### COUNCIL REGULATION (EU) 2023/1594

#### of 3 August 2023

amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine

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 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (<sup>1</sup>),

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 May 2006, the Council adopted Regulation (EC) No 765/2006 (<sup>2</sup>).
- (2) Regulation (EC) No 765/2006 gives effect to the measures provided for in Decision 2012/642/CFSP.
- (3) Council Decision (CFSP) 2023/1601 (<sup>3</sup>) prohibits the sale, supply, transfer or export of firearms, their parts and essential components and ammunition to Belarus. Goods subject to that prohibition are also covered by Regulation (EU) No 258/2012 of the European Parliament and of the Council (<sup>4</sup>). In that context, Regulation (EC) No 765/2006 is to be treated as *lex specialis* and therefore, in the event of a conflict, takes precedence over Regulation (EU) No 258/2012.
- (4) Decision (CFSP) 2023/1601 expands the list of items which contribute to Belarus's military and technological enhancement or to the development of its defence and security sector by adding items which have been used by Russia for its war of aggression against Ukraine and items which contribute to the development or production of Belarus's military systems, including semiconductor devices, electronic integrated circuits, manufacturing and testing equipment, photographic cameras and optical components, other electrical/magnetic components, and electronic devices, modules and assemblies.
- (5) It is appropriate to impose an export ban on goods and technology suited for use in aviation and the space industry, including aircraft engines and their parts, for both manned and unmanned aircraft. In addition, Decision (CFSP) 2023/1601 introduces a possibility for the national competent authorities to grant derogations to allow for certain aviation goods that are also widely used in the medical field to be exported for medical, pharmaceutical or humanitarian purposes.

<sup>&</sup>lt;sup>(1)</sup> OJ L 285, 17.10.2012, p. 1.

<sup>(&</sup>lt;sup>2</sup>) Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ L 134, 20.5.2006, p. 1).

<sup>(\*)</sup> Council Decision (CFSP) 2023/1601 of 3 August 2023 amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (see page 37 of this Official Journal).

<sup>(4)</sup> Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).

- (6) On 26 January 2023, the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') presented a proposal for a Council Decision to amend Decision 2012/642/CFSP and the High Representative and the Commission presented a joint proposal for a Council Regulation to amend Regulation (EC) No 765/2006. In view of the urgency linked to the fight against circumvention regarding certain sensitive goods, the adoption of provisions regarding those goods is being fast-tracked, without prejudice to the remainder of those proposals.
- (7) Regulation (EC) No 765/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) the following article is inserted:

### 'Article 1ba

1. Without prejudice to Article 1a of this Regulation, it shall be prohibited to sell, supply, transfer or export, directly or indirectly, firearms, their parts and essential components and ammunition as listed in Annex I to Regulation (EU) No 258/2012 of the European Parliament and of the Council (\*), and firearms and other arms as listed in Annex XVI to this Regulation, whether or not originating in the Union, to any natural or legal person, entity or body in Belarus or for use in Belarus.

- 2. It shall be prohibited to:
- (a) provide technical assistance, brokering services or other services related to the goods referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus; or
- (b) provide financing or financial assistance related to the goods referred to in paragraph 1 for any sale, supply, transfer or export of those goods, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus, or for use in Belarus.
- (\*) Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).';
- (2) Articles 1e and 1f are replaced by the following:

#### 'Article 1e

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, dual-use goods and technology, whether or not originating in the Union, to any natural or legal person, entity or body in Belarus or for use in Belarus.

- 2. It shall be prohibited to:
- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus; or

(b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus, or for use in Belarus.

3. Without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the prohibitions in paragraphs 1 and 2 of this Article shall not apply to the sale, supply, transfer or export of dual-use goods and technology or to the related provision of technical or financial assistance, for non-military use and for a non-military end-user, intended for:

- (a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or on the environment or as a response to natural disasters;
- (b) medical or pharmaceutical purposes;
- (c) temporary export of items for use by news media;
- (d) software updates;
- (e) use as consumer communication devices; or
- (f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of point (f) of the first subparagraph, the exporter shall declare in the customs declaration that the items are being exported under the relevant exception set out in this paragraph and shall notify the competent authority of the Member State where the exporter is resident or established of the first use of the relevant exception within 30 days from the date when the first export took place.

4. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authorities may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are:

- (a) intended for cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;
- (b) intended for intergovernmental cooperation in space programmes;
- (c) intended for the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;
- (d) intended for maritime safety;
- (e) intended for civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;
- (f) intended for the exclusive use of entities owned, or solely or jointly controlled, by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;
- (g) intended for the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; or
- (h) intended for ensuring cyber-security and information security for natural and legal persons, entities and bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government.

5. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authorities may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or such related technical or financial assistance are due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that the authorisation is requested before 1 May 2022.

6. All authorisations required under this Article shall be granted by the competent authorities in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. The authorisation shall be valid throughout the Union.

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

- (i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex V, or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 1fa(1), point (a); or
- (ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or the space industry, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).

8. The competent authorities may annul, suspend, modify or revoke an authorisation which they have granted pursuant to paragraphs 4 and 5 if they deem that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Regulation.

### Article 1f

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology which might contribute to Belarus's military and technological enhancement, or to the development of its defence and security sector, as listed in Annex Va, whether or not originating in the Union, to any natural or legal person, entity or body in Belarus or for use in Belarus.

- 2. It shall be prohibited to:
- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus, or for use in Belarus; or
- (b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus.

3. The prohibitions in paragraphs 1 and 2 shall not apply to the sale, supply, transfer or export of the goods and technology referred to in paragraph 1 or to the related provision of technical or financial assistance, for non-military use and for a non-military end-user, intended for:

- (a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or on the environment, or as a response to natural disasters;
- (b) medical or pharmaceutical purposes;
- (c) temporary export of items for use by news media;

- (d) software updates;
- (e) use as consumer communication devices; or
- (f) personal use of natural persons travelling to Belarus or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of point (f) of the first subparagraph, the exporter shall declare in the customs declaration that the items are being exported under the relevant exception set out in this paragraph and shall notify the competent authority of the Member State where the exporter is resident or established of the first use of the relevant exception within 30 days from the date when the first export took place.

4. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are:

- (a) intended for cooperation between the Union, the governments of Member States and the government of Belarus in purely civilian matters;
- (b) intended for intergovernmental cooperation in space programmes;
- (c) intended for the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;
- (d) intended for maritime safety;
- (e) intended for civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50 % public ownership;
- (f) intended for the exclusive use of entities owned, or solely or jointly controlled, by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;
- (g) intended for the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; or
- (h) intended for ensuring cyber-security and information security for natural and legal persons, entities and bodies in Belarus except for its government and undertakings directly or indirectly controlled by that government.

4a. Without prejudice to paragraph 4, point (e), and by way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are intended for the wind-down by 6 February 2024 of contracts and operations which are ongoing on 5 August 2023 and which are necessary for the provision of civil telecommunication services to the Belarusian civilian population.

5. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the sale, supply, transfer or export of the goods and technology referred in paragraph 1 or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are due under contracts concluded before 3 March 2022, or ancillary contracts necessary for the execution of such a contract, provided that the authorisation is requested before 1 May 2022.

5a. By way of derogation from paragraphs 1 and 2, the competent authority of a Member State may authorise the sale, supply, transfer or export of goods falling under CN codes 8536 69, 8536 90, 8541 30 and 8541 60 as listed in Annex Va until 6 February 2024, or the provision of related technical or financial assistance, insofar as this is necessary for the processing of those goods in Belarus by a joint venture in which a company established in the Union has a majority ownership on 5 August 2023, for the purpose of subsequent import into the Union and subsequent production in the Union of goods destined for use in the health or pharmaceutical sector, or in the area of research and development.

6. All authorisations required under this Article shall be granted by the competent authorities in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. The authorisation shall be valid throughout the Union.

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

- (i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex V, or that the goods might have a military end-use, unless the sale, supply, transfer or export of goods and technology referred to in paragraph 1 of this Article or the provision of related technical or financial assistance is allowed under Article 1fa(1); or
- (ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or the space industry, unless such sale, supply, transfer or export or the provision of related technical or financial assistance is allowed under paragraph 4, point (b).

8. The competent authorities may annul, suspend, modify or revoke an authorisation which they have granted pursuant to paragraphs 4 and 5 if they deem that such annulment, suspension, modification or revocation is necessary for the effective implementation of this Regulation.';

(3) the following article is inserted:

#### 'Article 1sa

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, as listed in Annex XVII, whether or not originating in the Union, to any natural or legal person, entity or body in Belarus or for use in Belarus.

2. It shall be prohibited to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology listed in Annex XVII to any person, entity or body in Belarus or for use in Belarus.

3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of preflight inspection, in relation to the goods and technology listed in Annex XVII, directly or indirectly, to any natural or legal person, entity or body in Belarus or for use in Belarus.

- 4. It shall be prohibited to:
- (a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus; or
- (b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus or for use in Belarus.

5. The prohibitions in paragraphs 1 and 4 shall not apply to the execution until 4 September 2023 of contracts concluded before 5 August 2023, or of ancillary contracts necessary for the execution of such contracts.

6. By way of derogation from paragraphs 1 and 4, the national competent authorities may authorise, under such conditions as they deem appropriate, the execution of an aircraft financial lease concluded before 5 August 2023 after having determined that:

- (a) it is strictly necessary to ensure lease re-payments to a legal person, entity or body incorporated or constituted under the law of a Member State which does not fall under any of the restrictive measures provided for in this Regulation; and
- (b) no economic resources will be made available to the Belarusian counterpart, with the exception of the transfer of ownership of the aircraft after full reimbursement of the financial lease.

7. By way of derogation from paragraphs 1 and 4, the competent authorities may authorise, under such conditions as they deem appropriate, the sale, supply, transfer or export of the goods falling under CN codes 8517 71 00, 8517 79 00 and 9026 00 00 listed in Annex XVII, or related technical assistance, brokering services, financing or financial assistance, after having determined that it is necessary for medical or pharmaceutical purposes, or for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations.

When deciding on requests for authorisations for medical, pharmaceutical or humanitarian purposes in accordance with this paragraph, the national competent authorities shall not grant an authorisation for exports to any natural or legal person, entity or body in Belarus or for use in Belarus, if they have reasonable grounds to believe that the goods might have a military end-use.

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

9. The prohibition in paragraph 1 shall be without prejudice to Articles 1e(4), point (b), and 1f(4), point (b).

10. The prohibition in paragraph 4, point (a), shall not apply to the exchange of information aimed at establishing technical standards in the framework of the International Civil Aviation Organization in relation to goods and technology referred to in paragraph 1.';

- (4) Annex Va to Regulation (EC) No 765/2006 is amended in accordance with Annex I to this Regulation;
- (5) the text set out in Annex II to this Regulation is added as Annexes XVI and XVII to Regulation (EC) No 765/2006.

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, 3 August 2023.

For the Council The President P. NAVARRO RÍOS

### ANNEX I

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

(1) the following heading is inserted after the title 'LIST OF GOODS AND TECHNOLOGY REFERRED TO IN ARTICLES 1f(1) AND 1fa(1)':

'Part A';

- (2) in 'Category I Electronics', under 'X.A.I.003 Specific processing equipment, other than those specified in the CML or in Regulation (EU) 2021/821, as follows:', point a is replaced as follows:
  - 'a. Frequency changers and their specially designed components, other than those specified in the CML or in Regulation (EU) 2021/821';
- (3) the following part is added:

'Part B

1. Semiconductor devices

CN Code	Description
8541 10	Diodes, other than photosensitive or light-emitting diodes (LED)
8541 21	Transistors, other than photosensitive transistors with a dissipation rate of less than 1 W
8541 29	Other transistors, other than photosensitive transistors
8541 30	Thyristors, diacs and triacs (excl. photosensitive semiconductor devices)
8541 49	Photosensitive semiconductor devices (excl. Photovoltaic generators and cells)
8541 51	Other semiconductor devices: Semiconductor-based transducers
8541 59	Other semiconductor devices
8541 60	Mounted piezo-electric crystals

### 2. Electronic integrated circuits, manufacturing and testing equipment

CN Code	Description
8486 10	Machines and apparatus for the manufacture of boules or wafers
8486 20	Machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits
8486 40	Machines and apparatus specified in note 11(C) to this chapter
853400	Printed circuits
8542 31	Processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits
8542 32	Memories
8542 33	Amplifiers
8542 39	Other Electronic Integrated Circuits
8543 20	Signal generators
9030 20	Oscilloscopes and oscillographs
9030 32	Multimeters with recording device

CN Code	Description
9030 39	Instruments and apparatus for measuring or checking voltage, current, resistance or electrical power, with recording device
903082	Instruments and apparatus for measuring or checking semiconductor wafers or devices

## 3. Photographic cameras and optical components

CN Code	Description
8525 89	Other television cameras, digital cameras and video camera recorders
901310	Telescopic sights for fitting to arms; periscopes; telescopes designed to form parts of machines, appliances, instruments or apparatus of this chapter or Section XVI
9013 80	Other optical devices, appliances and instruments

## 4. Other electrical/magnetic components

CN Code	Description
8532 21	Other fixed capacitors of tantalum
8532 24	Ceramic dielectric multilayer capacitors
8536 69	Plugs and sockets
853690	Other apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp holders and other connectors, junction boxes), for a voltage not exceeding 1 000 V; connectors for optical fibres, optical fibre bundles or cables
8548 00	Electrical parts of machinery or apparatus, not specified or included elsewhere in Chapter 85

## 5. Electronic devices, modules and assemblies

CN Code	Description
8471 50	Processing units other than those of subheading 8471 41 or 8471 49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
8471 80	Units for automatic data-processing machines (excl. processing units, input or output units and storage units)
8517 62	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
8517 69	Other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network
8526 91	Radio navigational aid apparatus
9014 20	Instruments and appliances for aeronautical or space navigation (other than compasses)
9014 80	Other navigational instruments and appliances'

## ANNEX II

## 'ANNEX XVI

## List of firearms and other arms referred to in Article 1ba

CN Code	Description
9303	Other firearms and similar devices which operate by the firing of an explosive charge
ex 9304	Other arms (for example, spring, air or gas guns and pistols), excluding those of heading 9307

## ANNEX XVII

# List of goods and technologies referred to in Article 1sa

CN Code	Description
88	Aircraft, spacecraft, and parts thereof
ex 2710 19 83	Hydraulic oils for the usage in vehicles of Chapter 88
ex 2710 19 99	Other lubricating oils and other oils for use in aviation
4011 30 00	New pneumatic tyres of rubber, of a kind used on aircraft
ex 6813 20 00	Brake discs and pads for use on aircraft
6813 81 00	Brake linings and pads
8411 11	Turbojets of a thrust <= 25 kn
841112	Turbojets of a thrust > 25 kn
8411 21	Turbopropellers of a power <= 1 100 kw
8411 22	Turbopropellers of a power > 1 100 kw
8411 91	Parts of turbojets or turbopropellers, n.e.s.
8517 71 00	Aerials and aerial reflectors of all kinds; parts suitable for use therewith
ex 8517 79 00	Other parts related to aerials
9024 10 00	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials: Machines and appliances for testing metals
9026 00 00	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032'