthorised export of capital.

<sup>(1)</sup> Council Decision (CFSP) 2022/2319 of 25 November 2022 concerning restrictive measures in view of the situation in Haiti (OJ L 307, 28.11.2022, p. 135).

- (8) The Council considers that the humanitarian exemption from the asset-freeze measures pursuant to UNSC Resolution 2664 (2022) should also apply to the complementary measures concerning the freezing of funds and economic resources in addition to those decided upon by the Committee established by paragraph 19 of UNSC Resolution 2653 (2022).
- (9) Decision (CFSP) 2022/2319 should therefore be amended accordingly.
- (10) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Decision (CFSP) 2022/2319 is amended as follows:

- (1) in Article 1(1), second subparagraph, the words ‘the Annex’ are replaced by ‘Annex I’;
- (2) the following article is inserted:

##### *‘Article 1a*

1. The direct or indirect supply, sale, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, to, or for the benefit of, the persons and entities listed in Annex II by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited, whether originating or not in their territories.

2. It shall be prohibited to:

- (a) provide technical assistance, training or other assistance, including the provision of armed mercenary personnel, related to military activities or the provision, maintenance or use of any arms and related materiel directly or indirectly to any person or entity listed in Annex II;
- (b) provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical or other assistance, directly or indirectly to any person or entity listed in Annex II;

3. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to Haiti in their territory, including seaports and airports, if they have information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited under this Article.

4. Member States shall ensure that adequate marking and recordkeeping measures are in place to trace arms, including small arms and light weapons, in accordance with the international and regional instruments to which they are parties, and to consider how best to assist, where relevant and upon their request, neighbouring countries in preventing and detecting illicit trafficking and diversion in violation of measures imposed in paragraphs 1 and 2.’;

- (3) Article 2 is amended as follows:

- (a) in paragraph 1, second subparagraph, the words ‘the Annex’ are replaced by ‘Annex I’;
- (b) in paragraph 5, the words ‘the Annex’ are replaced by ‘Annex I’;

- (4) the following article is inserted:

##### *‘Article 2a*

1. Member States shall take the measures necessary to prevent the entry into, or transit through, their territories of natural persons:

- (a) responsible for or complicit in, or having engaged in, directly or indirectly, actions that threaten the peace, stability and security of Haiti, including:

- (i) engaging in, directly or indirectly, or supporting criminal activities and violence involving armed groups and criminal networks that promote violence, including forcible recruitment of children by such groups and networks, kidnappings, trafficking in persons and the smuggling of migrants, and homicides and sexual and gender-based violence;
  - (ii) supporting illicit trafficking and diversion of arms and related materiel, or illicit financial flows related thereto;
  - (iii) acting for, on behalf of or at the direction of, or otherwise supporting or financing, a person or entity designated in connection with the activity described in point (i) or (ii), including through the direct or indirect use of the proceeds from organised crime, including proceeds from illicit production and trafficking in drugs and their precursors originating in or transiting through Haiti, the trafficking in persons and the smuggling of migrants from Haiti, or the smuggling and trafficking of arms to or from Haiti;
  - (iv) acting in violation of the arms embargo, or having directly or indirectly supplied, sold or transferred to armed groups or criminal networks in Haiti, or having been the recipient of, arms or any related materiel, or any technical advice, training or assistance, including financing and financial assistance, related to violent activities of armed groups or criminal networks in Haiti;
  - (v) planning, directing or committing acts that violate international human rights law or acts that constitute human rights abuses, including those involving extrajudicial killing, including of women and children, and the commission of acts of violence, abduction, enforced disappearances or kidnappings for ransom in Haiti;
  - (vi) planning, directing or committing acts involving sexual and gender-based violence, including rape and sexual slavery, in Haiti;
  - (vii) obstructing the delivery of humanitarian assistance to Haiti or access to, or the distribution of, humanitarian assistance in Haiti;
  - (viii) attacking personnel or premises of Union delegations and Member State diplomatic missions and operations in Haiti, or providing support for such attacks;
- (b) undermining democracy or the rule of law in Haiti through serious financial misconduct concerning public funds or the unauthorised export of capital; or
- (c) associated with natural persons designated under points (a) and (b) or under Article 2(1).

Natural persons as referred to in this paragraph are listed in Annex II.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.
3. Paragraph 1 shall be without prejudice to cases where a Member State is bound by an obligation of international law, namely:
  - (a) as a host country of an international intergovernmental organisation;
  - (b) as a host country to an international conference convened by, or under the auspices of, the United Nations;
  - (c) under a multilateral agreement conferring privileges and immunities; or
  - (d) pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.
4. Paragraph 3 shall also apply in cases where a Member State is host country of the Organization for Security and Cooperation in Europe (OSCE).
5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraphs 3 or 4.
6. Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on the grounds of attending intergovernmental meetings or meetings promoted or hosted by the Union, or hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes the policy objectives of restrictive measures.

7. Member States may also grant exemptions from the measures imposed under paragraph 1 where entry or transit is necessary for the fulfilment of a judicial process.

8. A Member State wishing to grant exemptions referred to in paragraphs 6 or 7 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more Member States raise an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more Member States raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

9. Where, pursuant to paragraph 3, 4, 6 or 7, a Member State authorises the entry into, or transit through, its territory of persons listed in Annex II, the authorisation shall be strictly limited to the purpose for which it is given and to the persons directly concerned thereby;

(5) Article 3 is amended as follows:

(a) in paragraph 1, second subparagraph, the words 'the Annex' are replaced by 'Annex I';

(b) in paragraph 2, the words 'the Annex' are replaced by 'Annex I';

(c) in paragraph 4, point (b), the words 'the Annex' are replaced by 'Annex I';

(6) the following article is inserted:

*'Article 3a*

1. All funds and economic resources owned or controlled directly or indirectly by natural or legal persons, entities or bodies:

(a) responsible for or complicit in, or having engaged in, directly or indirectly, actions that threaten the peace, stability and security of Haiti, including:

(i) engaging in, directly or indirectly, or supporting criminal activities and violence involving armed groups and criminal networks that promote violence, including forcible recruitment of children by such groups and networks, kidnappings, trafficking in persons and the smuggling of migrants, and homicides and sexual and gender-based violence;

(ii) supporting illicit trafficking and diversion of arms and related materiel, or illicit financial flows related thereto;

(iii) acting for, on behalf of or at the direction of, or otherwise supporting or financing, a person or entity designated in connection with the activity described in point (i) or (ii), including through the direct or indirect use of the proceeds from organised crime, including proceeds from illicit production and trafficking in drugs and their precursors originating in or transiting through Haiti, the trafficking in persons and the smuggling of migrants from Haiti, or the smuggling and trafficking of arms to or from Haiti;

(iv) acting in violation of the arms embargo, or having directly or indirectly supplied, sold or transferred to armed groups or criminal networks in Haiti, or having been the recipient of, arms or any related materiel, or any technical advice, training or assistance, including financing and financial assistance, related to violent activities of armed groups or criminal networks in Haiti;

(v) planning, directing or committing acts that violate international human rights law or acts that constitute human rights abuses, including those involving extrajudicial killing, including of women and children, and the commission of acts of violence, abduction, enforced disappearances or kidnappings for ransom in Haiti;

(vi) planning, directing or committing acts involving sexual and gender-based violence, including rape and sexual slavery, in Haiti;

(vii) obstructing the delivery of humanitarian assistance to Haiti or access to, or the distribution of, humanitarian assistance in Haiti;

(viii) attacking personnel or premises of Union delegations and Member State diplomatic missions and operations in Haiti, or providing support for such attacks;

- (b) undermining democracy or the rule of law in Haiti through serious financial misconduct concerning public funds or the unauthorised export of capital; or
- (c) associated with natural or legal persons, entities or bodies designated under points (a) and (b) or under Article 3(1),

shall be frozen.

Natural or legal persons, entities or bodies as referred to in this paragraph are listed in Annex II.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex II.

3. By way of derogation from paragraphs 1 and 2, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of the natural or legal persons, entities or bodies listed in Annex II and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;
- (b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
- (d) necessary for extraordinary expenses, provided that the competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation; or
- (e) to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph within two weeks of the authorisation.

4. By way of derogation from paragraph 1, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, provided that the following conditions are met:

- (a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 was listed in Annex II, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the decision is not for the benefit of a natural or legal person, entity or body listed in Annex II; and
- (d) the recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph within two weeks of the authorisation.

5. Paragraph 1 shall not prevent a natural or legal person, entity or body listed in Annex II from making a payment due under a contract or agreement entered into, or an obligation that arose, prior to the date on which that natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in paragraph 1.

6. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts;
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or
- (c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.

7. Paragraphs 1 and 2 shall not apply to the provision, processing or payment of funds, other financial assets or economic resources, or to the provision of goods and services, which are necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:

- (a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
- (b) international organisations;
- (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by OCHA;
- (e) the employees, grantees, subsidiaries or implementing partners of the entities mentioned in points (a) to (d) while and to the extent that they are acting in those capacities; or
- (f) other appropriate actors as determined by the Council.

8. Without prejudice to paragraph 7, by way of derogation from paragraphs 1 and 2, and with regard to a natural or legal person, entity or body listed in Annex II, the competent authorities may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary for the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph within 2 weeks of the authorisation.;

(7) Article 4 is replaced by the following:

*'Article 4*

1. The Council, acting by unanimity, shall amend the list in Annex I in accordance with determinations made by the United Nations Security Council (the "Security Council") or by the Sanctions Committee.

2. The Council, acting by unanimity upon a proposal from a Member State or from the High Representative of the Union for Foreign Affairs and Security Policy (the "High Representative"), shall establish and amend the list in Annex II.;

(8) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Where the Security Council or the Sanctions Committee designates a person or entity, the Council shall include that person or entity in Annex I. The Council shall communicate its decision, including the grounds for listing, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing that person or entity with an opportunity to present observations.’;

(b) the following paragraph is inserted:

‘1a. The Council shall communicate the decision referred to in Article 4(2), including the grounds for the listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing that natural or legal person, entity or body with an opportunity to present observations.’;

(9) Article 6 is replaced by the following:

*‘Article 6*

1. Annex I shall include the grounds for listing the persons and entities as provided by the Security Council or the Sanctions Committee.

2. Annex I shall also include, where available, information provided by the Security Council or the Sanctions Committee necessary to identify the persons or entities concerned. With regard to natural persons, such information may include: names and aliases; date and place of birth; nationality; passport and identity card numbers; gender; address, if known; and function or profession. With regard to legal persons, entities or bodies, such information may include: names; place and date of registration; registration number; and place of business.

3. Annex II shall include the grounds for listing the natural and legal persons, entities and bodies referred to therein.

4. Annex II shall also include, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include: names and aliases; date and place of birth; nationality; passport and identity card numbers; gender; address, if known; and function or profession. With regard to legal persons, entities or bodies, such information may include: names; place and date of registration; registration number; and place of business.’;

(10) in Article 7, paragraphs 1 and 2 are replaced by the following:

‘1. The Council and the High Representative shall process personal data in order to carry out their tasks under this Decision, in particular:

(a) as regards the Council, for preparing and making amendments to Annexes I and II;

(b) as regards the High Representative, for preparing amendments to Annexes I and II.

2. The Council and the High Representative may process, where applicable, relevant data relating to criminal offences committed by listed natural persons, and to criminal convictions or security measures concerning such persons, only to the extent that such processing is necessary for the preparation of Annexes I and II.’;

(11) the following article is inserted:

*‘Article 7a*

No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Decision, including claims for indemnity or any other claim of that type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, in particular a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

(a) a designated natural or legal person, entity or body listed in Annex II; or

- (b) any natural or legal person, entity or body acting through or on behalf of a natural or legal person, entity or body as referred to in point (a).;

(12) Article 8 is replaced by the following:

*'Article 8*

1. This Decision shall be amended or repealed as appropriate, in accordance with determinations made by the Security Council.
2. The measures referred to in Article 2a(1) and Article 3a(1) and (2) shall apply until 29 July 2024 and shall be kept under constant review. They shall be renewed or amended, as appropriate, if the Council deems that their objectives have not been met.
3. In reviewing restrictive measures taken pursuant to Article 2a(1), first subparagraph, point (b), and Article 3a(1), first subparagraph, point (b), the Council shall take into account as appropriate whether the persons in question are subject to judicial proceedings in respect of the conduct for which they were listed.;

(13) the Annex is renamed 'Annex I';

(14) the text set out in the Annex to this Decision is added as Annex II.

*Article 2*

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

Done at Brussels, 28 July 2023.

*For the Council*  
*The President*  
P. NAVARRO RÍOS

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*ANNEX**'ANNEX II*

- A. List of natural persons referred to in Article 2a(1) and in Article 3a(1)
- B. List of legal persons, entities and bodies referred to in Article 3a(1)'.  
  

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