Council Regulation (EU) 2017/658 of 6 April 2017 amending Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea

COUNCIL REGULATION (EU) 2017/658

of 6 April 2017

amending Regulation (EC) No 329/2007 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 from the High Representative of the Union for Foreign Affairs and Security Policy and from the European Commission,

Whereas:

(1) Council Regulation (EC) No 329/2007[(2)] gives effect to measures provided for in Decision (CFSP) 2016/849 repealing and replacing Decision 2013/183/CFSP.

(2) Council Decision (CFSP) 2017/666[(3)] further expands the ban on EU investment in and with North Korea to the conventional arms-related industry, metallurgy, metalworking and aerospace sectors, and bans the provision of certain services to entities and citizens inside North Korea.

(3) Regulation (EC) No 329/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 329/2007 is amended as follows:

(1) in Article 1, the following point is added:

16. “Services incidental to” means services rendered on a fee or contract basis by units mainly engaged in the production of transportable goods, as well as services typically related to the production of such goods.;

(2) the following Article is inserted:

Article 3c

1 It shall be prohibited:

a to provide, directly or indirectly, any services incidental to mining or any services incidental to manufacturing in the chemical, mining and refining

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industry, that are referred to in part A of Annex VIII, to any natural or legal person, entity or body in, or for use in, North Korea; and

b to provide, directly or indirectly, computer and related services as referred to in part B of Annex VIII, to any natural or legal person, entity or body in, or for use in, North Korea.

2 By way of derogation from paragraph 1(a), the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise the provision of services incidental to mining and the provision of services incidental to manufacturing in the chemical, mining and refining industry, insofar as such services are intended to be used exclusively for development purposes that directly address the needs of the civilian population or the promotion of denuclearisation.

3 The prohibition in paragraph 1(b) shall not apply with respect to computer and related services, insofar as such services are intended to be used exclusively for the official purposes of a diplomatic or consular mission or international organisation enjoying immunities in North Korea in accordance with international law.

4 The prohibition in paragraph 1(b) shall not apply with respect to the provision of computer and related services by public bodies or by legal persons, entities or bodies that receive public funding from the Union or Member States to provide these services for development purposes that directly address the needs of the civilian population or the promotion of denuclearisation.

5 In cases not covered by paragraph 4, and by way of derogation from paragraph 1(b), the competent authorities of the Member States, as indicated on the websites listed in Annex II, may authorise the provision of computer and related services, insofar as those services are intended to be used exclusively for development purposes that directly address the needs of the civilian population or the promotion of denuclearisation.

6 The prohibitions in paragraph 1 shall not apply to the provision of services until 9 July 2017, due under contracts, agreements or obligations that were concluded or arose prior to 8 April 2017.;

(3) in Article 5b, paragraph 2 is replaced by the following:

2. It shall be prohibited to:

a establish a joint venture with or take or extend any ownership interest, including by acquisition in full or the acquisition of shares or other securities of a participatory nature, in any legal person, entity or body referred to in points (a) to (f) of paragraph 1 that is engaged in North Korea's nuclear-related, ballistic-missile-related or other weapons-of-mass-destruction-related activities or programmes, or in activities in the sectors of mining, refining, chemical, metallurgy and metalworking, and aerospace or conventional arms-related industries;

b grant financing or financial assistance to any legal person, entity or body referred to in points (d) to (f) of paragraph 1 or grant financing or financial assistance for the documented purpose of financing such legal persons, entities or bodies;

c provide investment services that are directly or indirectly related to the activities referred to in points (a) and (b) of this paragraph.;

(4) in Article 13(1), the following point is inserted:

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(h) amend Annex VIII in order to refine or adapt the list of goods included therein, taking into account information provided by Member States as well as any definition or guidelines that may be issued by the United Nations Statistical Commission, or in order to add reference numbers taken from the Central Product Classification system for goods and services promulgated by the United Nations Statistical Commission..

Article 2

The Annex to this Regulation is added to Regulation (EC) No 329/2007 as Annex VIII.

Article 3

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, 6 April 2017.

For the Council

The President

L. GRECH

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ANNEX

ANNEX VIII List of services referred to in Article 3c
NOTES:

1. Central Products Classification (CPC) codes are set out in Statistical Office of the United Nations, Statistical Papers, Series M, No. 77, Provisional Central Product Classification, 1991.

2. Only the parts of the CPC codes described below are covered by the prohibition.

Part A:

Services incidental to mining and manufacturing in the chemical, mining and refining industry:

Description of services	**Stemming from CPC Code**
Tunnelling, overburden removal and other development and preparation work of mineral properties and sites, except for mining oil and gas.	CPC 5115
Geological, geophysical, geochemical and other scientific consulting services as they relate to the location of mineral deposits, oil and gas and groundwater by studying the properties of the earth and rock formations and structures. Included here are the services of analysing the results of subsurface surveys, the study of earth sample and core, and assistance and advice in developing and extracting mineral resources.	CPC 86751
Gathering services of information on subsurface earth formations by different methods, including seismographic, gravimetric, magnetometric and other subsurface surveying methods.	CPC 86752
Gathering services of information on the shape, position and/or boundaries of a portion of the Earth's surface by different methods, including transit, photogrammetric and hydrographic surveying, for the purpose of preparing maps.	CPC 86753
Oil and gas field service activities provided on a fee or contract basis as follows: directional drilling and redrilling; “spudding in”; derrick building, repairing and dismantling; cementing oil and gas well casings; pumping wells and plugging and abandoning wells.	CPC 8830
Manufacture of coke — operation of coke ovens chiefly for the production of coke or	CPC 8845