

DECISIONS

COUNCIL DECISION (CFSP) 2018/293

of 26 February 2018

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 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 ⁽¹⁾,

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.
- (2) On 22 December 2017 the United Nations Security Council ('UNSC') adopted Resolution 2397 (2017), expressing its gravest concern at the ballistic missile launch by the Democratic People's Republic of Korea ('DPRK') of 28 November 2017 in violation of existing UNSC resolutions and the danger it poses to peace and stability in the region and beyond, and determined that there continues to exist a clear threat to international peace and security.
- (3) The UNSC acknowledged that the proceeds of the DPRK's trade in sectoral goods as well as the revenue generated from DPRK workers overseas, among others, contribute to the DPRK's nuclear weapons and ballistic missile programmes, and expressed great concern that those programmes were diverting critically needed resources away from the people of the DPRK at tremendous cost.
- (4) The UNSC decided to increase the existing restrictive measures in a number of sectors, including with regard to the supply to the DPRK of crude oil and all refined petroleum products, and introduced new prohibitions in a number of sectors, including with regard to the supply by the DPRK of food and agricultural products, machinery, electrical equipment, earth and stone, and wood, and prohibitions on the supply to the DPRK of all industrial machinery, transportation vehicles, and iron, steel and other metals.
- (5) The UNSC also provided powers to seize, inspect and freeze any vessel which is believed to be involved in the breach of existing UNSC resolutions, and to require the repatriation of all DPRK workers abroad, subject to applicable national and international law.
- (6) The entries for three persons and one entity that have been designated by the UNSC and included in Annex I to Decision (CFSP) 2016/849 should be removed from the list of persons and entities designated autonomously by the Council set out in Annex II to that Decision.
- (7) Further action by the Union is necessary to implement certain measures in this Decision.
- (8) Decision (CFSP) 2016/849 should therefore be amended accordingly,

⁽¹⁾ OJ L 141, 28.5.2016, p. 79.

HAS ADOPTED THIS DECISION:

Article 1

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

(1) in Article 9, paragraphs 2 and 3 are replaced by the following:

‘2. The direct or indirect supply, sale or transfer of all refined petroleum products to the DPRK by nationals of Member States, through or from the territories of Member States, or using the flag vessels, aircraft, pipelines, rail lines or vehicles of Member States shall be prohibited, regardless of whether those refined petroleum products originate in the territories of those Member States.

3. By derogation from the prohibition in paragraph 2, where the amount of refined petroleum products, including diesel and kerosene, supplied, sold or transferred to the DPRK does not exceed 500 000 barrels during the period of 12 months beginning on 1 January 2018, and for twelve-month periods thereafter, the competent authority of a Member State may authorise on a case-by-case basis the supply, sale or transfer to the DPRK of refined petroleum products where the competent authority has determined that the supply, sale or transfer is exclusively for humanitarian purposes and provided that:

- (a) the Member State notifies the Sanctions Committee every 30 days of the amount of such supply, sale or transfer of refined petroleum products to the DPRK, along with information about all the parties to the transaction;
- (b) the supply, sale or transfer of such refined petroleum products does not involve 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), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017), including designated individuals or entities; and
- (c) the supply, sale or transfer of refined petroleum products is 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), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).;

(2) in Article 9a, paragraph 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 seafood, whether or not originating in the territory of the DPRK, as well as the acquisition of DPRK fishing rights, shall be prohibited.’;

(3) Article 9b is replaced by the following:

‘Article 9b

1. The direct or indirect supply, sale or transfer of all crude oil to the DPRK by nationals of Member States or through or from the territories of Member States or using the flag vessels, aircraft, pipelines, rail lines or vehicles of Member States shall be prohibited, whether or not originating in the territories of the Member States.

2. By derogation from paragraph 1, the prohibition in paragraph 1 shall not apply where a Member State determines that the supply, sale or transfer of crude oil to the DPRK is exclusively for humanitarian purposes and the Sanctions Committee has approved that shipment in advance on a case-by-case basis in accordance with paragraph 4 of UNSCR 2397 (2017).

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

(4) the following articles are inserted:

‘Article 9d

1. The direct or indirect procurement from the DPRK by nationals of Member States, or using the flag vessels or aircraft of Member States of food and agricultural products, machinery, electrical equipment, earth and stone, including magnesite and magnesia, wood, and vessels, whether or not originating in the territory of the DPRK, shall be prohibited.

2. The prohibition in paragraph 1 shall be without prejudice to the execution until 21 January 2018 of contracts concluded before 22 December 2017. The details of any shipment shall be notified to the Sanctions Committee by 5 February 2018.

3. The Union shall take the necessary measures to determine the relevant items covered by paragraph 1.

Article 9e

1. The direct or indirect supply, sale or transfer to the DPRK by nationals of Member States or through the territory of Member States or using their flag vessels, aircraft, pipelines, rail lines or vehicles of all industrial machinery, transportation vehicles, iron, steel, and other metals shall be prohibited, whether or not originating in their territory.

2. By derogation from paragraph 1, the prohibition in paragraph 1, shall not apply where a Member State determines that the provision of spare parts is needed to maintain the safe operation of DPRK passenger aircraft.

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

(5) Article 16 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. Member States shall cooperate, in accordance with their national legislation, with inspections pursuant to paragraphs 1 to 3.

Member States shall cooperate as promptly as possible and in an appropriate manner with another State which has information that leads it to suspect that the DPRK is attempting to supply, sell, transfer or procure directly or indirectly illicit cargo where that State requests additional maritime and shipping information in order to, inter alia, determine whether the item, commodity or product in question originated in the DPRK.;

(b) paragraph 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 State 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), 2321 (2016), 2371 (2017), 2375 (2017) or 2397 (2017) that are identified in inspections, in a manner that is consistent with their obligations under applicable international law.;

(6) the following article is inserted:

'Article 18b

1. Member States shall seize, inspect and impound any vessel in their ports, and may seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).

2. The provisions for the impounding of vessels in paragraph 1 shall cease to apply six months after the date on which such a vessel was impounded if the Sanctions Committee decides on a case-by-case basis, and upon the request of a flag State, that adequate arrangements have been made to prevent the vessel from contributing to future violations of the UNSCRs referred to in paragraph 1.

3. Member States shall deregister any vessel where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).

4. The provision by nationals of Member States, or from the territories of Member States, of classification services to vessels listed in Annex VI shall be prohibited unless approval has been granted in advance by the Sanctions Committee on a case-by-case basis.

5. The provision by nationals of Member States, or from the territories of Member States, of insurance or reinsurance services to vessels listed in Annex VI shall be prohibited.

6. Paragraphs 4 and 5 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.

7. Annex VI shall contain the vessels referred to in paragraphs 4 and 5 of this Article where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).;

(7) Article 21 is replaced by the following:

'Article 21

Member States shall deregister any vessel that is owned, controlled or operated by the DPRK, and shall not register any vessel that has been deregistered by another State pursuant to paragraph 24 of UNSCR 2321 (2016), paragraph 8 of UNSCR 2375 (2017) or paragraph 12 of UNSCR 2397 (2017) except as approved in advance by the Sanctions Committee on a case-by-case basis.;

(8) in Article 26a, the following paragraph is inserted:

'5. Member States shall repatriate to the DPRK all DPRK nationals earning income in that Member State's jurisdiction and all DPRK government safety oversight attachés monitoring DPRK workers abroad immediately, but no later than 21 December 2019, unless the Member State determines that a DPRK national is a national of a Member State or a DPRK national whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, and the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations.;

(9) Article 32 is replaced by the following:

'Article 32

No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, wholly or in part, by the measures imposed pursuant to UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2375 (2017) or 2397 (2017), including measures of the Union or any Member State in accordance with, as required by or in any connection with the implementation of the relevant decisions of the UN Security Council or measures covered by this Decision, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, notably a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- (a) designated persons or entities listed in Annex I, II, III, IV, V or VI;
- (b) any other person or entity in the DPRK, including the Government of the DPRK and its public bodies, corporations and agencies;
- (c) any person or entity acting through or on behalf of one of the persons or entities referred to in points (a) or (b); or
- (d) any ship-owner or charterer of a vessel which has been seized or impounded pursuant to paragraph 1 of Article 18b or deregistered pursuant to paragraph 3 of Article 18b or listed in Annex VI.;

(10) the following article is inserted:

'Article 32a

The measures imposed in UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017) shall not apply if they impede in any way the activities of diplomatic or consular missions in the DPRK pursuant to the Vienna Conventions on Diplomatic and Consular Relations.;

(11) in Article 33, paragraphs 1 and 2 are replaced by the following:

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

2. The Council, acting by unanimity on a proposal from Member States or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish the lists in Annexes II, III, V and VI and adopt modifications thereto.’;

(12) in Article 34, paragraph 2 is replaced by the following:

‘2. Where the Council decides to subject a person or entity to the measures referred to in Article 18b, (4), or (5), point (b) or (c) of Article 23(1), or point (b), (c) or (d) of Article 27(1), it shall amend Annex II, III, V or VI accordingly.’;

(13) Article 36a is replaced by the following:

‘Article 36a

By way of derogation from the measures imposed by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017), 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 or for any other purpose consistent with the objectives of those UNSCRs, the competent authority of a Member State shall grant the necessary authorisation.’;

(14) Annex II is amended in accordance with Annex I to this Decision;

(15) Annex IV is replaced by the text set out in Annex II to this Decision;

(16) the text set out in Annex III to this Decision is added as Annex VI.

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, 26 February 2018.

For the Council
The President
F. MOGHERINI

ANNEX I

The entries for the following persons and entity are deleted from the list set out in Annex II to Decision (CFSP) 2016/849:

- I. Persons and entities responsible for the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them

- A. Persons

23. PAK Yong Sik

31. KIM Jong Sik

- B. Entities

5. Ministry of People's Armed Forces

- II. Persons and entities providing financial services that could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes

5. CHOE Chun-Sik

ANNEX II

'ANNEX IV

LIST OF VESSELS REFERRED TO IN ARTICLE 18a(6)

- A. Deflagged vessels
- B. Vessels directed to a port
- C. Deregistered vessels
- D. Vessels which are prohibited entry into ports

1. **Name:** PETREL 8**Additional information**

IMO: 9562233. MMSI: 620233000

2. **Name:** HAO FAN 6**Additional information**

IMO: 8628597. MMSI: 341985000

3. **Name:** TONG SAN 2**Additional information**

IMO: 8937675. MMSI: 445539000

4. **Name:** JIE SHUN**Additional information**

IMO: 8518780. MMSI: 514569000

5. **Name:** BILLIONS NO. 18**Additional information**

IMO: 9191773

6. **Name:** UL JI BONG 6**Additional information**

IMO: 9114555

7. **Name:** RUNG RA 2**Additional information**

IMO: 9020534

8. **Name:** RYE SONG GANG 1**Additional information**

IMO: 7389704

- E. Vessels subject to an asset freeze'
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ANNEX III

'ANNEX VI

LIST OF VESSELS REFERRED TO IN ARTICLE 18b(7)
