

**COUNCIL DECISION (CFSP) 2017/345****of 27 February 2017****amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea**

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 27 May 2016, the Council adopted Decision (CFSP) 2016/849 <sup>(1)</sup> concerning restrictive measures against the Democratic People's Republic of Korea (the 'DPRK') which, inter alia, implemented United Nations Security Council Resolution ('UNSCR') 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and 2270 (2016).
- (2) On 30 November 2016, the UN Security Council adopted UNSCR 2321 (2016), expressing its gravest concern at the nuclear test conducted by the DPRK on 9 September 2016 in violation of the relevant UN Security Council resolutions, further condemning the DPRK's ongoing nuclear and ballistic-missile activities in serious violation of the relevant UN Security Council resolutions, and determining that there continues to exist a clear threat to international peace and security in the region and beyond.
- (3) In UNSCR 2321 (2016), the UN Security Council expresses its concern that the personal luggage and checked baggage of individuals entering or departing from the DPRK may be used to transport items the supply, sale or transfer of which is prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), and clarifies that such luggage and baggage constitute 'cargo' for the purposes of implementing paragraph 18 of UNSCR 2270 (2016), thereby referring to the obligation to inspect the cargo.
- (4) In UNSCR 2321 (2016), the UN Security Council calls upon Member States to reduce the number of staff at DPRK diplomatic missions and consular posts.
- (5) In UNSCR 2321 (2016), the UN Security Council expresses its concern that prohibited items may be transported to and from the DPRK by rail and by road and underscores that the obligation in paragraph 18 of UNSCR 2270 (2016) to inspect cargo within or transiting through Member States' territories includes cargo being transported by rail and by road.
- (6) UNSCR 2321 (2016) notes that for the purpose of its implementation and that of UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), the term 'transit' includes, but is not limited to, the travel of individuals through a State's international airport terminals en route to a destination in another State, regardless of whether such individuals pass through customs or passport control at that airport.
- (7) UNSCR 2321 (2016) introduces a maximum aggregate of coal that may be imported from the DPRK, and establishes a mechanism for monitoring and verifying this. As part of this mechanism, Member States that import coal from the DPRK are called upon to periodically review the UN website to ensure that the total aggregate for imports of coal has not been reached.
- (8) UNSCR 2321 (2016) recalls that DPRK diplomatic agents are prohibited from practising any professional or commercial activity for personal profit in the receiving State.
- (9) In UNSCR 2321 (2016), the UN Security Council expresses concern that DPRK nationals are sent to work in other States for the purpose of earning hard currency that the DPRK uses for its nuclear and ballistic-missile programmes, and calls upon States to exercise vigilance over this practice.

<sup>(1)</sup> Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

- (10) In UNSCR 2321 (2016), the UN Security Council reiterates its concern that bulk cash may be used to evade measures imposed by the Security Council, and calls upon Member States to be alert to that risk.
- (11) UNSCR 2321 (2016) expresses the UN Security Council's commitment to a peaceful, diplomatic and political solution to the situation and reaffirms its support to the Six Party Talks and calls for their resumption.
- (12) UNSCR 2321 (2016) affirms that the DPRK's actions are to be kept under continuous review and that the UN Security Council is prepared to strengthen, modify, suspend or lift the measures as necessary in light of the DPRK's compliance, and that it is determined to take further significant measures in the event of a further DPRK nuclear test or launch.
- (13) Further action by the Union is needed in order to implement certain measures provided for in this Decision.
- (14) Member States should share relevant information with the other Member States to support the effective EU-wide implementation of the provisions of this Decision.
- (15) Decision (CFSP) 2016/849 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Decision (CFSP) 2016/849 is amended as follows:

- (1) in Article 1(1), the following points are added:

- '(h) certain other items, materials, equipment, goods and technology listed pursuant to paragraph 4 of UNSCR 2321 (2016);
- (i) any other item listed in the conventional arms dual-use list adopted by the Sanctions Committee pursuant to paragraph 7 of UNSCR 2321 (2016).';

- (2) Article 4(1) is replaced by the following:

'1. The procurement from the DPRK by nationals of Member States, or using the flag vessels or aircraft of Member States, of gold, titanium ore, vanadium ore, rare-earth minerals, copper, nickel, silver and zinc, shall be prohibited, whether or not originating in the territory of the DPRK.;

- (3) the following Article is inserted:

#### *Article 6a*

1. The procurement of statues from the DPRK by nationals of Member States, or using the flag vessels or aircraft of Member States, shall be prohibited, whether or not originating in the territory of the DPRK.

2. Paragraph 1 shall not apply where the Sanctions Committee has granted approval in advance on a case-by-case basis.

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

- (4) the following Article is inserted:

#### *Article 6b*

1. The direct or indirect supply, sale or transfer to the DPRK by nationals of Member States, or using the flag vessels or aircraft of Member States, of helicopters and vessels shall be prohibited, whether or not originating in the territories of the Member States.

2. Paragraph 1 shall not apply where the Sanctions Committee has granted approval in advance on a case-by-case basis.

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

(5) Article 7 is replaced by the following:

*Article 7*

1. The procurement from the DPRK by nationals of Member States, or using the flag vessels or aircraft of Member States, of coal, iron, and iron ore, shall be prohibited, whether or not originating in the territory of the DPRK. The Union shall take the necessary measures in order to determine the relevant items to be covered by this paragraph.

2. Paragraph 1 shall not apply with respect to coal that, as confirmed by the procuring Member State on the basis of credible information, originated from outside the DPRK and was transported through the DPRK solely for export from the port of Rajin (Rason), provided that that Member State notifies the Sanctions Committee in advance and such transactions are unrelated to generating revenue for the DPRK's nuclear or ballistic-missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016) or by this Decision.

3. Paragraph 1 shall not apply with respect to total exports to all UN Member States of coal originating in the DPRK that in aggregate do not exceed 53 495 894 US dollars or 1 000 866 metric tons, whichever is lower, between the date of adoption of UNSCR 2321 (2016) and 31 December 2016, and to total exports to all UN Member States of coal originating in the DPRK that in aggregate do not exceed 400 870 018 US dollars or 7 500 000 metric tons per year, whichever is lower, beginning on 1 January 2017, provided that the procurements:

- (a) involve no individuals or entities that are associated with the DPRK's nuclear or ballistic-missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016), including designated individuals or entities, individuals or entities acting on their behalf or at their direction, entities owned or controlled by them, directly or indirectly, or individuals or entities assisting in the evasion of sanctions; and
- (b) are exclusively for livelihood purposes of DPRK nationals and are unrelated to generating revenue for the DPRK's nuclear or ballistic-missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016).

4. A Member State that procures coal directly from the DPRK shall notify the Sanctions Committee of the aggregate amount of the volume of such procurement for each month no later than 30 days after the conclusion of that month on the form set out in Annex V to UNSCR 2321 (2016). The Member State shall also communicate the information notified in this regard to the Sanctions Committee to the other Member States and to the Commission.

5. Paragraph 1 shall not apply to transactions in iron and iron ore that are determined to be exclusively for livelihood purposes and unrelated to generating revenue for the DPRK's nuclear or ballistic-missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016).;

(6) Article 10 is replaced by the following:

*Article 10*

1. The provision of public or private financial support for trade with the DPRK, including the granting of export credits, guarantees or insurance, to DPRK nationals or entities involved in such trade shall be prohibited.

2. Paragraph 1 shall not apply if the Sanctions Committee has granted approval in advance on a case-by-case basis for the provision of financial support.;

(7) Article 14 is replaced by the following:

*Article 14*

1. The opening of branches, subsidiaries or representative offices of DPRK banks, including the Central Bank of the DPRK, its branches and subsidiaries, and of other financial entities referred to in Article 13, point 2, in the territories of Member States shall be prohibited.
2. Existing branches, subsidiaries and representative offices of the entities referred to in paragraph 1 in the territories of the Member States shall be closed within 90 days of the adoption of UNSCR 2270 (2016).
3. Unless approved in advance by the Sanctions Committee, it shall be prohibited for DPRK banks, including the Central Bank of the DPRK, its branches and subsidiaries, and for other financial entities referred to in Article 13, point 2, to:
  - (a) establish new joint ventures with banks under the jurisdiction of Member States;
  - (b) take an ownership interest in banks under the jurisdiction of Member States; or
  - (c) establish or maintain correspondent banking relationships with banks under the jurisdiction of Member States.
4. Existing joint ventures, ownership interests and correspondent banking relationships with DPRK banks shall be terminated within 90 days of the adoption of UNSCR 2270 (2016).
5. Financial institutions within the territories of Member States or under their jurisdiction shall be prohibited from opening representative offices, subsidiaries, branches or banking accounts in the DPRK.
6. Existing representative offices, subsidiaries or banking accounts in the DPRK shall be closed within 90 days of the adoption of UNSCR 2321 (2016).
7. Paragraph 6 shall not apply if the Sanctions Committee determines on a case-by-case basis that such offices, subsidiaries or accounts are required for the delivery of humanitarian assistance, the activities of diplomatic missions in the DPRK pursuant to the Vienna Conventions on Diplomatic and Consular Relations, the activities of the UN or its specialised agencies or related organisations, or any other purposes in accordance with UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016).;

(8) Article 16(6) is replaced by the following:

'(6) Member States shall take the necessary measures to seize and dispose of, such as through destruction, rendering inoperable or unusable, storage, or transferring to a State other than the originating or destination States for disposal, items the supply, sale, transfer, or export of which is prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), that are identified in inspections, in accordance with their obligations under applicable UN Security Council resolutions, including UNSCR 1540 (2004).';

(9) the following Article is inserted:

*Article 18a*

1. A Member State that is a flag State of a vessel designated by the Sanctions Committee shall, if the Committee has so specified, de-flag the vessel.
2. A Member State that is the flag State of a vessel designated by the Sanctions Committee shall, if the Committee has so specified, direct the vessel to a port identified by the Committee, in coordination with the port State.
3. Member States shall, if the designation by the Sanctions Committee has so specified, prohibit entry into their ports of a vessel, except in case of an emergency or if the vessel is returning to the port of origin.
4. Member States shall, if the designation by the Sanctions Committee has so specified, make a vessel subject to an asset freeze.
5. Annex IV shall contain the vessels referred to in paragraphs 1 to 4 of this Article designated by the Sanctions Committee in accordance with paragraph 12 of UNSCR 2321 (2016).';

(10) Article 20 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Paragraph 1 shall not apply where the Sanctions Committee grants approval in advance on a case-by-case basis.’;

(b) paragraph 3 is deleted;

(11) the following Article is inserted:

*‘Article 20a*

The procurement of vessel or aircraft services from the DPRK shall be prohibited.’;

(12) Article 21 is replaced by the following:

*‘Article 21*

Member States shall de-register any vessel that is owned, controlled, or operated by the DPRK, and shall not register any such vessel that has been de-registered by another State pursuant to paragraph 24 of UNSCR 2321 (2016).’;

(13) Article 22 is replaced by the following:

*‘Article 22*

1. It shall be prohibited to register vessels in the DPRK, to obtain authorisation for a vessel to use the DPRK flag, to own, lease, operate, or provide any vessel classification, certification or associated service, or to insure any vessel flagged by the DPRK.

2. Paragraph 1 shall not apply where the Sanctions Committee has granted approval in advance on a case-by-case basis.

3. The provision by nationals of Member States or from the territories of Member States of insurance or reinsurance services to vessels owned, controlled, or operated, including through illicit means, by the DPRK, shall be prohibited.

4. Paragraph 3 shall not apply where the Sanctions Committee determines on a case-by-case basis that the vessel is engaged in activities exclusively for livelihood purposes which will not be used by DPRK individuals or entities to generate revenue or exclusively for humanitarian purposes.’;

(14) in Article 23, the following paragraph is added:

‘12. Member States shall take the necessary measures to restrict the entry into or transit through their territories of members of the Government of the DPRK, officials of that Government, and members of the DPRK armed forces, if such members or officials are associated with the DPRK’s nuclear or ballistic-missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016).’;

(15) the following Article is inserted:

*‘Article 24a*

1. Where a Member State determines that an individual is working on behalf of or at the direction of a DPRK bank or financial institution, the Member State shall expel the individual from its territory for the purpose of repatriation to the individual’s State of nationality, consistent with applicable law.

2. Paragraph 1 shall not apply where the presence of the individual is required for the fulfilment of a judicial process or exclusively for medical, safety or other humanitarian purposes, or when the Sanctions Committee has determined on a case-by-case basis that the expulsion of the individual would be contrary to the objectives of UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016).’;

(16) Article 30 is replaced by the following:

*‘Article 30*

1. Member States shall take the necessary measures to exercise vigilance and prevent specialised teaching or training of DPRK nationals, within their territories or by their nationals, in disciplines which would contribute to the DPRK’s proliferation-sensitive nuclear activities and the development of nuclear-weapon delivery systems, including teaching or training in advanced physics, advanced computer simulation and related computer sciences, geospatial navigation, nuclear engineering, aerospace engineering, aeronautical engineering and related disciplines, advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering.

2. Member States shall suspend scientific and technical cooperation involving persons or groups officially sponsored by or representing the DPRK except for medical exchanges unless:

(a) in the case of scientific or technical cooperation in the fields of nuclear science and technology, aerospace and aeronautical engineering and technology, or advanced manufacturing production techniques and methods, the Sanctions Committee has determined on a case-by-case basis that a particular activity will not contribute to the DPRK’s proliferation sensitive nuclear activities or ballistic-missile-related programmes; or

(b) in the case of all other scientific or technical cooperation, the Member State engaging in scientific or technical cooperation determines that the particular activity will not contribute to the DPRK’s proliferation sensitive nuclear activities or ballistic-missile-related programmes and notifies the Sanctions Committee in advance of such determination.’;

(17) the following Article is inserted:

*‘Article 31a*

It shall be prohibited for a DPRK diplomatic mission or consular post, and their DPRK members, to own or control banking accounts in the Union, except for one account in the Member State or Member States in which the mission or post is hosted or to which their members are accredited.’;

(18) the following Article is inserted:

*‘Article 31b*

1. It shall be prohibited for real property to be leased or otherwise be made available to the DPRK, or for it to be used by or for the benefit of the DPRK, for any purpose other than diplomatic or consular activities.

2. It shall also be prohibited to lease from the DPRK real property which is situated outside the territory of the DPRK.’;

(19) Article 33(1) is replaced by the following:

‘1. The Council shall implement modifications to Annexes I and IV on the basis of determinations made by the Security Council or by the Sanctions Committee.’;

(20) the following Article is inserted:

*‘Article 36a*

By way of derogation from the measures imposed by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), provided that the Sanctions Committee has determined that an exemption is necessary to facilitate the work of international and non-governmental organisations carrying out assistance and relief activities in the DPRK for the benefit of the civilian population in the DPRK, the competent authority of a Member State shall grant the necessary authorisation.’;

(21) Annex IV as set out in the Annex to this Decision is added.

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*Article 2*

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

Done at Brussels, 27 February 2017.

*For the Council*  
*The President*  
K. MIZZI

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ANNEX

'ANNEX IV

List of vessels referred to in Article 18a'

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