Council Regulation (EU) 2017/1548 of 14 September 2017 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea

COUNCIL REGULATION (EU) 2017/1548

of 14 September 2017

amending 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 5 August 2017, the United Nations Security Council ('UNSC') adopted Resolution 2371 (2017) ('UNSCR 2371 (2017)') in which it expressed the gravest concern at the ballistic missile tests by the Democratic People's Republic of Korea ('DPRK') on 3 and 28 July 2017. The UNSC reaffirmed that the proliferation of nuclear, chemical and biological weapons constitutes a threat to international peace and security, and imposed new measures against the DPRK. Those measures further reinforce the restrictive measures imposed by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016) and 2356 (2017). Among others, the UNSC imposed new prohibitions with regard to exports of seafood, lead and lead ore from the DPRK, and strengthened the existing measures with regard to transportation, trade in coal and iron and the creation of joint ventures with DPRK persons.

(3) Council Decision (CFSP) 2017/1562[(3)] amended Decision (CFSP) 2016/849 in order to give effect to the new measures imposed by UNSCR 2371 (2017).

(4) Those measures fall within the scope of the Treaty and, in particular with a view to ensuring their uniform application by economic operators in all Member States, regulatory action at the level of the Union is necessary.

(5) Regulation (EU) 2017/1509 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2017/1548. (See end of Document for details)*

Article 1

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

(1) in Article 3(2), after the fifth subparagraph the following subparagraphs are inserted:

Part VI of Annex II shall include weapons of mass destruction-related items, materials, equipment, goods and technology designated pursuant to paragraph 4 of UNSCR 2371 (2017).

Part VII of Annex II shall include weapons of mass destruction-related items, materials, equipment, goods and technology designated pursuant to paragraph 5 of UNSCR 2371 (2017).;

(2) in Article 4, paragraph 2 is replaced by the following:

2. By way of derogation from point (e) of Article 3(1), the competent authorities of the Member States may authorise the import, purchase or transfer of coal provided that the competent authorities of the Member States have determined on the basis of credible information that the shipment originated outside of the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason), that the exporting state has notified the Sanctions Committee in advance of such transactions, and that the transactions are unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes and other activities prohibited by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017) or 2371 (2017), or by this Regulation.;

(3) the following Articles are inserted:

Article 16a

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.

Article 16b

It shall be prohibited to import, purchase or transfer, directly or indirectly, lead and lead ore, as listed in Annex XIb, from the DPRK, whether or not originating in the DPRK.;

(4) in Article 17(2), point (a) is replaced by the following:

(a) to establish a joint venture or a cooperative entity with, or take or extend an ownership interest, including by acquisition in full or the acquisition of shares and other securities of a participatory nature in any natural or legal person, entity or body referred to in paragraph 1;;

(5) the following Article is inserted:

Article 17a

By way of derogation from point (a) of Article 17(2), the competent authorities of the Member States may authorise activities referred to in that point, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.;

(6) in Article 21, paragraph 1 is replaced by the following:

1. It shall be prohibited to transfer funds, including clearing of funds, to and from the DPRK.;

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EU) 2017/1548. (See end of Document for details)*

(7) in Article 23, the introductory sentence of paragraph 1 is replaced by the following:

1. Credit and financial institutions shall, in their activities, including the clearing of funds, with credit and financial institutions referred to in Article 21(2):;

(8) in Article 40, paragraph 2 is replaced by the following:

2. By way of derogation from the prohibition in Article 39(1), where that concerns a vessel within the scope of point (f), the competent authorities of the Member States may authorise that vessel to come into port if the Sanctions Committee has so directed.

3 By way of derogation from the prohibition in Article 39(1), where that concerns a vessel within the scope of point (g), the competent authorities of the Member States may authorise that vessel to come into port if the Sanctions Committee has determined in advance that such entry is required for humanitarian purposes or any other purposes consistent with the objectives of UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), or 2371 (2017).;

(9) in Article 43, point (c) is replaced by the following:

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

(10) in Article 44, paragraph 2 is replaced by the following:

2. By way of derogation from the prohibitions in points (b) and (c) of Article 43, 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.;

(11) in point (b) of Article 46, the words ‘amend Parts II, III, IV and V of Annex II and Annexes VI, VII, IX, X and XI’ are replaced by the words ‘amend Parts II, III, IV, V, VI and VII of Annex II and Annexes VI, VII, IX, X, XI, XIa and XIb’;

(12) the text in Annex I to this Regulation is added as Parts VI and VII of Annex II to Regulation (EU) 2017/1509;

(13) the text in Annexes II and III to this Regulation is added, respectively, as Annexes XIa and XIb to Regulation (EU) 2017/1509.

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.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2017/1548. (See end of Document for details)*

Done at Brussels, 14 September 2017.

For the Council

The President

A. ANVELT