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⁽¹⁾ Text with EEA relevance.

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2018/285

of 26 February 2018

amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea

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 (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 joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Whereas:

- (1) Council Regulation (EU) 2017/1509 ⁽²⁾ gives effect to measures provided for in Decision (CFSP) 2016/849.
- (2) On 22 December 2017 the United Nations Security Council ('UNSC') adopted Resolution 2397 (2017), in which it expressed its gravest concern at the ballistic missile launch by the Democratic People's Republic of Korea ('DPRK') on 28 November 2017. The UNSC reaffirmed that the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security, and imposed new measures against the DPRK. Those measures further reinforce the restrictive measures imposed by UNSC Resolutions ('UNSCR') 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017).
- (3) The UNSC decided, inter alia, to strengthen the export ban on petroleum products and to impose an import ban on DPRK food products, machinery, electrical equipment, earth and stone; a ban on the export to the DPRK of industrial equipment, machinery, transportation vehicles and industrial metals; and further maritime restrictive measures.
- (4) The Commission should be empowered to amend the lists of food and agricultural products; machinery and electrical equipment; earth and stone, including magnesite and magnesia; wood; vessels; and industrial machinery, transportation vehicles, and iron, steel and other metals on the basis of determinations made by either the Sanctions Committee or the UNSC and to update nomenclature codes from the Combined Nomenclature as set out in Annex I to Council Regulation (EEC) No 2658/87 ⁽³⁾.
- (5) To ensure the uniform application of the maritime measures contained in UNSC Resolution 2397 (2017), it is appropriate to create a new Annex XVIII to Regulation (EU) 2017/1509 containing a list of vessels which the Council has reason to believe were 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).

⁽¹⁾ OJ L 141, 28.5.2016, p. 79.

⁽²⁾ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

⁽³⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

- (6) The power to amend the list of vessels set out in Annex XVIII to Regulation (EU) 2017/1509 should be exercised by the Council in order to ensure consistency with the process for adopting and amending the list of vessels in Annex VI to Decision (CFSP) 2016/849.
- (7) Three persons and one entity that have been designated by the UNSC should be removed from the list of persons and entities designated autonomously by the Council set out in Annex XV to Regulation (EU) 2017/1509.
- (8) Council Decision (CFSP) 2018/293 ⁽¹⁾ amended Decision (CFSP) 2016/849 in order to give effect to the new measures imposed by UNSC Resolution 2397 (2017).
- (9) These measures fall within the scope of the Treaty and, therefore, in particular with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary.
- (10) Regulation (EU) 2017/1509 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2017/1509 is amended as follows:

- (1) Article 16a is replaced by the following:

Article 16a

1. It shall be prohibited to import, purchase or transfer, directly or indirectly, seafood, including fish, crustaceans, molluscs, and other aquatic invertebrates in all forms, as listed in Annex XIa, from the DPRK, whether or not originating in the DPRK.
2. It shall be prohibited to purchase or transfer, directly or indirectly, fishing rights from the DPRK.;

- (2) Articles 16d, 16e and 16f are replaced by the following:

Article 16d

It shall be prohibited to sell, supply, transfer or export, directly or indirectly, all refined petroleum products, as listed in Annex XIId, whether or not originating in the Union, to the DPRK.

Article 16e

1. By way of derogation from Article 16d, the competent authorities of the Member States may authorise transactions in refined petroleum products that are determined to be exclusively for humanitarian purposes, provided that all of the following conditions are met:
 - (a) the transactions do 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 the persons, entities and bodies listed in Annexes XIII, XV, XVI and XVII;
 - (b) the transaction 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);
 - (c) the Sanctions Committee has not notified the Member States that 90 % of the aggregate annual limit has been reached; and
 - (d) the Member State concerned notifies the Sanctions Committee of the amount of the export and information on all parties to the transaction every 30 days.
2. The Member State concerned shall notify the other Member States and the Commission of any authorisation granted pursuant to paragraph 1.

⁽¹⁾ 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 (OJ L 55, 27.2.2018, p. 50).

Article 16f

It shall be prohibited to sell, supply, transfer or export, directly or indirectly, crude oil, as listed in Annex XIe, whether or not originating in the Union, to the DPRK.;

(3) in Article 16g, paragraph 1 is replaced by the following:

‘1. By way of derogation from Article 16f, the competent authorities of the Member States may authorise transactions in crude oil, provided that all of the following conditions are met:

- (a) the competent authority of the Member State has determined that the transaction is exclusively for humanitarian purposes; and
- (b) the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis, in accordance with paragraph 4 of UNSCR 2397 (2017).;

(4) the following articles are inserted:

Article 16j

It shall be prohibited to import, purchase or transfer, directly or indirectly, food and agricultural products listed in Annex XIg from the DPRK, whether or not originating in the DPRK.

Article 16k

It shall be prohibited to import, purchase or transfer, directly or indirectly, machinery and electrical equipment listed in Annex XIh from the DPRK, whether or not originating in the DPRK.

Article 16l

It shall be prohibited to import, purchase or transfer, directly or indirectly, earth and stone, including magnesite and magnesia, listed in Annex XIi from the DPRK, whether or not originating in the DPRK.

Article 16m

It shall be prohibited to import, purchase or transfer, directly or indirectly, wood listed in Annex XIj from the DPRK, whether or not originating in the DPRK.

Article 16n

It shall be prohibited to import, purchase or transfer, directly or indirectly, vessels listed in Annex XIk from the DPRK, whether or not originating in the DPRK.

Article 16o

1. By way of derogation from Articles 16j to 16n, the competent authorities of the Member States may authorise the import, purchase or transfer of the items referred to in those Articles by no later than 21 January 2018 provided that:

- (a) the import, purchase or transfer is due under a written contract that entered into force prior to 22 December 2017; and
- (b) the Member State concerned notifies the Sanctions Committee of the details of such import, purchase or transfer by no later than 5 February 2018.

2. The Member State concerned shall notify the other Member States and the Commission of any authorisation granted pursuant to paragraph 1.

Article 16p

It shall be prohibited to sell, supply, transfer or export to the DPRK, directly or indirectly, all industrial machinery, transportation vehicles, and iron, steel and other metals listed in part A of Annex XII, whether or not originating in the Union.

Article 16q

1. The competent authorities of the Member States may authorise the export of spare parts needed to maintain the safe operation of DPRK commercial civilian passenger aircraft of the aircraft models and types listed in part B of Annex XII.

2. The Member State concerned shall notify the other Member States and the Commission of any authorisation granted pursuant to paragraph 1.;

(5) Article 34 is amended as follows:

(a) paragraphs 7, 8 and 9 are deleted;

(b) paragraphs 10, 11 and 12 are renumbered as paragraphs 7, 8 and 9;

(6) Articles 43 and 44 are replaced by the following:

Article 43

1. It shall be prohibited:

(a) to lease or charter vessels or aircraft or provide crew services to the DPRK, persons or entities listed in Annex XIII, XV, XVI or XVII, any other DPRK entities, any other persons or entities which have assisted in violating the provisions of UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016) or 2371 (2017) or any person or entity acting on behalf of, or at the direction of, any such person or entity, and entities owned or controlled by them;

(b) to procure vessel or aircraft crew services from the DPRK;

(c) to own, lease, operate, charter, insure or provide vessel classification services or associated services to any vessel flagged to the DPRK;

(d) to provide vessel classification services to vessels listed in Annex XVIII;

(e) to apply for or to assist in the registration or maintenance on the register of any vessel that is owned, controlled or operated by the DPRK or DPRK nationals, any vessel listed in Annex XVIII or 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); or

(f) to provide insurance or reinsurance services to vessels owned, controlled or operated by the DPRK or vessels listed in Annex XVIII.

2. Annex XVIII shall include the vessels not listed in Annex XIV, which the Council has reasons to believe were involved in activities, or the transport of items, prohibited by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).

Article 44

1. By way of derogation from the prohibition in point (a) of Article 43(1), the competent authorities of the Member States may authorise the leasing, chartering or provision of crew services, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

2. By way of derogation from the prohibitions in points (c) and (e) of Article 43(1), the competent authorities of the Member States may authorise the owning, leasing, operating, chartering of, or providing vessel classification services or associated services to any DPRK flagged vessel, or the registration, or maintenance on the register, of any vessel that is owned, controlled or operated by the DPRK or DPRK nationals, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

3. By way of derogation from the prohibition in point (d) of Article 43(1), the competent authorities of the Member States may authorise vessel classification services to vessels listed in Annex XVIII, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

4. By way of derogation from the prohibitions in point (e) of Article 43(1), the competent authorities of the Member States may authorise the registration of a vessel that has been deregistered by another State pursuant to paragraph 12 of UNSCR 2397 (2017), provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

5. By way of derogation from the prohibition in point (f) of Article 43(1), the competent authorities of the Member States may authorise the provision of insurance or reinsurance services, provided that the Sanctions Committee has determined in advance 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.

6. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraphs 1, 2, 3, 4 and 5.;

(7) Article 45 is replaced by the following:

'Article 45

1. By way of derogation from the prohibitions arising from UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017), the competent authorities of Member States may authorise any activities if the Sanctions Committee has determined, on a case-by-case basis, that they are 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.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.;

(8) the following article is inserted:

'Article 45a

1. Unless otherwise provided for in this Regulation, and by way of derogation from the prohibitions arising from UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017), the competent authorities of Member States may authorise any activities, on a case-by-case basis, which are necessary for the functioning of diplomatic missions or consular posts in the DPRK pursuant to the 1961 and 1963 Vienna Conventions, or of international organisations enjoying immunities in accordance with international law in the DPRK.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.;

(9) point (b) of Article 46 is replaced by the following:

(b) amend Parts II, III, IV, V, VI, VII, VIII and IX of Annex II and Annexes VI, VII, IX, X, XI, Xia, XIb, XIc, XIe, XIe, XIe, XIg, XIh, XII, XIj, XIk and XII on the basis of determinations made by either the Sanctions Committee or the UNSC and to update nomenclature codes from the Combined Nomenclature as set out in Annex I to Regulation (EEC) No 2658/87.;

(10) Article 47(2) is replaced by the following:

'2. Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 34(1), (2) or (3) or to designate a vessel pursuant to Article 43 it shall amend Annexes XV, XVI, XVII and XVIII accordingly.;

(11) the following article is inserted:

'Article 47a

1. Annexes XV, XVI, XVII and XVIII shall be reviewed at regular intervals and at least every 12 months.

2. Annexes XIII, XIV, XV, XVI, XVII and XVIII shall include the grounds for the listing of persons, entities, bodies and vessels concerned.

3. Annexes XIII, XIV, XV, XVI, XVII and XVIII shall also include, where available, information necessary to identify the natural or legal persons, entities, bodies and vessels concerned. With regard to natural persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to legal persons, entities and bodies, such information may include names, place and date of registration, registration number and place of business.;

(12) in Article 53(1), point (a) is replaced by the following:

‘(a) designated persons, entities or bodies listed in Annex XIII, XV, XVI or XVII, or the shipowners of vessels listed in Annex XIV or Annex XVIII;’;

- (13) the text set out in Annex I to this Regulation is inserted as Annex XIg;
- (14) the text set out in Annex II to this Regulation is inserted as Annex XIh;
- (15) the text set out in Annex III to this Regulation is inserted as Annex XII;
- (16) the text set out in Annex IV to this Regulation is inserted as Annex XIj;
- (17) the text set out in Annex V to this Regulation is inserted as Annex XIk;
- (18) the text set out in Annex VI to this Regulation is inserted as Annex XII;
- (19) Annex XV is amended in accordance with Annex VII to this Regulation;
- (20) the text set out in Annex VIII to this Regulation is added as Annex XVIII.

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, 26 February 2018.

For the Council
The President
F. MOGHERINI

ANNEX I

'ANNEX XIg

FOOD AND AGRICULTURAL PRODUCTS REFERRED TO IN ARTICLE 16j

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation.

CN code	Description
07	Edible vegetables and certain roots and tubers
08	Edible fruit and nuts; peel of citrus fruit or melons
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder'

ANNEX II

'ANNEX XII

MACHINERY AND ELECTRICAL EQUIPMENT REFERRED TO IN ARTICLE 16k

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and *mutatis mutandis* as amended by subsequent legislation.

CN code	Description
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles'

ANNEX III

‘ANNEX XI

EARTH AND STONE, INCLUDING MAGNESITE AND MAGNESIA, REFERRED TO IN ARTICLE 161

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation.

CN code	Description
25	Salt; sulphur; earths and stone; plastering materials, lime and cement'

ANNEX IV

'ANNEX XIj

WOOD REFERRED TO IN ARTICLE 16m

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation.

CN code	Description
44	Wood and articles of wood; wood charcoal'

ANNEX V

'ANNEX XIk

VESSELS REFERRED TO IN ARTICLE 16n

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation.

CN code	Description
89	Ships, boats and floating structures'

ANNEX VI

'ANNEX XII

PART A

Industrial machinery, transportation vehicles, and iron, steel and other metals referred to in Article 16p

EXPLANATORY NOTE

The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation.

CN code	Description
72	Iron and steel
73	Articles of iron or steel
74	Copper and articles thereof
75	Nickel and articles thereof
76	Aluminium and articles thereof
78	Lead and articles thereof
79	Zinc and articles thereof
80	Tin and articles thereof
81	Other base metals; cermets; articles thereof
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal
83	Miscellaneous articles of base metal
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles
86	Railway or tramway locomotives, rolling stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electromechanical) traffic signalling equipment of all kinds
87	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof
88	Aircraft, spacecraft, and parts thereof
89	Ships, boats and floating structures

PART B

Aircraft models and types referred to in Article 16q(1)

An-24R/RV, An-148-100B, Il-18D, Il-62M, Tu-134B-3, Tu-154B, Tu-204-100B, and Tu-204-300.'

ANNEX VII

In Annex XV to Regulation (EU) 2017/1509, the following entries are deleted:

(a) Natural persons designated in accordance with point (a) of Article 34(4)

'23.	PAK Yong-sik (alias PAK Yong Sik)		20.5.2016	Four Star General, member of the State Security Department, Minister of the People's Armed Forces. Member of the Central Military Commission of the Workers' Party of Korea and of the National Defence Commission which was a key body for national defence matters in the DPRK before it was reformed into the State Affairs Commission (SAC) which are all key bodies for national defence matters in the DPRK. Was present at the testing of ballistic missiles in March 2016. As such, responsible for supporting or promoting the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes.
31.	KIM Jong Sik	Vice Director, Munitions Industry Department in Military Industry Ministry.	16.10.2017	As Vice Director of the Munitions Industry Department, provides support for DPRK's nuclear-related and ballistic missile-related programmes, including being present at nuclear and ballistic missile related events in 2016 and a presentation in March 2016 of what the DPRK claimed to be a miniaturised nuclear device.'

(b) Legal persons, entities and bodies designated in accordance with point (a) of Article 34(4)

'5.	Ministry of People's Armed Forces		16.10.2017	Responsible for providing support and direction to the DPRK's Strategic Rocket Force which controls the DPRK's nuclear and conventional strategic missile units. The Strategic Rocket Force has been listed by the United Nations Security Council Resolution 2356 (2017).'
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(c) Natural persons designated in accordance with point (b) of Article 34(4)

'5.	CHOE Chun-Sik (alias CHOE Chun Sik)	DOB: 23.12.1963 POB: Pyongyang, DPRK Passport 745132109 Valid until 12.2.2020	3.7.2015	Director in the reinsurance department of Korea National Insurance Corporation (KNIC) based in the headquarters in Pyongyang acting on behalf of KNIC or at its direction.'
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ANNEX VIII

ANNEX XVIII

Vessels referred to in points (d), (e) and (f) of Article 43(1):

COUNCIL IMPLEMENTING REGULATION (EU) 2018/286
of 26 February 2018
implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic
People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 ⁽¹⁾, and in particular Article 47(1) thereof,

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

Whereas:

- (1) On 30 August 2017, the Council adopted Regulation (EU) 2017/1509.
- (2) Annex XIV to Regulation (EU) 2017/1509 lists the vessels that must be seized, if the Sanctions Committee has so specified. It also lists the vessels for which access to ports in the territory of the Union is prohibited, if the Sanctions Committee has so specified.
- (3) On 26 February 2018, the Council adopted Decision (CFSP) 2018/293 ⁽²⁾, which changes the structure of Annex IV to Council Decision (CFSP) 2016/849 ⁽³⁾ which lists the vessels that have been designated by the Sanctions Committee.
- (4) Annex XIV to Regulation (EU) 2017/1509 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XIV to Regulation (EU) 2017/1509 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 26 February 2018.

For the Council
The President
F. MOGHERINI

⁽¹⁾ OJ L 224, 31.8.2017, p. 1.

⁽²⁾ See page 50 of this Official Journal.

⁽³⁾ 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).

ANNEX

Annex XIV to Regulation (EU) 2017/1509 is replaced by the following:

'ANNEX XIV

The vessels referred to in Article 34(2) and point (g) of Article 39(1) and applicable measures as specified by the Sanctions Committee

- A. Vessels subject to a seizure
- B. 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: 9114556

7. **Name: RUNG RA 2**

Additional information

IMO: 9020534

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

Additional information

IMO: 7389704'

COMMISSION IMPLEMENTING REGULATION (EU) 2018/287**of 15 February 2018****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ('Salchichón de Vic'/ 'Llonganissa de Vic' (PGI))**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Spain's application for the approval of amendments to the specification for the protected geographical indication 'Salchichón de Vic'/Llonganissa de Vic', registered under Commission Regulation (EC) No 2601/2001 ⁽²⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽³⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Salchichón de Vic'/Llonganissa de Vic' (PGI) are hereby approved.*Article 2*This Regulation shall enter into force on the twentieth 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, 15 February 2018.

For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EC) No 2601/2001 of 28 December 2001 supplementing the Annex to Regulation (EC) No 2400/96 on the entry of certain names in the Register of protected designations of origin and protected geographical indications provided for in Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 345, 29.12.2001, p. 47).

⁽³⁾ OJ C 368, 28.10.2017, p. 10.

COMMISSION IMPLEMENTING REGULATION (EU) 2018/288**of 19 February 2018****amending Implementing Regulation (EU) No 367/2014 setting the net balance available for EAGF expenditure**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ⁽¹⁾, and in particular Article 16(2) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 367/2014 ⁽²⁾ sets the net balance available for European Agricultural Guarantee Fund (EAGF) expenditure, as well as the amounts available for the budget years 2014 to 2020 for the European Agricultural Fund for Rural Development (EAFRD), pursuant to Article 10c(2) and Articles 136, 136a and 136b of Council Regulation (EC) No 73/2009 ⁽³⁾ and to Article 7(2), Article 14 and Article 66(1) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council ⁽⁴⁾.
- (2) In accordance with the fourth subparagraph of Article 14(1) of Regulation (EU) No 1307/2013, France, Lithuania and the Netherlands notified the Commission by 1 August 2017 of their decision to review, for the calendar years 2018 and 2019, their previous decision to transfer a certain percentage of their annual national ceilings of direct payments to rural development programming financed under the EAFRD as specified in Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽⁵⁾. The relevant national ceilings were adapted through Commission Delegated Regulation (EU) 2018/162 ⁽⁶⁾.
- (3) In accordance with Article 3(1) of Council Regulation (EU, Euratom) No 1311/2013 ⁽⁷⁾, the sub-ceiling for market related expenditure and direct payments of the multiannual financial framework set out in Annex I to that Regulation is to be adjusted under the technical adjustment provided for in Article 6(1) of that Regulation following the transfers between the EAFRD and direct payments.
- (4) As a result of those changes, it is necessary to adjust the net balance available for EAGF as set by Implementing Regulation (EU) No 367/2014. For the sake of clarity, the amounts to be made available to the EAFRD should be also published.
- (5) Implementing Regulation (EU) No 367/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) No 367/2014 is replaced by the text in the Annex to this Regulation.

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ Commission Implementing Regulation (EU) No 367/2014 of 10 April 2014 setting the net balance available for EAGF expenditure (OJ L 108, 11.4.2014, p. 13).

⁽³⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

⁽⁴⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

⁽⁵⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

⁽⁶⁾ Commission Delegated Regulation (EU) 2018/162 of 23 November 2017 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annexes II and III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council (OJ L 30, 2.2.2018, p. 6).

⁽⁷⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

Article 2

This Regulation shall enter into force on the seventh 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, 19 February 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

'ANNEX

(EUR million — current prices)

Budget year	Amounts made available to EAFRD						Amounts transferred from EAFRD	Net balance available for EAGF expenditure
	Article 10b of Regulation (EC) No 73/2009	Article 136 of Regulation (EC) No 73/2009	Article 136b of Regulation (EC) No 73/2009	Article 66 of Regulation (EU) No 1307/2013	Article 136a(1) of Regulation (EC) No 73/2009 and Article 14(1) of Regulation (EU) No 1307/2013	Article 7(2) of Regulation (EU) No 1307/2013	Article 136a(2) of Regulation (EC) No 73/2009 and Article 14(2) of Regulation (EU) No 1307/2013	
2014	296,300	51,600		4,000				43 778,100
2015			51,600	4,000	621,999		499,384	44 189,785
2016				4,000	1 138,146	108,659	573,047	43 950,242
2017				4,000	1 174,732	111,026	572,440	44 145,682
2018				4,000	1 184,257	110,213	571,820	44 162,350
2019				4,000	1 491,459	111,358	571,158	43 880,341
2020				4,000	1 507,843	112,041	570,356	43 887,472'

COMMISSION REGULATION (EU) 2018/289**of 26 February 2018****amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 2 ‘Share-based Payment’****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 ⁽²⁾ certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 20 June 2016, the International Accounting Standards Board (IASB) published amendments to International Financial Reporting Standard (IFRS) 2 *Share-based Payment*. The amendments aim to clarify how companies should apply the standard in some specific instances.
- (3) Following the consultations with the European Financial Advisory Group, the Commission concludes that the amendments to IFRS 2 meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.
- (4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (5) The IASB set the effective date of the amendments to IFRS 2 as from 1 January 2018.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*In the Annex to Regulation (EC) No 1126/2008, International Financial Reporting Standard (IFRS) 2 *Share-based Payment* is amended as set out in the Annex to this Regulation.*Article 2*

Each company shall apply the amendments referred to in Article 1, at the latest, as from the commencement date of its first financial year starting on or after 1 January 2018.

*Article 3*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.⁽¹⁾ OJ L 243, 11.9.2002, p. 1.⁽²⁾ Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 February 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Classification and Measurement of Share-based Payment Transactions**Amendments to IFRS 2****Amendments to IFRS 2 *Share-based Payment***

Paragraphs 19, 30-31, 33, 52 and 63 are amended, and paragraphs 33A-33H, 59A-59B and 63D are added. Headings before paragraphs 33A and 33E are added. Paragraphs 32 and 34 have not been amended, but are included for ease of reference.

TREATMENT OF VESTING CONDITIONS

19. A grant of equity instruments might be conditional upon satisfying specified vesting conditions. For example, a grant of shares or share options to an employee is typically conditional on the employee remaining in the entity's employ for a specified period of time. There might be performance conditions that must be satisfied, such as the entity achieving a specified growth in profit or a specified increase in the entity's share price. Vesting conditions, other than market conditions, shall not be taken into account when estimating the fair value of the shares or share options at the measurement date. Instead, vesting conditions, other than market conditions, shall be taken into account by adjusting the number of equity instruments included in the measurement of the transaction amount so that, ultimately, the amount recognised for goods or services received as consideration for the equity instruments granted shall be based on the number of equity instruments that eventually vest. Hence, on a cumulative basis, no amount is recognised for goods or services received if the equity instruments granted do not vest because of failure to satisfy a *vesting condition*, other than a market condition, for example, the counterparty fails to complete a specified service period, or a performance condition is not satisfied, subject to the requirements of paragraph 21.

...

CASH-SETTLED SHARE-BASED PAYMENT TRANSACTIONS

30. **For cash-settled share-based payment transactions, the entity shall measure the goods or services acquired and the liability incurred at the fair value of the liability, subject to the requirements of paragraphs 31-33D. Until the liability is settled, the entity shall re-measure the fair value of the liability at the end of each reporting period and at the date of settlement, with any changes in fair value recognised in profit or loss for the period.**
31. For example, an entity might grant share appreciation rights to employees as part of their remuneration package, whereby the employees will become entitled to a future cash payment (rather than an equity instrument), based on the increase in the entity's share price from a specified level over a specified period of time. Alternatively, an entity might grant to its employees a right to receive a future cash payment by granting to them a right to shares (including shares to be issued upon the exercise of share options) that are redeemable, either mandatorily (for example, upon cessation of employment) or at the employee's option. These arrangements are examples of cash-settled share-based payment transactions. Share appreciation rights are used to illustrate some of the requirements in paragraphs 32-33D; however, the requirements in those paragraphs apply to all cash-settled share-based payment transactions.
32. The entity shall recognise the services received, and a liability to pay for those services, as the employees render service. For example, some share appreciation rights vest immediately, and the employees are therefore not required to complete a specified period of service to become entitled to the cash payment. In the absence of evidence to the contrary, the entity shall presume that the services rendered by the employees in exchange for the share appreciation rights have been received. Thus, the entity shall recognise immediately the services received and a liability to pay for them. If the share appreciation rights do not vest until the employees have completed a specified period of service, the entity shall recognise the services received, and a liability to pay for them, as the employees render service during that period.

33. The liability shall be measured, initially and at the end of each reporting period until settled, at the fair value of the share appreciation rights, by applying an option pricing model, taking into account the terms and conditions on which the share appreciation rights were granted, and the extent to which the employees have rendered service to date — subject to the requirements of paragraphs 33A–33D. An entity might modify the terms and conditions on which a cash-settled share-based payment is granted. Guidance for a modification of a share-based payment transaction that changes its classification from cash-settled to equity-settled is given in paragraphs B44A–B44C in Appendix B.

TREATMENT OF VESTING AND NON-VESTING CONDITIONS

- 33A A cash-settled share-based payment transaction might be conditional upon satisfying specified vesting conditions. There might be performance conditions that must be satisfied, such as the entity achieving a specified growth in profit or a specified increase in the entity's share price. Vesting conditions, other than market conditions, shall not be taken into account when estimating the fair value of the cash-settled share-based payment at the measurement date. Instead, vesting conditions, other than market conditions, shall be taken into account by adjusting the number of awards included in the measurement of the liability arising from the transaction.
- 33B To apply the requirements in paragraph 33A, the entity shall recognise an amount for the goods or services received during the vesting period. That amount shall be based on the best available estimate of the number of awards that are expected to vest. The entity shall revise that estimate, if necessary, if subsequent information indicates that the number of awards that are expected to vest differs from previous estimates. On the vesting date, the entity shall revise the estimate to equal the number of awards that ultimately vested.
- 33C Market conditions, such as a target share price upon which vesting (or exercisability) is conditioned, as well as non-vesting conditions, shall be taken into account when estimating the fair value of the cash-settled share-based payment granted and when re-measuring the fair value at the end of each reporting period and at the date of settlement.
- 33D As a result of applying paragraphs 30–33C, the cumulative amount ultimately recognised for goods or services received as consideration for the cash-settled share-based payment is equal to the cash that is paid.

SHARE-BASED PAYMENT TRANSACTIONS WITH A NET SETTLEMENT FEATURE FOR WITHHOLDING TAX OBLIGATIONS

- 33E Tax laws or regulations may oblige an entity to withhold an amount for an employee's tax obligation associated with a share-based payment and transfer that amount, normally in cash, to the tax authority on the employee's behalf. To fulfil this obligation, the terms of the share-based payment arrangement may permit or require the entity to withhold the number of equity instruments equal to the monetary value of the employee's tax obligation from the total number of equity instruments that otherwise would have been issued to the employee upon exercise (or vesting) of the share-based payment (ie the share-based payment arrangement has a 'net settlement feature').
- 33F As an exception to the requirements in paragraph 34, the transaction described in paragraph 33E shall be classified in its entirety as an equity-settled share-based payment transaction if it would have been so classified in the absence of the net settlement feature.
- 33G The entity applies paragraph 29 of this Standard to account for the withholding of shares to fund the payment to the tax authority in respect of the employee's tax obligation associated with the share-based payment. Therefore, the payment made shall be accounted for as a deduction from equity for the shares withheld, except to the extent that the payment exceeds the fair value at the net settlement date of the equity instruments withheld.

- 33H The exception in paragraph 33F does not apply to:
- (a) a share-based payment arrangement with a net settlement feature for which there is no obligation on the entity under tax laws or regulations to withhold an amount for an employee's tax obligation associated with that share-based payment; or
 - (b) any equity instruments that the entity withholds in excess of the employee's tax obligation associated with the share-based payment (i.e. the entity withheld an amount of shares that exceeds the monetary value of the employee's tax obligation). Such excess shares withheld shall be accounted for as a cash-settled share-based payment when this amount is paid in cash (or other assets) to the employee.
- 34. For share-based payment transactions in which the terms of the arrangement provide either the entity or the counterparty with the choice of whether the entity settles the transaction in cash (or other assets) or by issuing equity instruments, the entity shall account for that transaction, or the components of that transaction, as a cash-settled share-based payment transaction if, and to the extent that, the entity has incurred a liability to settle in cash or other assets, or as an equity-settled share-based payment transaction if, and to the extent that, no such liability has been incurred.**

DISCLOSURES

...

52. If the information required to be disclosed by this Standard does not satisfy the principles in paragraphs 44, 46 and 50, the entity shall disclose such additional information as is necessary to satisfy them. For example, if an entity has classified any share-based payment transactions as equity-settled in accordance with paragraph 33F, the entity shall disclose an estimate of the amount that it expects to transfer to the tax authority to settle the employee's tax obligation when it is necessary to inform users about the future cash flow effects associated with the share-based payment arrangement.

TRANSITIONAL PROVISIONS

...

- 59A An entity shall apply the amendments in paragraphs 30-31, 33-33H and B44A-B44C as set out below. Prior periods shall not be restated.
- (a) The amendments in paragraphs B44A-B44C apply only to modifications that occur on or after the date that an entity first applies the amendments.
 - (b) The amendments in paragraphs 30-31 and 33-33D apply to share-based payment transactions that are unvested at the date that an entity first applies the amendments and to share-based payment transactions with a grant date on or after the date that an entity first applies the amendments. For unvested share-based payment transactions granted prior to the date that an entity first applies the amendments, an entity shall remeasure the liability at that date and recognise the effect of the remeasurement in opening retained earnings (or other component of equity, as appropriate) of the reporting period in which the amendments are first applied.
 - (c) The amendments in paragraphs 33E-33H and the amendment to paragraph 52 apply to share-based payment transactions that are unvested (or vested but unexercised), at the date that an entity first applies the amendments and to share-based payment transactions with a grant date on or after the date that an entity first applies the amendments. For unvested (or vested but unexercised) share-based payment transactions (or components thereof) that were previously classified as cash-settled share-based payments but now are classified as equity-settled in accordance with the amendments, an entity shall reclassify the carrying value of the share-based payment liability to equity at the date that it first applies the amendments.
- 59B Notwithstanding the requirements in paragraph 59A, an entity may apply the amendments in paragraph 63D retrospectively, subject to the transitional provisions in paragraphs 53-59 of this Standard, in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* if and only if it is possible without hindsight. If an entity elects retrospective application, it must do so for all of the amendments made by *Classification and Measurement of Share-based Payment Transactions* (Amendments to IFRS 2).

EFFECTIVE DATE

...

63. An entity shall apply the following amendments made by *Group Cash-settled Share-based Payment Transactions* issued in June 2009 retrospectively, subject to the transitional provisions in paragraphs 53-59, in accordance with IAS 8 for annual periods beginning on or after 1 January 2010:

(a) ...

...

63D *Classification and Measurement of Share-based Payment Transactions* (Amendments to IFRS 2), issued in June 2016, amended paragraphs 19, 30-31, 33, 52 and 63 and added paragraphs 33A-33H, 59A-59B, 63D and B44A-B44C and their related headings. An entity shall apply those amendments for annual periods beginning on or after 1 January 2018. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.

In Appendix B, paragraphs B44A–B44C and their related heading are added.

Accounting for a modification of a share-based payment transaction that changes its classification from cash-settled to equity-settled

B44A If the terms and conditions of a cash-settled share-based payment transaction are modified with the result that it becomes an equity-settled share-based payment transaction, the transaction is accounted for as such from the date of the modification. Specifically:

(a) The equity-settled share-based payment transaction is measured by reference to the fair value of the equity instruments granted at the modification date. The equity-settled share-based payment transaction is recognised in equity on the modification date to the extent to which goods or services have been received.

(b) The liability for the cash-settled share-based payment transaction as at the modification date is derecognised on that date.

(c) Any difference between the carrying amount of the liability derecognised and the amount of equity recognised on the modification date is recognised immediately in profit or loss.

B44B If, as a result of the modification, the vesting period is extended or shortened, the application of the requirements in paragraph B44A reflect the modified vesting period. The requirements in paragraph B44A apply even if the modification occurs after the vesting period.

B44C A cash-settled share-based payment transaction may be cancelled or settled (other than a transaction cancelled by forfeiture when the vesting conditions are not satisfied). If equity instruments are granted and, on that grant date, the entity identifies them as a replacement for the cancelled cash-settled share-based payment, the entity shall apply paragraphs B44A and B44B.

COMMISSION REGULATION (EU) 2018/290**of 26 February 2018****amending Regulation (EC) No 1881/2006 as regards maximum levels of glycidyl fatty acid esters in vegetable oils and fats, infant formula, follow-on formula and foods for special medical purposes intended for infants and young children****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1881/2006 ⁽²⁾ sets maximum levels for certain contaminants in foodstuffs.
- (2) In May of 2016, the Scientific Panel on Contaminants in the Food Chain (Contam) of the European Food Safety Authority ('the Authority') adopted a scientific opinion on the Risks for human health related to the presence of 3- and 2-monochloropropanediol (MCPD), and their fatty acid esters, and glycidyl fatty acid esters in food ⁽³⁾.
- (3) In view of the updated guidance of its Scientific Committee on the use of the benchmark dose approach in risk assessment ⁽⁴⁾, the Authority has decided to re-open the assessment of 3-MCPD and its fatty acid esters, following a detailed analysis of the divergences in opinions, concerning that contaminant, between the Joint FAO/WHO Expert Committee on Food Additives ⁽⁵⁾ and the Authority. Therefore it is appropriate to wait for the outcome of the assessment of 3-MCPD and its fatty acid esters before taking appropriate regulatory measures.
- (4) Glycidyl fatty acid esters are food contaminants found at highest levels in refined vegetable oils and fats. Glycidyl fatty acid esters are hydrolysed into glycidol in the gastrointestinal tract.
- (5) The Authority concluded that glycidol is a genotoxic and carcinogenic compound. In view of the genotoxic and carcinogenic potential of glycidol, the Authority applied a margin of exposure ('MoE') approach. Scenarios of exposure for infants, toddlers and other children resulted in a MoE ranging from 12 800 to 4 900 and for infants receiving only formula diet in a MoE of about 5 500 to 2 100. The Authority considered that a MoE lower than 25 000 is of health concern. It is therefore appropriate to establish a maximum level for the presence of glycidyl fatty acid esters in vegetable oils and fats placed on the market for the final consumer or for use as an ingredient in food. Because of the health concern for infants, toddlers and young children it is appropriate to establish a stricter maximum level for vegetable oils and fats destined for the production of baby food and processed cereal-based food for infants and young children.
- (6) In order to exclude any possible health concerns as regards infants, toddlers and young children, in particular, taking into account the possible exposure to glycidyl fatty acid esters of infants solely fed on infant formula, it is appropriate to establish a specific strict maximum level for infant formula, follow-on formula and food for special medical purposes intended for infants and young children. However there is a need to further reduce the presence of glycidyl fatty acid esters in infant formula, follow-on formula and food for special medical purposes

⁽¹⁾ OJ L 37, 13.2.1993, p. 1.

⁽²⁾ Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

⁽³⁾ Scientific opinion on the risks for human health related to the presence of 3- and 2-monochloropropanediol (MCPD), and their fatty acid esters, and glycidyl fatty acid esters in food. *EFSA Journal* 2016;14(5): 4426, 159 pp. doi:10.2903/j.efsa.2016.4426

⁽⁴⁾ Minutes of the 82nd Plenary meeting of the Scientific Committee held on 13-14 February 2017. Available at <https://www.efsa.europa.eu/sites/default/files/event/170213-m.pdf>

⁽⁵⁾ Joint FAO/WHO Expert Committee on Food Additives, 83rd meeting, Rome, 8–17 November 2016, Summary and Conclusions. Available at <http://www.fao.org/3/a-bq821e.pdf>

intended for infants and young children and therefore it is necessary to review the maximum levels once a reliable method of analysis is available to analyse stricter levels in view of ensuring an effective enforcement of these levels.

- (7) Food business operators should be granted enough time to adapt their production processes.
- (8) Regulation (EC) No 1881/2006 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1881/2006 is amended in accordance with the Annex to this Regulation.

Article 2

Foodstuffs listed in the Annex to this Regulation that were lawfully placed on the market before the entry into force of this Regulation may remain on the market until 19 September 2018.

Article 3

This Regulation shall enter into force on the twentieth 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, 26 February 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

In the Annex to Regulation (EC) No 1881/2006, Section 4: 3-monochloropropane-1,2-diol (3-MCPD) is replaced by the following:

'Section 4: 3-monochloropropanediol (3-MCPD) and glycidyl fatty acid esters

Foodstuffs ⁽¹⁾		Maximum level (µg/kg)
4.1	3-monochloropropanediol (3-MCPD)	
4.1.1	Hydrolysed vegetable protein ⁽³⁰⁾	20
4.1.2	Soy sauce ⁽³⁰⁾	20
4.2	Glycidyl fatty acid esters expressed as glycidol	
4.2.1.	Vegetable oils and fats placed on the market for the final consumer or for use as an ingredient in food with the exception of the foods referred to in 4.2.2	1 000
4.2.2.	Vegetable oils and fats destined for the production of baby food and processed cereal-based food for infants and young children ⁽³⁾	500
4.2.3	Infant formula, follow-on formula and foods for special medical purposes intended for infants and young children (powder) ⁽³⁾ ⁽²⁹⁾	75 until 30.6.2019 50 as from 1.7.2019
4.2.4	Infant formula, follow-on formula and foods for special medical purposes intended for infants and young children (liquid) ⁽³⁾ ⁽²⁹⁾	10,0 until 30.6.2019 6,0 as from 1.7.2019'

COMMISSION IMPLEMENTING REGULATION (EU) 2018/291**of 26 February 2018****amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance bifenthrin****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular the second alternative of Article 21(3) and Article 78(2) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 582/2012 ⁽²⁾ approved bifenthrin as an active substance in accordance with Regulation (EC) No 1107/2009 and required the applicant at whose request bifenthrin was approved to provide, inter alia, confirmatory information on the residual toxicity for non-target arthropods and their potential for recolonisation and a monitoring programme to assess the potential for bioaccumulation and biomagnification in the aquatic and terrestrial environment.
- (2) On 29 July 2013 the applicant submitted the monitoring programme and the results thereof on 31 July 2015. On 29 July 2014 the applicant submitted the additional information to address the other confirmatory data requirements. These three submissions were provided to the Rapporteur Member State France within the time period provided for their submission.
- (3) France assessed the additional information and the monitoring programme submitted by the applicant. It submitted its assessment, in the form of an addendum to the draft assessment report, to the other Member States, the Commission and the European Food Safety Authority ('the Authority'), on 17 December 2014, as regards the additional information submitted to address the other confirmatory data requirements, and on 3 November 2015 as regards the monitoring programme.
- (4) Those other Member States, the applicant and the Authority were consulted and asked to provide comments on the assessment of the rapporteur Member State. The Authority published the technical reports summarising the outcome of the consultation for bifenthrin on 26 March 2015 ⁽³⁾ as regards the additional information to address the other confirmatory data requirements and on 14 April 2016 ⁽⁴⁾ as regards the monitoring programme.
- (5) The draft assessment report, the addendum and the technical reports of the Authority were reviewed by the Member States and the Commission within the Standing Committee on Plants, Animals, Food and Feed and finalised on 26 January 2018 in the format of the Commission review report for bifenthrin. The Commission invited the applicant to submit its comments on the review report for bifenthrin. The applicant submitted its comments which have been carefully examined.
- (6) The Commission has come to the conclusion that the information submitted is insufficient and does not allow to conclude that adequate recolonisation of certain species of non-target arthropods in-field takes place while other possibilities of mitigation of such risk cannot realistically be implemented. In addition, the monitoring programme leaves uncertainty on whether its results, based on a superposition of mitigation techniques, are representative for agricultural practice and sufficient to assess the potential for bioaccumulation and biomagnification in the aquatic and terrestrial environment.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 582/2012 of 2 July 2012 approving the active substance bifenthrin, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ L 173, 3.7.2012, p. 3).

⁽³⁾ EFSA (European Food Safety Authority), Technical report on the outcome of the consultation with Member States, the applicant and EFSA on the pesticide risk assessment of confirmatory data for bifenthrin. EFSA supporting publication 2015:EN-780. 23 pp.

⁽⁴⁾ EFSA (European Food Safety Authority), Technical report on the outcome of the consultation with Member States, the applicant and EFSA on the pesticide risk assessment of confirmatory data for bifenthrin. EFSA supporting publication 2016:EN-1019. 39 pp.

- (7) Therefore, in order to preclude the identified high risk for non-target arthropods and also to take into consideration the potential of bioaccumulation and biomagnification in the aquatic and terrestrial environment, it is appropriate to further restrict the conditions of use of bifenthrin and to only authorise applications in greenhouses with a permanent structure.
- (8) The Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽¹⁾ should therefore be amended accordingly.
- (9) Member States should be allowed sufficient time to amend or withdraw authorisations for plant protection products containing bifenthrin.
- (10) For plant protection products containing bifenthrin, where Member States grant any grace period pursuant to Article 46 of Regulation (EC) No 1107/2009, that period should, at the latest, expire on 19 June 2019.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

Article 2

Transitional measures

Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary amend or withdraw existing authorisations for plant protection products containing bifenthrin as active substance by 19 June 2018 at the latest.

Article 3

Grace period

Any grace period granted by Member States in accordance with Article 46 of Regulation (EC) No 1107/2009 shall be as short as possible and shall expire by 19 June 2019 at the latest.

Article 4

Entry into force

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

⁽¹⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 February 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

The column 'Specific provisions' of row 23, bifenthrin, of Part B of the Annex to Implementing Regulation (EU) No 540/2011 is replaced by the following:

PART A

Only uses as insecticide in greenhouses with a permanent structure may be authorised.

PART B

For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on bifenthrin, and in particular Appendices I and II thereof, as finalised in the Standing Committee on Plants, Animals, Food and Feed shall be taken into account.

In this overall assessment, Member States must pay particular attention to:

- (a) releases from greenhouses, such as condensation water, drain water, soil or artificial substrate, in order to preclude risks to aquatic and other non-target organisms;
- (b) the protection of pollinator colonies purposely placed in the greenhouse;
- (c) the protection of operators and workers, ensuring that conditions of use include the application of adequate personal protective equipment, where appropriate.

Conditions of authorisation shall include risk mitigation measures and provide for adequate labelling of plant protection products.'

COMMISSION IMPLEMENTING REGULATION (EU) 2018/292**of 26 February 2018****laying down implementing technical standards with regard to procedures and forms for exchange of information and assistance between competent authorities according to Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC ⁽¹⁾, and in particular Article 25(9) thereof,

Whereas:

- (1) In order to ensure that authorities designated as competent authorities under Regulation (EU) No 596/2014 are able to cooperate and exchange information in an efficient and timely manner and provide each other full mutual assistance for the purposes of that Regulation, it is appropriate to set out common procedures and forms to be used by competent authorities for exchange of information and assistance, including for the submission of requests for assistance, acknowledgments of receipts and replies to such requests.
- (2) The exchange of written information should assist a competent authority in fulfilling its duties. Oral communication may take place, where appropriate, including before a written request is sent, to provide information about an upcoming request for assistance and to discuss any issues that may impede the assistance being provided. In urgent cases, a request for assistance should also be permitted to be communicated orally, where the urgency is not due to late action by the requesting party.
- (3) Regulation (EU) No 596/2014 establishes that competent authorities are to exchange information and provide assistance. However, requests for assistance should, to the extent possible, include the taking of a statement or carrying out an on-site inspection or an investigation, only in cases where a simple request for exchange of information would not be sufficient. Prior to filing a request for assistance to a competent authority of another Member State, a competent authority is expected to have undertaken all actions reasonably practicable in its own jurisdiction, noting though it may not be reasonably feasible for this authority to have exhausted all the methods of enquiry prior to the request.
- (4) Unsolicited assistance should be provided in accordance with Regulation (EU) No 596/2014, including on a voluntary basis when the competent authority of a Member State considers that information in its possession may be of use for another competent authority.
- (5) A request for assistance pursuant to Regulation (EU) No 596/2014 should provide sufficient information about the subject matter of the request, including the reason for the request and its context, to enable the requested authority to process the request efficiently and expediently. Indicating the facts giving rise to the suspicion should not be considered as a precondition for a requesting authority to receive assistance where the requested information is necessary for the authority to fulfil its duties.
- (6) Beyond the use of forms for requesting and replying to a request for assistance, the procedures for cooperation should allow and facilitate the communication, consultation and interaction between the requesting authority and the requested authority, throughout the process, to ensure an efficient processing of a request for information or assistance. These procedures should also allow competent authorities to provide each other with feedback on the usefulness of the information or assistance received, on the outcome of the case in relation to which the assistance was sought and on any problems encountered in providing such information or assistance.
- (7) The procedures and forms for the exchange of information and assistance should ensure the confidentiality of the information exchanged or transmitted and compliance with the rules on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- (8) This Regulation is based on the draft implementing technical standards submitted by ESMA to the Commission.

⁽¹⁾ OJ L 173, 12.6.2014, p. 1.

- (9) ESMA did not conduct open public consultations on the draft implementing technical standards on which this Regulation is based, nor did it analyse the potential related costs and benefits of introducing the procedures and forms to be used by the relevant competent authorities, as this would have been disproportionate in relation to the scope and impact of those standards, taking into account that their addressees would only be the national competent authorities of the Member States and not market participants.
- (10) ESMA has requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁾.
- (11) To ensure the smooth functioning of the financial markets and considering that Regulation (EU) No 596/2014 is already in application, it is necessary for this Regulation to enter into force and apply immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Definition

For the purposes of this Regulation, 'secure electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means that ensure that completeness, integrity and confidentiality of the information are maintained during the transmission.

Article 2

Contact points

1. Competent authorities shall designate contact points for the purposes of this Regulation.
2. Competent authorities shall communicate the details of the contact points to the European Securities and Markets Authority (ESMA) within 30 days of this Regulation entering into force. They shall provide updated information to ESMA as necessary.
3. ESMA shall maintain a list of the contact points designated by competent authorities pursuant to paragraph 1 and update that list as necessary for the use of the competent authorities.

Article 3

Request for assistance

1. A requesting authority shall make a request for assistance in writing by post, fax or by secure electronic means. It shall address the request to the contact point designated by the requested authority pursuant to Article 2.
2. When requesting assistance, a competent authority shall use the form set out in Annex I and shall:
 - (a) specify the details of the relevant information that the requesting authority is seeking from the requested authority;
 - (b) identify, where appropriate, issues relating to the confidentiality of the information that may be obtained.
3. The requesting authority may attach to the request any document or supporting material deemed necessary to support the request.
4. In urgent cases, the requesting authority may make a request for assistance verbally. Unless the requested authority agrees otherwise, that oral request shall subsequently be confirmed in writing without undue delay by using the means referred to in paragraph 1.

⁽¹⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 4***Acknowledgment of receipt**

Within 10 working days of receipt of a written request for assistance, a requested authority shall send an acknowledgement of receipt by post, fax or secure electronic means to the contact point designated pursuant to Article 2, unless otherwise specified in the request. This acknowledgement of receipt shall be made by using the form set out in Annex II and shall include, where possible, the indication of an estimated date of response.

*Article 5***Reply to a request for assistance**

1. The requested authority shall reply to a request for assistance in writing by post, fax or secure electronic means. The reply shall be addressed to the contact point designated pursuant to Article 2, unless otherwise specified in the request.
2. The requested authority shall reply to the request for assistance using the form set out in Annex III and shall:
 - (a) request further clarifications in any form and as soon as possible where it has any doubt in relation to the precise information requested;
 - (b) take all reasonable steps within the scope of its powers to provide the assistance requested;
 - (c) execute requests for assistance without delay and in a manner which ensures that any necessary regulatory action proceeds expeditiously, taking into account the complexity of the request and the necessity to involve third parties or another competent authority.
3. Where the requested authority refuses to act, in full or in part, upon a request for assistance, it shall inform the requesting authority as soon as possible of its decision, verbally or in writing. The requested authority shall also provide a written reply made in accordance with paragraph 1 that indicates which of the exceptions under Article 25(2) of Regulation (EU) No 596/2014 it has relied upon for its refusal.

*Article 6***Procedures for sending and processing a request for assistance**

1. The requesting authority and the requested authority shall communicate in relation to a request for assistance and its reply by the most expedient means, taking due account of confidentiality considerations, correspondence times, the volume of material to be communicated and the ease of access to the information by the requesting authority. In particular, the requesting authority shall respond promptly to any clarifications requested by the requested authority.
2. When the requested authority becomes aware of circumstances that may lead to a delay in its estimated date of response of more than 10 working days, it shall notify the requesting authority without undue delay.
3. Where appropriate, the requested authority shall provide regular feedback regarding progress of the pending request, including revised estimates of the targeted date of reply to the requesting authority.
4. Where the request has been qualified by the requesting authority as urgent, competent authorities shall consult each other on the frequency with which the requested authority will update the requesting authority.
5. The requested authority and the requesting authority shall cooperate in order to resolve any difficulties that may arise in executing a request.

*Article 7***Procedure for requests for taking a statement from a person**

1. Where the requesting authority includes within its request the taking of a statement of any person in the context of an investigation or an inspection, the requested authority and the requesting authority shall, subject to existing legal limitations or constraints and any differences in procedural requirements, assess and take into account the following:
 - (a) the rights of the persons from whom the statements will be taken including, where applicable, any self-incrimination issues;
 - (b) the nature of the participation of the requesting authority's staff (observer or active participant);

- (c) the role of the staff of the requested authority and the requesting authority in the taking of the statement;
 - (d) whether the person from whom the statement is to be taken has the right to be assisted by a legal representative and, if so, the scope of the representative's assistance during the taking of the statement including in relation to any records or report of the statement;
 - (e) whether the statement is to be taken on a voluntary or compelled basis, where that distinction exists;
 - (f) whether, based on the information available at the time of the request, the person from whom the statement is to be taken is a witness or a suspect where that distinction exists;
 - (g) whether, based on the information available at the time of the request, the statement could be or is intended to be used in criminal proceedings;
 - (h) the admissibility of the statement in the requesting authority's jurisdiction;
 - (i) the recording of the statement and the applicable procedures, including whether it will be contemporaneous or summarised written minutes or an audio or audiovisual recording;
 - (j) procedures on the certification or confirmation of the statement by the persons providing the statement, including whether that takes place after the statement is taken; and
 - (k) the procedure for transmitting the statement by the requested authority to the requesting authority, including the format and timing.
2. The requested authority and the requesting authority shall ensure that arrangements are in place for their staff to proceed efficiently, including arrangements to enable their staff to agree on any additional information that may be necessary, including the following:
- (a) planning of dates;
 - (b) the list of questions to be asked to the person from whom the statement is to be taken;
 - (c) travelling arrangements, including ensuring that the requested authority and the requesting authority are able to meet to discuss the matter prior to the taking of the statement; and
 - (d) language arrangements.

Article 8

Procedure for requests for an investigation or on-site inspection

1. When a request to carry out an investigation or an on-site inspection is made pursuant to Article 25(6) of Regulation (EU) No 596/2014, the requesting authority and the requested authority shall consult each other on the best way to give useful effect to the request for assistance, taking into account points (a) to (e) of the third paragraph of Article 25(6) of Regulation (EU) No 596/2014, including on the merits of conducting a joint investigation or a joint on-site inspection.
2. The requested authority shall keep the requesting authority informed of the progress of the investigation or on-site inspection and will transmit its findings in good time to the requesting authority.
3. In deciding on whether to initiate a joint investigation or a joint on-site inspection, the requesting authority and the requested authority shall take into account at least the following:
- (a) the contents of any requests for assistance received from the requesting authority including any suggestion on the appropriateness to carry out an investigation or an on-site inspection jointly;
 - (b) whether they are separately conducting their own inquiries into a matter with cross-border implications and whether that matter would be more suitable for joint collaboration;
 - (c) the legal and regulatory framework in each of their jurisdictions, ensuring that both authorities have a good understanding of the potential constraints and legal limitations on the conduct of any joint investigation or joint on-site inspection and on any proceedings that may follow, including any issues relating to the principle of *ne bis in idem*;
 - (d) the management and direction needed for the investigation or on-site inspection;
 - (e) the likely prospects that they will agree on the finding of facts;

- (f) the allocation of resources and appointment of staff in charge of carrying out investigations or on-site inspections;
- (g) the possibility to establish a joint action plan and the timing of work by each authority;
- (h) the determination of actions to be taken, jointly or individually, by each authority;
- (i) mutual sharing of information gathered and reporting on the outcomes of the individual actions taken; and
- (j) other case specific issues.

4. Where the requesting authority and the requested authority decide to carry out a joint investigation or a joint on-site inspection, they shall:

- (a) agree on procedures for its conduct and conclusion;
- (b) engage in an ongoing dialogue to coordinate the information gathering process and the finding of facts;
- (c) work closely and cooperate with each other on the conduct of the joint investigation or the joint on-site inspection;
- (d) provide mutual assistance on subsequent enforcement proceedings to the extent legally permitted, including coordinating any proceedings or other enforcement action related to the outcome (whether administrative, civil or criminal) of the joint investigation or the joint on-site inspection or, where appropriate, the prospects of a settlement;
- (e) identify the specific legal provisions which govern the subject matter of the joint investigation or of the joint on-site inspection;
- (f) where relevant, consider at least the following:
 - (1) the drawing up of a joint action plan specifying, among others, the substance, nature and timing of the actions to be taken, and including milestones and the allocation of responsibilities in delivering the outcome of the work and taking into account each authority's respective priorities;
 - (2) the identification and assessment of any legal limitations or constraints and any differences in procedures with respect to investigative or enforcement action or any other proceedings, including the rights of any person subject to investigation;
 - (3) the identification and assessment of specific legal professional privileges that may have an impact on the investigation proceedings as well as the enforcement proceedings, including self-incrimination;
 - (4) the public and press strategy; and
 - (5) the intended use of information exchanged.

Article 9

Procedures for assistance in recovery of pecuniary sanctions

1. The requesting authority and the requested authority shall consult each other when a request for assistance in the recovery of pecuniary sanctions is made pursuant Article 25(6) of Regulation (EU) No 596/2014 on the best way to give useful effect to the request. The authorities shall take into account the actions already taken by the requesting authority in its jurisdiction and the national framework on the recovery of sanctions of the requested authority.

2. The requested authority shall provide the assistance or make available any information, requested for the purposes of this Article in accordance with relevant national law. Where the requested assistance may be provided by or the information may be available to another authority or relevant body of the Member State of the requested authority, the requested authority shall offer to provide the requesting authority with the necessary information to establish direct contact between the requesting authority and the other authority or body from whom the requested information might be available, in accordance with national law.

*Article 10***Unsolicited exchange of information**

1. For the purposes of transmitting unsolicited information under Article 16(4) and Article 25(5) of Regulation (EU) No 596/2014, or where a competent authority has information that it believes would assist another competent authority in carrying out its duties under Regulation (EU) No 596/2014, it shall transmit such information in writing by post, fax or secure electronic means, to the contact point of the competent authority designated pursuant to Article 2.
2. Where the competent authority sending the information believes the information should be transmitted urgently, it may inform the other authority verbally, provided that a subsequent transmission is made in writing without undue delay.
3. A competent authority that sends information on an unsolicited basis shall do so using the form set out in Annex IV, identifying in particular issues relating to the confidentiality of information.

*Article 11***Restrictions and permissible uses of information**

1. The requesting authority and the requested authority shall include an appropriate confidentiality warning in any request for assistance, reply to a request for assistance or transmission of unsolicited information in accordance with the forms set out in the Annexes.
2. Where, in order to execute the request, the requested authority is required to disclose the fact that the requesting authority has made a request, the requested authority shall disclose it after having discussed the nature and extent of the disclosure required with the requesting authority and after having obtained its consent to such disclosure. Where the requesting authority does not provide its consent to the disclosure, the requested authority shall not act upon the request, and the requesting authority may withdraw or suspend its request until it is able to provide such consent to disclosure.
3. Information provided in accordance with Article 10 shall be used solely for the purposes of securing compliance with or enforcement of the provisions of Regulation (EU) No 596/2014, including, but not limited to, initiating, conducting or assisting in criminal, administrative, civil or disciplinary proceedings resulting from a breach of the provisions of that Regulation.

*Article 12***Entry into force and application**

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, 26 February 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

Form for a request for assistance

Request for assistance

Reference number:

Date:

Annexes: *[Specify the number of documents/supporting documents attached]***General information****FROM:**

Member State:

Requesting Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292, or the person designated as contact point for dealing with this request and identified below]

Name:

Telephone:

Email:

TO:

Member State:

Requested Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292]

Name:

Telephone:

Email:

Dear *[Insert appropriate name]*

In accordance with Article 3 of Commission Implementing Regulation (EU) 2018/292, your assistance is sought in relation to the matter(s) set out in further detail below.

I would be grateful for the above assistance by *[Insert indicative date for the reply and in case of an urgent request insert deadline for the information to be provided by]* or, if that is not possible, for an indication as to when you anticipate being in a position to provide the assistance which is sought.

Type of request for assistance

Please tick the appropriate box(es)

- 1. Provision of information
- 2. Taking of a statement
- 3. Opening of an investigation
- 4. On-site inspection
- 5. On recovery of sanctions
- 6. Other type of assistance

(e.g. freezing or sequestration of assets, authorisation for other use or onward disclosure...)

Reasons for the request for assistance

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.....

.....

[Insert provision(s) of the sectoral legislation under which the requesting authority is competent to deal with the matter]

The request concerns assistance in

.....

.....

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.....

.....

[Insert description of the subject matter of the request, the purpose for which the assistance is sought, facts relating to the investigation as contextual information for the request and explanation for its helpfulness for fulfilling its duties]

Further to

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.....

.....

[If applicable, insert details of the previous request in order to enable it to be identified]

1. Provision of information

(a) Please provide a detailed description of the specific information sought with reasons why that information will be of assistance and, if known, a list of the persons considered possessing the information sought or the places where such information may be obtained.

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(b) If the request concerns information relating to a transaction or order in a specific financial instrument, please provide the following information.

Product ID:

[Insert precise description of the financial instrument, including any applicable identification standard code such as the ISIN code or the AIF]

Person ID:

[Insert the identity of any person connected with the transaction or order, including a person dealing in the financial instrument or on whose behalf the dealing is considered to have taken place, and any applicable identification code, such as LEI code or client Id code under Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012]

Dates:

[Insert the dates between which transactions or orders in those financial instruments took place including in the case of a significant period of time, reasons why the entirety of the time period is beneficial]

(c) If the request concerns information relating to the business or activities of a person, please provide information as precise as possible to enable that person to be identified.

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(d) If there are special considerations on the sensitivity of the information sought, please provide an indication of the sensitivity of the information contained in the request and any special precautions that have to be taken in collecting the information due to investigatory considerations.

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(e) Please provide any additional information.

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[Whether the requesting authority has been or will be in contact with any other authority or law enforcement agency in the Member State of the requested authority in relation to the subject matter of the request or any other authority which the requesting authority is aware that has an active interest in the subject matter of the request]

(f) In case of an urgent request and the setting of any deadlines, please provide full explanation of the urgency of the request and an explanation of any deadlines that the requesting authority has asked for the information to be provided by.

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2. Taking of a statement

Please indicate:

(a) Nature of the statement sought:

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.....

[Insert indication of preference, if any, as to the nature of the statement sought, e.g. affirmation or other legal instructions; on a voluntary or compelled basis if applicable]

(b) Need and purpose of the taking of a statement:

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.....
.....

(c) Name of person(s) from whom the statement is to be obtained:

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.....
.....

[Insert details of the persons from which the statement will be taken, including where relevant the person's position and the company, to enable the requested authority to begin organising the taking of the statement including the summoning process where applicable]

(d) Detailed description of the information sought, including a preliminary list of questions (if available at the time of the request).

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(e) Any additional information which may be useful:

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[Whether the requesting authority's staff is requesting participation in the taking of the statement, details of the participating officials of the requesting authority, where appropriate, description of any legal and procedural requirements that must be complied with to ensure the admissibility of statements made in the interview in the jurisdiction of the requesting's authority]

3. The opening of an investigation or a joint-investigation

If the request concerns the opening of an investigation on behalf of the requesting authority, please provide information to enable the requested authority to assess whether it may have an interest in entering into a joint investigation, including the requesting authority's proposal for the investigation, its reasoning and the perceived benefits to the requested authority.

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[Including all relevant information required by the requested authority to enable the latter to provide the necessary assistance by opening an investigation or a joint investigation, as appropriate]

4. The opening of an on-site inspection or a joint inspection

If the request concerns the opening of an on-site inspection on behalf of the requesting authority, please provide information to enable the requested authority to assess whether it may have an interest in entering into a joint on-site inspection, including the requesting authority's proposal for the inspection, its reasoning and the perceived benefits to the requested authority.

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[Including all relevant information required by the requested authority to enable the latter to provide the necessary assistance by opening an on-site inspection or a joint inspection, as appropriate]

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The information included in this request shall be kept confidential in accordance with Article 11 of Commission Implementing Regulation (EU) 2018/292 and Article 27 of Regulation (EU) No 596/2014. The requirements of Article 28 of Regulation (EU) No 596/2014 shall be observed with respect to any personal data included in this request.

Your contact for any queries you might have in relation to any aspects of this request is *[Insert relevant contact name and contact details: telephone, email]*

Yours sincerely,

[Name and signature]

ANNEX II

Form for the acknowledgment of receipt of a request for assistance

Acknowledgment of receipt of a request for assistance

Reference number:

Date:

FROM:

Member State:

Requested Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292, or the person designated as contact point for dealing with this request and identified below]

Name:

Telephone:

Email:

TO:

Member State:

Requesting Authority:

Legal address:

[Insert the contact details of the designated contact point under Article 2 of Commission Implementing Regulation (EU) 2018/292 unless otherwise specified by the requesting authority]

Name:

Telephone:

Email:

Dear *[Insert appropriate name]*

In accordance with Article 4 of Commission Implementing Regulation (EU) 2018/292, we hereby acknowledge receipt of your request for assistance with reference *[Insert request reference number]* on *[Insert date]*.

The relevant person(s) within *[Insert name of the requested authority]* dealing with your request is *[Insert name, telephone, email]*.

Estimated date of response:

Yours sincerely,

[Name and signature]

ANNEX III

Form for the reply to a request for assistance

Reply to a request for assistance

Reference number:

Date:

Annexes: *[Specify the number of documents/supporting documents attached]*

General information

FROM:

Member State:

Requested Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292, or the person designated as contact point for dealing with this request and identified below]

Name:

Telephone:

Email:

TO:

Member State:

Requesting Authority:

Legal address:

[Insert the contact details of the designated contact point under Article 2 of Commission Implementing Regulation (EU) 2018/292 unless otherwise specified by the requesting authority]

Name:

Telephone:

Email:

Dear *[Insert appropriate name]*

In accordance with Article 5 of Commission Implementing Regulation (EU) 2018/292, your request dated *[dd.mm.yyyy]* with reference *[Insert request reference number]* has been processed by us.

Information gathered

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[If the information has been gathered, please set out the information here or provide an explanation of how it will be provided]

The information provided is confidential and is disclosed to *[Insert name of the requesting authority]* pursuant to the *[Insert provision of the applicable sectoral legislation]* and on the basis that the information shall remain confidential in accordance with Article 11 of Commission Implementing Regulation (EU) 2018/292 and Article 27 of Regulation (EU) No 596/2014.

The *[Insert name of the requesting authority]* shall observe the requirements of the Article 11 of Commission Implementing Regulation (EU) 2018/292 with respect to the permissible uses of that information, and of Article 28 of Regulation (EU) No 596/2014 with respect to personal data processing and transfer.

If the *[Insert name of the requesting authority]* intends to use or disclose information provided in this reply for a purpose different than the one stated in the request but falling under the scope of Regulation (EU) No 596/2014, *[Insert name of the requesting authority]* shall notify *[Insert name of the requested authority]* which has 10 working days to object to such use or disclosure on the grounds referred to in Article 25(2) of Regulation (EU) No 596/2014.

If the *[Insert name of the requesting authority]* intends to use or disclose information provided in this reply for any purpose outside the scope of Regulation (EU) No 596/2014, it shall notify *[Insert name of the requested authority]* and, unless the exception referred to in Article 27(3) of Regulation (EU) No 596/2014 applies, shall obtain the prior consent of *[Insert name of the requested authority]*. If *[Insert name of the requested authority]* consents to such a use or disclosure of the information, it may subject it to certain conditions.

Yours sincerely,

[Name and signature]

ANNEX IV

Form for the provision of unsolicited assistance

Unsolicited assistance

Reference number:

Date:

Annexes: *[Specify the number of documents/supporting documents attached]*

General information

FROM:

Member State:

Transmitting Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292]

Name:

Telephone:

Email:

TO:

Member State:

Recipient Authority:

Legal address:

[Insert the contact details of the contact point designated pursuant to Article 2 of Commission Implementing Regulation (EU) 2018/292]

Name:

Telephone:

Email:

Dear *[Insert appropriate name]*

In accordance with Article 10 of Commission Implementing Regulation (EU) 2018/292, we are providing the following information we believe may be of assistance in carrying out your duties.

Information provided

.....
.....
.....
.....
.....

[Please set out the details of the information here, including if relevant a description of any supporting documents or material attached]

The information provided is confidential and is disclosed to *[Insert name of the competent authority receiving the unsolicited information]* pursuant to Article 25 of Regulation (EU) No 596/2014 and on the basis that the information shall remain confidential in accordance with Article 11 of Commission Implementing Regulation (EU) 2018/292 and Article 27 of Regulation (EU) No 596/2014.

The *[Insert name of the competent authority receiving the unsolicited information]* shall observe the requirements of the Article 11 of Commission Implementing Regulation (EU) 2018/292 with respect to the permissible uses of that information, and of Article 28 of Regulation (EU) No 596/2014 with respect to personal data processing and transfer.

If the *[Insert name of the competent authority receiving the unsolicited information]* intends to use or disclose the information received for purposes different than those stated in Article 11(3) of Commission Implementing Regulation (EU) 2018/292, it shall notify *[Insert name of the competent authority providing the unsolicited information]* and, unless the exception referred to in Article 27(3) of Regulation (EU) No 596/2014 applies, shall obtain the prior consent of *[Insert name of the competent authority providing the unsolicited information]*. If *[Insert name of the competent authority providing the unsolicited information]* consents to such a use or disclosure of the information, it may subject it to certain conditions.

Yours sincerely,

[Name and signature]

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'

ANNEX III

'ANNEX VI

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

COUNCIL DECISION (CFSP) 2018/294**of 26 February 2018****amending Decision (CFSP) 2015/259 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1), in conjunction with Article 31(1) thereof,

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

Whereas:

- (1) On 17 February 2015, the Council adopted Decision (CFSP) 2015/259 ⁽¹⁾.
- (2) Decision (CFSP) 2015/259 provides for an implementation period for the activities referred to in Article 1(2) of that Decision of 36 months after the date of the conclusion of the financial agreement referred to in Article 3(3) of that Decision.
- (3) On 17 January 2018, the implementing entity (the 'OPCW Technical Secretariat') requested the authorisation of the Union to extend the implementation period of Decision (CFSP) 2015/259 for 9 months to allow for the continuation of the implementation of the activities beyond the expiry date referred to in Article 5(2) of that Decision.
- (4) The requested amendment of Decision (CFSP) 2015/259 concerns Article 5(2) and the Annex thereto, in particular regarding the descriptions of certain Project activities that should be modified.
- (5) The continuation of the activities referred to in Article 1(2) of Decision (CFSP) 2015/259, as specifically quoted in the request made by the OPCW Technical Secretariat on 17 January 2018, is possible without any resource implication.
- (6) Decision (CFSP) 2015/259 should therefore be amended to enable the continued implementation of the activities provided for therein by extending its duration accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2015/259 is hereby amended as follows:

- (1) In Article 5, paragraph 2 is replaced by the following:

'2. It shall expire 45 months after the date of the conclusion of the financing agreement referred to in Article 3(3).'

- (2) In the Annex, under the heading 'Project I — National implementation and Verification', subheading 'Activities' the last sentence in the description of the activity '1. Regional Training Course for Customs Authorities of State Parties on Technical Aspects of the CWC's Transfers' Regime' is replaced by the following:

'The training will be carried out by the Technical Secretariat's Implementation Support Branch, with technical expertise from the Declarations Branch, in the Africa region.'

- (3) In the Annex, under the heading 'Project I — National implementation and Verification', subheading 'Activities', the last two sentences in the description of the activity '10. Implementing the lessons arising from the Syria mission' are replaced by the following:

'In order to do this most effectively, it is proposed that the Secretariat hold an internal workshop to review and analyse the lessons learnt and to implement them as early as possible. The outcomes of this workshop should include identifying and implementation relevant training programmes as well as purchase recommended equipment as identified in the workshop.'

⁽¹⁾ Council Decision (CFSP) 2015/259 of 17 February 2015 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 43, 18.2.2015, p. 14).

- (4) In the Annex, under the heading 'Project V — Universality and outreach', subheading 'Activities', the first sentence in the description of the activity '2. Production of an OPCW exhibition' is replaced by the following:

'Production of a professional physical and online exhibition on the OPCW and CWC for use at relevant meetings, conferences, etc., in collaboration with science and peace museums.'

- (5) In the Annex, under the heading 'Project V — Universality and outreach', subheading 'Activities', the description of the activity '3. Youth outreach' is replaced by the following:

'Outreach aimed at young audiences (ages 15-25) to both raise awareness of the OPCW and the CWC and to engage youth in exploring opportunities for future careers in fields and sectors on the international level. This will involve outreach through video blogging and the development of communication materials targeting young audiences.'

- (6) In the Annex, under the heading 'Project V — Universality and outreach', subheading 'Activities', the description of the activity '4. Universality facilitation for non-State Parties to join the CWC' is replaced by the following:

'With few States not Party to the CWC, and in order to promote adherence to the CWC as a state's commitment to disarmament and international co-operation, the OPCW Technical Secretariat will focus on bilateral and outreach meetings with States not Party and sponsorship of participants from States not Party to the CWC to take part in OPCW events.'

- (7) In the Annex, under the heading 'Project V — Universality and outreach', subheading 'Activities', the last sentence of description of the activity '5. Support for NGO participation in OPCW activities' is replaced by the following:

'This proposal will provide basic travel and lodging support for NGO representatives from States with developing economies or economies in transition to attend each of the Conferences of State Parties in 2015, 2016, 2017 and 2018.'

- (8) In the Annex, under the heading, 'Project VI — Africa Programme', subheading 'Activities', the description of the activity '4. Synergies and Partnerships for effective implementation' is replaced by the following:

'The activity aims at strengthening the CWC National Authorities' abilities to reach out to national stakeholders, and at promoting the engagement of the stakeholder agencies/bodies in supporting the implementation of the CWC. These are national industry associations, regional/subregional organisations, customs training institutions, laboratories and academic institutions. The activity will facilitate sharing of practices amongst States Parties from the Africa region and encourage State-to-State support. Participants from African States Parties will be sponsored to take part in a meeting of National Authorities at OPCW HQ in The Hague.'

- (9) In the Annex, under the heading, 'Project VI — Africa Programme', subheading 'Activities', the last sentence in the description of the activity '5. Analytical skills development courses' is replaced by the following:

'The courses are implemented with the support of Verifin, a renowned institution selected through a transparent tender process, with which OPCW has entered into a 5-year agreement, and with the support of the National Institute for Research-Physical and Chemical Analysis (INRAP) of Tunisia.'

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 26 February 2018.

For the Council
The President
F. MOGHERINI

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