

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

CHAPTER I

**Definitions**

*Article 1*

This Regulation shall apply:

- (a) within the territory of the Union;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body, inside or outside the territory of the Union which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

*Article 2*

For the purposes of this Regulation, the following definitions apply:

- (1) ‘branch’ of a financial or credit institution means a place of business which forms a legally dependent part of a financial or credit institution and which carries out directly all or some of the transactions inherent in the business of financial or credit institutions;
- (2) ‘brokering services’ means:
  - (a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country; or
  - (b) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country;
- (3) ‘claim’ means any claim, whether asserted by legal proceedings or not under or in connection with a contract or transaction, and includes in particular:
  - (a) a claim for performance of any obligation arising under or in connection with a contract or transaction;
  - (b) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
  - (c) a claim for compensation in respect of a contract or transaction;
  - (d) a counterclaim;

- (e) a claim for the recognition or enforcement, including by the procedure of exequatur, of a judgment, an arbitration award or an equivalent decision, wherever made or given;
- (4) ‘competent authorities’ refers to the competent authorities as identified on the websites listed in Annex I;
- (5) ‘contract or transaction’ means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for this purpose ‘contract’ includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;
- (6) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>(1)</sup>, including branches thereof, as defined in point (17) of Article 4(1) of that Regulation, located in the Union, whether its head office is situated within the Union or in a third country;
- (7) ‘diplomatic missions, consular posts and their members’ has the same meaning as in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, and also includes missions of the DPRK to international organisations hosted in the Member States and DPRK members of those missions;
- (8) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, which are not funds but can be used to obtain funds, goods or services, including vessels, such as maritime vessels;
- (9) ‘financial institution’ means
  - (a) an undertaking, other than a credit institution, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of Annex I to Directive 2013/36/EU of the European Parliament and of the Council<sup>(2)</sup>, including the activities of currency exchange offices (bureaux de change);
  - (b) an insurance undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council<sup>(3)</sup>, insofar as it carries out life assurance activities covered by that Directive;
  - (c) an investment firm as defined in point (1) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council<sup>(4)</sup>;
  - (d) a collective investment undertaking marketing its units or shares;
  - (e) an insurance intermediary as defined in point (5) of Article 2 of Directive 2002/92/EC of the European Parliament and of the Council<sup>(5)</sup> where it acts with respect to life insurance and other investment-related services, with the exception of a tied insurance intermediary as defined in point (7) of that Article;
  - (f) branches, when located in the Union, of financial institutions as referred to in points (a) to (e), whether their head office is situated in a Member State or in a third country;

- (10) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
- (11) ‘freezing of funds’ means preventing any moving, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management;
- (12) ‘funds’ means financial assets and benefits of every kind, including but not limited to:
- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
  - (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
  - (c) publicly and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
  - (d) interest, dividends or other income on or value accruing from or generated by assets;
  - (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
  - (f) letters of credit, bills of lading, bills of sale;
  - (g) documents evidencing an interest in funds or financial resources;
- (13) ‘insurance’ means an undertaking or commitment whereby one or more natural or legal persons are obliged, in return for a payment, to provide one or more other persons, in the event of the materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment;
- (14) ‘investment services’ means the following services and activities:
- (a) reception and transmission of orders in relation to one or more financial instruments;
  - (b) execution of orders on behalf of clients;
  - (c) dealing on own account;
  - (d) portfolio management;
  - (e) investment advice;
  - (f) underwriting of financial instruments and/or placing of financial instruments on a firm-commitment basis;
  - (g) placing of financial instruments without a firm-commitment basis;
  - (h) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility;
- (15) ‘payee’ means a natural or legal person who is the intended recipient of the transfer of funds;

- (16) ‘payer’ means a person who holds a payment account and allows a transfer of funds from that payment account, or, where there is no payment account, that gives a transfer-of-funds order;
- (17) ‘payment service provider’ means the categories of payment service provider referred to in Article 1(1) of Directive 2007/64/EC of the European Parliament and of the Council<sup>(6)</sup>, natural or legal persons benefiting from a waiver pursuant to Article 26 of Directive 2007/64/EC and legal persons benefiting from a waiver pursuant to Article 9 of Directive 2009/110/EC of the European Parliament and of the Council<sup>(7)</sup>, providing transfer-of-funds services;
- (18) ‘reinsurance’ means the activity consisting in accepting risks ceded by an insurance undertaking or by another reinsurance undertaking or, in the case of the association of underwriters known as Lloyd’s, the activity consisting in accepting risks, ceded by any member of Lloyd’s, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd’s;
- (19) ‘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;
- (20) ‘shipowner’ means the registered owner of a seagoing ship, or any other person such as the bareboat charterer who is responsible for the operation of the ship;
- (21) ‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance;
- (22) ‘territory of the Union’ means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace;
- (23) ‘transfer of funds’ means:
- (a) any transaction at least partially carried out by electronic means on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person and irrespective of whether the payment service provider of the payer and that of the payee are one and the same, including:
- (i) a credit transfer as defined in point (1) of Article 2 of Regulation (EU) No 260/2012 of the European Parliament and of the Council<sup>(8)</sup>;
- (ii) a direct debit as defined in point (2) of Article 2 of Regulation (EU) No 260/2012;
- (iii) a money remittance as defined in point (13) of Article 4 of Directive 2007/64/EC, whether national or cross border;
- (iv) a transfer carried out using a payment card, an electronic money instrument, or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics; and

- (b) any transaction by non-electronic means, such as in cash, cheques or accountancy orders, with a view to making funds available to a payee irrespective of whether the payer and the payee are the same person.
- (24) ‘a vessel crewed by the DPRK’ means:
- (a) a vessel whose manning is controlled by:
    - (i) a natural person of DPRK nationality; or
    - (ii) a legal person, entity or body incorporated or constituted under the law of the DPRK;
  - (b) a vessel entirely manned by DPRK nationals.

## CHAPTER II

### Export and import restrictions

#### *Article 3*

- 1 It shall be prohibited:
- a to sell, supply, transfer or export, directly or indirectly, the goods and technology, including software, listed in Annex II, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in the DPRK;
  - b to sell, supply, transfer or export aviation fuel, directly or indirectly, as listed in Annex III to the DPRK or transport to DPRK aviation fuel on board the flag vessels or aircraft of Member States, whether or not originating in the territories of Member States;
  - c to import, purchase or transfer, directly or indirectly, the goods and technology listed in Annex II from the DPRK, whether or not originating in the DPRK;
  - d to import, purchase or transfer, directly or indirectly, gold, titanium ore, vanadium ore and rare-earth minerals, as listed in Annex IV, from the DPRK, whether or not originating in the DPRK;
  - e to import, purchase or transfer, directly or indirectly, coal, iron and iron ore, as listed in Annex V, from the DPRK, whether or not originating in the DPRK;
  - f to import, purchase or transfer, directly or indirectly, from DPRK petroleum products, as listed in Annex VI, whether or not originating in the DPRK; and
  - g to import, purchase or transfer, directly or indirectly, copper, nickel, silver and zinc, as listed in Annex VII, from the DPRK, whether or not originating in the DPRK;
- 2 Part I of Annex II shall include all items, materials, equipment, goods and technology, including software, which are dual-use items or technology as defined in Annex I to Council Regulation (EC) No 428/2009<sup>(9)</sup>.

Part II of Annex II shall include other items, materials, equipment, goods and technology which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes.

Part III of Annex II shall include certain key components for the ballistic-missile sector.

Part IV of Annex II shall include weapons of mass destruction-related items, materials, equipment, goods and technology designated, pursuant to paragraph 25 of UNSCR 2270 (2016).

Part V of Annex II shall include weapons of mass destruction-related items, materials, equipment, goods and technology designated, pursuant to paragraph 4 of UNSCR 2321 (2016).

Annex III shall include the aviation fuel referred to in point (b) of paragraph 1.

Annex IV shall include the gold, titanium ore, vanadium ore and rare-earth minerals, referred to in point (d) of paragraph 1.

Annex V shall include the coal, iron and iron ore, referred to in point (e) of paragraph 1.

Annex VI shall include the petroleum products referred to in point (f) of paragraph 1.

Annex VII shall include the copper, nickel, silver and zinc, referred to in point (g) of paragraph 1.

3 The prohibition referred to in point (b) of paragraph 1 shall not apply with respect to the sale or supply of aviation fuel to civilian passenger aircraft outside the DPRK exclusively for consumption during their flight to the DPRK and their return to the airport of origin.

#### *Article 4*

1 By way of derogation from point (b) of Article 3(1), the competent authorities of the Member States may authorise the sale, supply or transfer of aviation fuel, provided that the Member State has obtained the advance approval of the Sanctions Committee on an exceptional case-by-case basis for the transfer to the DPRK of such products for verified essential humanitarian needs and subject to specified arrangements for effective monitoring of delivery and use.

2 By way of derogation from point (e) of Article 3(1), the competent authorities of the Member States may authorise:

- a 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 the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason), that the relevant Member 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-related, ballistic-missile-related or other weapons of mass destruction-related programmes and other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), or by this Regulation;
- b transactions in iron and iron ore that are determined to be exclusively for livelihood purposes and unrelated to generating revenue for the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes or other activities prohibited by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), or by this Regulation; and
- c transactions in coal that are determined to be exclusively for livelihood purposes provided that all of the following conditions are met:
  - (i) the transactions are unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016);
  - (ii) 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) or 2321 (2016), including the persons, entities and bodies listed

in Annex XIII, or individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, directly or indirectly, or individuals or entities assisting in the evasion of sanctions; and

- (iii) the Sanctions Committee has not notified the Member States that the aggregate annual limit has been reached.

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

#### *Article 5*

1 It shall be prohibited to sell, supply, transfer or export, directly or indirectly, to the DPRK any item, except food or medicine, if the exporter knows or has reasonable grounds to believe that:

- a the item is destined directly or indirectly for the DPRK's armed forces; or
- b the export of the item could support or enhance the operational capabilities of the armed forces of a State other than the DPRK.

2 It shall be prohibited to import, purchase or transport from DPRK items referred to in paragraph 1 if the importer or transporter knows or has reasonable grounds to believe that one of the grounds in point (a) or (b) of paragraph 1 is met.

#### *Article 6*

1 By way of derogation from Article 5, the competent authorities of the Member States may authorise the sale, supply, transfer or export of an item to the DPRK, or the import, purchase or transport of an item from the DPRK, where:

- a the item does not relate to the production, development, maintenance or use of military goods, or development or the maintenance of military personnel, and the competent authority has determined that the item would not directly contribute to the development of the operational capabilities of the DPRK's armed forces or to exports that support or enhance the operational capabilities of armed forces of a third country other than the DPRK;
- b the Sanctions Committee has determined that a particular supply, sale or transfer would not be contrary to the objectives of UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016); or
- c the competent authority of the Member State is satisfied that the activity is exclusively for either humanitarian or livelihood purposes which will not be used by DPRK persons, entities or bodies to generate revenue, and is not related to any activity prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), provided that the Member State notifies the Sanctions Committee in advance of such a determination and informs the Sanctions Committee of measures taken to prevent the diversion of the item for any prohibited purpose.

2 The Member State concerned shall notify the other Member States and the Commission of its intention to grant an authorisation under this Article at least one week prior to granting the authorisation.

#### *Article 7*

1 It shall be prohibited:

- a to provide, directly or indirectly, technical assistance and brokering services related to goods and technology listed in the EU Common List of Military Equipment or in Annex II, and related to the provision, manufacture, maintenance and use of goods listed in the

EU Common List of Military Equipment or in Annex II, to any natural or legal person, entity or body in, or for use in the DPRK;

- b to provide, directly or indirectly, financing or financial assistance related to goods and technology listed in the EU Common List of Military Equipment or in Annex II, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any natural or legal person, entity or body in, or for use in the DPRK;
- c to obtain, directly or indirectly, technical assistance related to goods and technology listed in the EU Common List of Military Equipment or in Annex II, and to the provision, manufacture, maintenance and use of goods listed in the EU Common List of Military Equipment or in Annex II from any natural or legal person, entity or body in, or for use in the DPRK;
- d to obtain, directly or indirectly, financing or financial assistance related to goods and technology listed in the EU Common List of Military Equipment or in Annex II, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance from any natural or legal person, entity or body in, or for use in, the DPRK.

2 The prohibitions set out in paragraph 1 shall not apply to non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for protective use of personnel of the Union and its Member States in the DPRK.

#### *Article 8*

1 By way of derogation from Article 3(1) and Article 7(1), the competent authorities of the Member States may authorise, under the terms and conditions they deem appropriate, the direct or indirect supply, sale, transfer or export of the items and technology, including software, referred to in point (a) and (b) of Article 3(1) or the assistance or brokering services referred to in Article 7(1), provided that the goods and technology, assistance or brokering services are for food, agricultural, medical or other humanitarian purposes.

2 By way of derogation from point (a) of Article 3(1) and points (a) and (b) of Article 7(1), the competent authorities of the Member States may authorise the transactions referred to therein under the conditions they deem appropriate and provided that the UNSC has approved the request.

3 The Member State concerned shall notify the other Member States and the Commission of any request for approval which it has submitted to the UNSC pursuant to paragraph 3.

4 The Member State concerned shall notify the other Member States and the Commission within four weeks of authorisations granted pursuant to this Article.

#### *Article 9*

1 In addition to the obligation to provide the competent customs authorities with the pre-arrival and pre-departure information as determined in the relevant provisions concerning entry and exit summary declarations as well as customs declarations in Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>(10)</sup>, in Commission Delegated Regulation (EU) 2015/2446<sup>(11)</sup> and in Commission Implementing Regulation (EU) 2015/2447<sup>(12)</sup>, the person who provides the information referred to in paragraph 2 shall declare whether the goods are covered by the EU Common List of Military Equipment or by this Regulation and, where their export is subject to authorisation, specify the goods and technology covered by the export licence granted.



2 The required additional information shall be submitted using an electronic customs declaration or, in the absence of such a declaration, in any other electronic or written form, as appropriate.

#### *Article 10*

1 It shall be prohibited:

- a to sell, supply, transfer or export, directly or indirectly, luxury goods as listed in Annex VIII, to the DPRK;
- b to import, purchase or transfer from the DPRK, directly or indirectly, luxury goods, as listed in Annex VIII, whether or not originating in the DPRK.

2 The prohibition referred to in point (b) of paragraph 1 shall not apply to travellers' personal effects or to goods of a non-commercial nature for travellers' personal use contained in their luggage.

3 The prohibitions referred to in paragraph 1 shall not apply to goods which are necessary for the official purposes of diplomatic or consular missions of Member States in the DPRK or of international organisations enjoying immunities in accordance with international law, or to the personal effects of their staff.

4 The competent authorities of the Member States may authorise, under the conditions they deem appropriate, a transaction with regard to goods referred to in point (17) of Annex VIII, provided that the goods are for humanitarian purposes.

#### *Article 11*

It shall be prohibited:

- (a) to sell, supply, transfer or export, directly or indirectly, gold, precious metals and diamonds as listed in Annex IX, whether or not originating in the Union, to or for the Government of the DPRK, its public bodies, corporations and agencies, the Central Bank of the DPRK and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them;
- (b) to import, purchase or transport, directly or indirectly, gold, precious metals and diamonds, as listed in Annex IX, whether or not originating in the DPRK, from the Government of the DPRK, its public bodies, corporations and agencies, the Central Bank of the DPRK and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them;
- (c) to provide, directly or indirectly, technical assistance or brokering services, financing or financial assistance, related to the goods referred to in points (a) and (b), to the Government of the DPRK, its public bodies, corporations and agencies, the Central Bank of the DPRK and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them.

#### *Article 12*

It shall be prohibited to sell, supply, transfer or export, directly or indirectly, newly printed or unissued DPRK denominated banknotes and minted coinage, to or for the benefit of the Central Bank of DPRK.

#### *Article 13*

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

#### *Article 14*

By way of derogation from the prohibition in Article 13, the competent authorities of the Member States may authorise the import, purchase or transfer, provided that the Member State concerned has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

#### *Article 15*

It shall be prohibited to sell, supply, transfer or export, directly or indirectly, helicopters and vessels, as listed in Annex XI, to the DPRK.

#### *Article 16*

By way of derogation from the prohibition in Article 15, the competent authorities of the Member States may authorise such a sale, supply, transfer or export, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

### CHAPTER III

#### **Restrictions on Certain Commercial Activities**

#### *Article 17*

1 It shall be prohibited, in the territory of the Union, to accept or approve investment in any commercial activity, where such investment is made by:

- a natural or legal persons, entities or bodies of the Government of the DPRK;
- b the Workers' Party of Korea;
- c nationals of the DPRK;
- d legal persons, entities or bodies incorporated or constituted under the law of the DPRK;
- e natural or legal persons, entities or bodies acting on behalf or at the direction of persons, entities or bodies referred to in (a) to (d); and
- f natural or legal persons, entities or bodies owned or controlled by the natural or legal persons, entities or bodies referred to in (a) to (d).

2 It shall be prohibited:

- a to establish a joint venture 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 engaged in the DPRK'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 to grant financing or financial assistance to any natural or legal person, entity or body referred to in points (d) to (f) of paragraph 1 or for the documented purpose of financing such natural or legal persons, entities or bodies;
- c to provide investment services directly or indirectly related to the activities referred to in points (a) and (b) of this paragraph; and
- d to participate directly or indirectly in joint ventures or in any other business arrangements with entities listed in Annex XIII, as well as with natural or legal persons, entities or bodies acting for or on their behalf or direction.

### *Article 18*

- 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 industry, that are referred to in part A of Annex XII, to any natural or legal person, entity or body in, or for use in, the DPRK; and
  - b to provide, directly or indirectly, computer and related services as referred to in part B of Annex XII, to any natural or legal person, entity or body in, or for use in, the DPRK.
- 2 The prohibition in point (b) of paragraph 1 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 an international organisation enjoying immunities in the DPRK in accordance with international law.
- 3 The prohibition in point (b) of paragraph 1 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.

### *Article 19*

- 1 By way of derogation from point (a) of Article 18(1), the competent authorities of the Member States may authorise the provision of services incidental to mining and the provision of services incidental to manufacturing in the chemical, mining and refining industries, 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.
- 2 In cases not covered by Article 18(3), and by way of derogation from point (b) of Article 18(1), the competent authorities of the Member States 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.

### *Article 20*

- 1 It shall be prohibited:
  - a to lease or otherwise make available real property, directly or indirectly, to persons, entities or bodies of the Government of the DPRK, for any purpose other than diplomatic or consular activities, pursuant to the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations;
  - b to lease real property, directly or indirectly, from persons, entities or bodies of the Government of the DPRK; and
  - c to engage in any activity linked to the use of real property that persons, entities or bodies of the Government of the DPRK own, lease or are otherwise entitled to use, except for the provision of goods and services which:
    - (i) are essential for the functioning of diplomatic missions or consular posts, pursuant to the 1961 and 1963 Vienna Conventions; and
    - (ii) cannot be used to generate income or profit, directly or indirectly, for the Government of the DPRK.
- 2 For the purposes of this Article ‘real property’ means land, buildings and parts thereof which are located outside the territory of the DPRK.

## CHAPTER IV

### Restrictions on Transfers of Funds and Financial Services

#### *Article 21*

- 1 It shall be prohibited to transfer funds to and from the DPRK.
- 2 It shall be prohibited for credit and financial institutions to enter into, or continue to participate in, any transactions with:
  - a credit and financial institutions domiciled in the DPRK;
  - b branches or subsidiaries falling within the scope of Article 1 of credit and financial institutions domiciled in the DPRK;
  - c branches or subsidiaries falling outside the scope of Article 1 of credit and financial institutions domiciled in the DPRK;
  - d credit and financial institutions that are not domiciled in the DPRK, that fall within the scope of Article 1 and that are controlled by persons, entities or bodies domiciled in the DPRK;
  - e credit and financial institutions that are not domiciled in DPRK or do not fall within the scope of Article 1, but are controlled by persons, entities or bodies domiciled in the DPRK.
- 3 The prohibitions in paragraphs 1 and 2 shall not apply to any transfer of funds or transaction which is necessary for the official purposes of a diplomatic or consular mission of a Member State in the DPRK or an international organisation enjoying immunities in DPRK in accordance with international law.
- 4 The prohibitions in paragraphs 1 and 2 shall not apply to any of the following transactions, provided that they involve a transfer of funds for amounts equal to or below EUR 15 000 or equivalent:
  - a transactions regarding foodstuffs, healthcare or medical equipment or for agricultural or humanitarian purposes;
  - b transactions regarding personal remittances;
  - c transactions regarding the execution of the exemptions provided for in this Regulation;
  - d transactions in connection with a specific trade contract not prohibited by this Regulation;
  - e transactions required exclusively for the implementation of projects funded by the Union or its Member States for development purposes directly addressing the needs of the civilian population or the promotion of denuclearisation; and
  - f transactions regarding a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such transactions are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

#### *Article 22*

- 1 By way of derogation from the prohibitions in Article 21(1) and (2), the competent authorities of the Member States may authorise the transactions mentioned in points (a) to (f) of Article 21(4) with a value above EUR 15 000 or equivalent.
- 2 The requirement for authorisation referred to in paragraph 1 shall apply regardless of whether the transfer of funds is executed in a single operation or in several operations which appear to be linked. For the purpose of this Regulation, 'operations which appear to be linked' includes:

- a a series of consecutive transfers from or to the same credit or financial institution within the scope of Article 21(2), to or from the same DPRK person, entity or body, which are made in connection with a single obligation to transfer funds, where each individual transfer falls below EUR 15 000 but which, in the aggregate, meet the criteria for authorisation; and
- b a chain of transfers involving different payment service providers, or natural or legal persons, which is related to a single obligation to make a transfer of funds.

3 The Member States shall notify each other and the Commission of any authorisation granted pursuant to paragraph 1.

4 By way of derogation from the prohibitions in Article 21(1) and (2), the competent authorities of the Member States may authorise transactions regarding payments to satisfy claims against the DPRK, its nationals or legal persons, entities or bodies incorporated or constituted under the law of the DPRK, and transactions of a similar nature that do not contribute to activities prohibited by this Regulation, on a case-by-case basis and if the Member State concerned has notified the other Members States and the Commission at least 10 days in advance of granting an authorisation.

#### *Article 23*

1 Credit and financial institutions shall, in their activities with credit and financial institutions referred to in Article 21(2):

- a apply customer due diligence measures established pursuant to Articles 13 and 14 of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>(13)</sup>;
- b ensure compliance with anti-money-laundering and counter-terrorist-financing procedures established pursuant to Directive (EU) 2015/849 and Regulation (EU) 2015/847 of the European Parliament and of the Council<sup>(14)</sup>;
- c require that information on payers as well as information on payees accompanying transfers of funds is provided as required by Regulation (EU) 2015/847 and refuse to process the transaction if any of this information is missing or incomplete;
- d maintain records of the transactions in accordance with point (b) of Article 40 of Directive (EU) 2015/849;
- e where there are reasonable grounds to suspect that funds could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes or activities ('proliferation financing'), promptly notify the competent Financial Intelligence Unit (FIU) as defined by Directive (EU) 2015/849, or any other competent authority designated by the Member State concerned, without prejudice to Article 7(1) or Article 33 of this Regulation;
- f promptly report any suspicious transactions, including attempted transactions;
- g refrain from carrying out transactions which they reasonably suspect could be related to proliferation financing until they have completed the necessary action in accordance with point (e) and have complied with any instructions from the relevant FIU or competent authority.

2 For the purposes of paragraph 1, the FIU, or any other competent authority serving as a national centre for receiving and analysing suspicious transactions, shall receive reports regarding potential proliferation financing and shall have access, directly or indirectly, on a timely basis, to the financial, administrative and law-enforcement information that it requires in order to perform that function properly, including the analysis of suspicious transaction reports.

#### *Article 24*

It shall be prohibited for credit and financial institutions:

- (a) to open an account with a credit or financial institution referred to in Article 21(2);
- (b) to establish a correspondent banking relationship with a credit or financial institution referred to in Article 21(2);
- (c) to open representative offices in the DPRK, or to establish a new branch or subsidiary, in the DPRK; and
- (d) to establish a joint venture with or to take an ownership interest in a credit or financial institution referred to in Article 21(2).

#### *Article 25*

1 By way of derogation from the prohibitions in points (b) and (d) of Article 24, the competent authorities of the Member States may authorise transactions if they have been approved by the Sanctions Committee in advance.

2 The Member State concerned shall promptly notify the other Member States and the Commission of any authorisation under paragraph 1.

#### *Article 26*

In accordance with the requirements of UNSCR 2270 (2016), credit and financial institutions shall, on 31 May 2016 at the latest:

- (a) close any account with a credit or financial institution referred to in Article 21(2);
- (b) terminate any correspondent banking relationship with a credit or financial institution referred to in Article 21(2);
- (c) close representative offices, branches, and subsidiaries in the DPRK;
- (d) terminate joint ventures with a credit or financial institution referred to in Article 21(2); and
- (e) relinquish any ownership interest in a credit or financial institution referred to in Article 21(2).

#### *Article 27*

1 By way of derogation from points (a) and (c) of Article 26, the competent authorities of the Member States may authorise certain representative offices, subsidiaries or accounts to remain operational, provided that the Sanctions Committee has determined on a case-by-case basis that such offices, subsidiaries or accounts are required for the delivery of humanitarian activities or the activities of diplomatic missions in the DPRK or the activities of the UN or its specialised agencies or related organisations or any other purpose consistent with the objectives of UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016) or 2371 (2017).

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

#### *Article 28*

1 It shall be prohibited for credit and financial institutions to open an account for DPRK diplomatic missions or consular posts, and their DPRK members.

2 On 11 April 2017 at the latest, credit and financial institutions shall close any account held or controlled by a DPRK diplomatic mission or consular post, and their DPRK members.

### *Article 29*

1 By way of derogation from Article 28(1), the competent authorities of the Member States may authorise, upon request of a DPRK diplomatic mission, consular post, or one of their members, the opening of one account per mission, post and member, provided that the mission or post is hosted in that Member State or the member of the mission or post is accredited to that Member State.

2 By way of derogation from Article 28(2), the competent authorities of the Member States may authorise an account to remain open, upon request by a DPRK mission, post, or member, provided that the Member State has determined that:

- (i) the mission or post is hosted in that Member State or the member of that mission or post is accredited to that Member State; and
- (ii) the mission, post or its member does not hold any other account within that Member State.

In the event that the mission, post or the DPRK member holds more than one account within that Member State, the mission, post, or member may indicate which account shall be retained.

3 Subject to the applicable rules of the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, the Member States shall inform the other Member States and the Commission of the names and identifying information of any DPRK member of the diplomatic mission and consular post accredited to that Member State, at the latest on 13 March 2017, and of subsequent updates within one week.

4 The competent authorities of the Member States may inform credit and financial institutions in that Member State of the identity of any DPRK member of a diplomatic mission or consular post accredited to that or any other Member State.

5 The Member States shall inform the other Member States and the Commission of any authorisation granted pursuant to paragraphs 1 and 2.

### *Article 30*

It shall be prohibited:

- (a) to authorise the opening of a representative office or the establishment of a branch or subsidiary in the Union of a credit or financial institution referred to in Article 21(2);
- (b) to conclude agreements for, or on behalf of, a credit or financial institution referred to in Article 21(2) pertaining to the opening of a representative office or the establishment of a branch or subsidiary in the Union;
- (c) to grant an authorisation for taking up and pursuing the business of a credit institution or for any other business requiring prior authorisation, by a representative office, branch or subsidiary of a credit or financial institution referred to in Article 21(2), if the representative office, branch or subsidiary was not operational before 19 February 2013;
- (d) to acquire or to extend a participation, or to acquire any other ownership interest, in a credit or financial institution falling within the scope of Article 1 by any credit or financial institution referred to in Article 21(2); and
- (e) to operate or facilitate the operation of a representative office, branch or subsidiary of a credit or financial institution referred to in Article 21(2).

### *Article 31*

It shall be prohibited:

- (a) to sell or purchase public or public-guaranteed bonds issued after 19 February 2013, directly or indirectly, to or from any of the following:
  - (i) the DPRK or its Government, and its public bodies, corporations and agencies;
  - (ii) the Central Bank of the DPRK;
  - (iii) any credit or financial institution referred to in Article 21(2);
  - (iv) a natural person or a legal person, entity or body acting on behalf or at the direction of a legal person, entity or body referred to in point (i) or (ii);
  - (v) a legal person, entity or body owned or controlled by a person, entity or body referred to in point (i), (ii) or (iii);
- (b) to provide brokering services with regard to public or public-guaranteed bonds issued after 19 February 2013 to a person, entity or body referred to in point (a);
- (c) to assist a person, entity or body referred to in point (a) in order to issue public or public-guaranteed bonds, by providing brokering services, advertising or any other service with regard to such bonds.

### *Article 32*

It shall be prohibited to provide financing or financial assistance for trade with the DPRK, including the granting of export credits, guarantees or insurance to natural or legal persons, entities or bodies involved in such trade.

### *Article 33*

1 By way of derogation from Article 32, the competent authorities of the Member States may authorise financial support for trade with the DPRK, provided that the Member State has obtained the advance approval of the Sanctions Committee on a case-by-case basis.

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

## CHAPTER V

### **Freezing of Funds and Economic Resources**

#### *Article 34*

1 All funds and economic resources belonging to, owned, held or controlled by the persons, entities and bodies listed in Annexes XIII, XV, XVI and XVII shall be frozen.

2 All vessels listed in Annex XIV shall be seized.

3 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annexes XIII, XV, XVI and XVII.



4 Annex XIII shall include the persons, entities and bodies designated by the Sanctions Committee or the UNSC in accordance with paragraph 8(d) of UNSCR 1718 (2006), and paragraph 8 of UNSCR 2094 (2013).

Annex XIV shall include the vessels that have been designated by the Sanctions Committee pursuant to paragraph 12 of UNSCR 2321 (2016).

Annex XV shall include persons, entities and bodies not listed in Annex XIII and XIV, who, in accordance with point (b) of Article 27(1) of Decision (CFSP) 2016/849, or any equivalent subsequent provision, have been identified by the Council:

- a as responsible for, including through supporting or promoting, the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes, or persons, entities or bodies acting on their behalf or at their direction, or persons, entities or bodies owned or controlled by them, including through illicit means;
- b as providing financial services or the transfer to, through or from the territory of the Union, or involving nationals of Member States or entities organised under their laws, or persons or financial institutions in the territory of the Union, of any financial or other assets or resources that could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes, or persons, entities or bodies acting on their behalf or at their direction, or persons, entities or bodies owned or controlled by them; or
- c as involved in, including through the provision of financial services, the supply to or from the DPRK of arms and related material of all types, or of items, materials, equipment, goods and technology which could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

5 Annex XVI shall include the persons, entities or bodies not covered by Annex XIII, XIV or XV who are working on behalf of or at the direction of a person, entity or body listed in Annex XIII, XIV or XV or persons assisting in the evasion of sanctions or violating the provisions of this Regulation.

6 Annex XVII shall include the entities or bodies of the Government of the DPRK, or the Workers' Party of Korea, persons, entities or bodies acting on their behalf or at their direction, and entities or bodies owned or controlled by them, which are associated with the DPRK's nuclear or ballistic missile programs or other activities prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016) or 2371 (2017), and which are not covered by Annexes XIII, XIV, XV or XVI.

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

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

9 Annexes XIII, XIV, XV, XVI and XVII 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.

10 The prohibition in paragraphs 1 and 3, inasmuch as they refer to the persons, entities or bodies listed in Annex XVII, shall not apply where the funds and economic resources are

required to carry out the activities of the DPRK's missions to the UN and its specialised agencies and related organisations or other diplomatic and consular missions of the DPRK, or where the competent authority of the Member State has obtained advance approval of the Sanctions Committee on a case-by-case basis that the funds, financial assets or economic resources are required for the delivery of humanitarian assistance, denuclearisation or any other purpose consistent with the objectives of UNSCR 2270 (2016).

11 Paragraph 3 shall not prevent financial or credit institutions in the Union from crediting frozen accounts where they receive funds transferred by third parties to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall notify the competent authorities about such transactions without delay.

12 Provided that any such interest, other earnings and payments are frozen in accordance with paragraph 1, paragraph 3 shall not apply to the addition to frozen accounts of:

- a interest or other earnings on those accounts; and
- b payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which the person, entity or body referred to in this article was designated.

#### *Article 35*

1 By way of derogation from Article 34, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under the conditions they deem appropriate, where the following conditions are met:

- a after having determined that the funds or economic resources concerned are necessary to satisfy the basic needs of natural or legal persons, entities or bodies listed in Annexes XIII, XV, XVI or XVII and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges and payments intended exclusively for:
  - (i) reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services; or
  - (ii) fees or services charges for routine holding or maintenance of frozen funds or economic resources; and
- b where the authorisation concerns a person, entity or body listed in Annex XIII, the Member State concerned has notified the Sanctions Committee of that determination and its intention to grant an authorisation, and the Sanctions Committee has not objected to that course of action within five working days of notification.

2 By way of derogation from Article 34, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, after having determined that the funds or economic resources are necessary for extraordinary expenses, provided that:

- a where the authorisation concerns a person, entity or body listed in Annex XIII, the Sanctions Committee has been notified of this determination by the Member State concerned and that the determination has been approved by that Committee;
- b where the authorisation concerns a person, entity or body listed in Annex XV, XVI or XVII the Member State concerned has notified other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation.

3 The Member State concerned shall promptly notify the other Member States and the Commission of any authorisation granted under paragraphs 1 and 2.

#### *Article 36*

1 By way of derogation from Article 34, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, where the following conditions are met:

- a the funds or economic resources are the subject of a judicial, administrative or arbitral decision established prior to the date on which the person, entity or body referred to in Article 34 was designated, or of a judicial, administrative or arbitral lien rendered prior to that date;
- b the funds or economic resources are to be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a lien, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- c the decision or lien is not for the benefit of a person, entity or body listed in Annex XIII, XV, XVI or XVII;
- d recognising the decision or lien is not contrary to public policy in the Member State concerned;
- e the decision or lien in respect of persons, entities and bodies listed in Annex XIII has been notified by the Member State concerned to the Sanctions Committee.

2 By way of derogation from Article 34, and provided that a payment by a person, entity or body listed in Annex XV, XVI or XVII is due under a contract or agreement that was concluded by, or under an obligation for the person, entity or body concerned that arose before the date on which that person, entity or body has been designated, the competent authorities of the Member States may authorise, under the conditions they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that:

- a the contract is not related to any item, operation, service or transaction referred to in point (a) of Article 3(1), Article 3(3) or Article 7; and
- b the payment is not directly or indirectly received by a person, entity or body listed in Annex XV, XVI or XVII.

3 The Member State concerned shall, at least 10 days prior to the granting of each authorisation pursuant to paragraph 2, notify the other Member States and the Commission of that determination and of its intention to grant an authorisation.

#### *Article 37*

The prohibitions in Article 34(1) and (3) shall not apply with regard to funds and economic resources belonging or made available to the Foreign Trade Bank or the Korean National Insurance Company (KNIC) insofar as such funds and economic resources are meant exclusively for the official purposes of a diplomatic or consular mission in the DPRK, or for humanitarian assistance activities which are undertaken by, or in coordination with, the United Nations.

## CHAPTER VI

**Restrictions on Transport***Article 38*

1 Cargo, including personal luggage and checked baggage, within or transiting through the Union, including airports, seaports and free zones, as referred to in Articles 243 to 249 of Regulation (EU) No 952/2013, shall be liable for inspection for the purposes of ensuring that it does not contain items prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2371 (2017), or by this Regulation where:

- a the cargo originates from the DPRK;
- b the cargo is destined for the DPRK;
- c the cargo has been brokered or facilitated by the DPRK or its nationals or its individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them;
- d the cargo has been brokered or facilitated by persons, entities or bodies listed in Annex XIII;
- e the cargo is being transported on a DPRK flagged vessel or aircraft registered to the DPRK, or on a stateless vessel or aircraft.

2 Where the cargo within or transiting through the Union, including airports, seaports and free zones, falls outside of the scope of paragraph 1, it shall be liable for inspection where there are reasonable grounds to believe that it may contain items the sale, supply, transfer or export of which is prohibited by this Regulation in the following circumstances:

- a the cargo originates in the DPRK;
- b the cargo is destined for the DPRK; or
- c the cargo has been brokered or facilitated by the DPRK or its nationals or individuals or entities acting on their behalf.

3 Paragraphs 1 and 2 shall be without prejudice to the inviolability and protection of diplomatic and consular bags provided for in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations.

4 The provision of bunkering or ship-supply services, or any other servicing of vessels, to DPRK vessels is prohibited where the providers of the service have information, including from the competent customs authorities on the basis of the pre-arrival and pre-departure information referred to in Article 9(1), that provides reasonable grounds to believe that the vessels carry items whose supply, sale, transfer or export is prohibited by this Regulation, unless the provision of such services is necessary for humanitarian purposes.

*Article 39*

1 It shall be prohibited to provide access to ports in the territory of the Union to any vessel:

- a that is owned, operated or crewed by the DPRK;
- b that is flagged to the DPRK;
- c where there are reasonable grounds to believe that it is owned or controlled, directly or indirectly, by a person or entity listed in Annex XIII, XV, XVI or XVII;
- d where there are reasonable grounds to believe that it contains items the supply, sale, transfer or export of which is prohibited by this Regulation;
- e which has refused to be inspected after such an inspection has been authorised by the vessel's flag State or State of registration;

- f which is without nationality and has refused to be inspected in accordance with Article 38(1); or
  - g that is listed under Annex XIV.
- 2 Paragraph 1 shall not apply:
- a in the case of an emergency;
  - b where the vessel is returning to its port of origin;
  - c in the case of a vessel coming into port for inspection where that concerns a vessel within the scope of points (a) to (e) of paragraph 1.

#### *Article 40*

- 1 By way of derogation from the prohibition in Article 39(1), where that concerns a vessel within the scope of points (a) to (e), the competent authorities of the Member States may authorise that vessel to come into port if:
- a the Sanctions Committee has determined in advance that this is required for humanitarian purposes or any other purpose consistent with the objectives of UNSCR 2270 (2016); or
  - b the Member State has determined in advance that this is required for humanitarian purposes or any other purpose consistent with the objectives of this Regulation.

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

#### *Article 41*

- 1 It shall be prohibited for any aircraft operated by DPRK carriers or originating from the DPRK to take off from, land in or overfly the territory of the Union.
- 2 Paragraph 1 shall not apply:
- a where the aircraft is landing for inspection;
  - b in the case of an emergency landing.

#### *Article 42*

By way of derogation from Article 41, the competent authorities of the Member States may authorise an aircraft to take off from, land in or overfly the territory of the Union if those competent authorities have determined in advance that this is required for humanitarian purposes or any other purpose consistent with the objectives of this Regulation.

#### *Article 43*

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, insure or provide vessel classification services or associated services, to any vessel flagged to the DPRK;
- (d) to register or maintain on the register, any vessel that is owned, controlled or operated by the DPRK or DPRK nationals, or has been de-registered by another State pursuant to paragraph 24 of UNSCR 2321 (2016); or
- (e) to provide insurance or reinsurance services to vessels owned, controlled or operated by the DPRK.

#### *Article 44*

1 By way of derogation from the prohibition in point (a) of Article 43, 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 (b) and (c) of Article 43, the competent authorities of the Member States may authorise the owning, leasing, operating 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 (e) of Article 43, 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.

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

## CHAPTER VII

### **General and Final Provisions**

#### *Article 45*

By way of derogation from the prohibitions arising from UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2070 (2016), 2321 (2016), 2356 (2016) or 2371 (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, pursuant to paragraph 46 of UNSCR 2321 (2016).

#### *Article 46*

The Commission shall be empowered to:

- (a) amend Annex I on the basis of information supplied by Member States;
- (b) amend Parts II, III, IV and V of Annex II and Annexes VI, VII, IX, X and XI 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;
- (c) amend Annex VIII in order to refine or adapt the list of goods included therein, taking into account any definition or guidelines that may be promulgated by the Sanctions Committee or to update nomenclature codes from the Combined Nomenclature as set out in Annex I to Regulation (EEC) No 2658/87;
  - (d) amend Annexes III, IV and V on the basis of determinations made by either the Sanctions Committee or the UNSC, or decisions taken concerning these Annexes in Decision (CFSP) 2016/849;
  - (e) amend Annex XII in order to refine or adapt the list of services 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 47*

1 Where the Security Council or the Sanctions Committee lists a natural or legal person, entity or body, the Council shall include such natural or legal person, entity or body in Annex XIII and XIV.

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), it shall amend Annexes XV, XVI and XVII accordingly.

3 The Council shall communicate its decision to the natural or legal person, entity or body referred to in paragraphs 1 and 2, including the grounds for listing, either directly, if the address is known, or through the publication of a notice, providing that natural or legal person, entity or body with an opportunity to present observations.

4 Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the natural or legal person, entity or body referred to in paragraphs 1 and 2 accordingly.

5 Where the United Nations decides to delist a natural or legal person, entity or body, or to amend the identifying data of a listed natural or legal person, entity or body, the Council shall amend Annexes XIII and XIV accordingly.

#### *Article 48*

The Commission and Member States shall immediately notify each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violations and enforcement problems and judgments handed down by national courts.

#### *Article 49*

1 Member States shall designate the competent authorities referred to in this Regulation and identify them in, or through, the websites as listed in Annex I.

2 Member States shall notify the Commission of their competent authorities without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

#### *Article 50*

1 Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- a supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 34, to the competent authorities of the Member States, where they are resident or located, and shall promptly transmit such information, directly or through the relevant Member States, to the Commission and;
- b cooperate with the competent authorities, in any verification of this information.

2 Any additional information directly received by the Commission shall promptly be made available to the Member State concerned.

3 Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

#### *Article 51*

The Commission shall process personal data in order to carry out the tasks incumbent on it under this Regulation and in accordance with the provisions of Regulation (EC) No 45/2001.

#### *Article 52*

It shall be prohibited to participate knowingly and intentionally in activities the object or effect of which is to circumvent the prohibitions contained in this Regulation.

#### *Article 53*

1 No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed by this Regulation, including claims for indemnity or any other claim of that 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, entities or bodies listed in Annex XIII, XV, XVI or XVII, or the shipowners of vessels listed in Annex XIV;
- b any other DPRK person, entity or body, including the Government of the DPRK and its public bodies, corporations and agencies;
- c any person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in points (a) and (b).

2 The performance of a contract or transaction shall be regarded as having been affected by the measures imposed by this Regulation where the existence or content of the claim results directly or indirectly from those measures.

3 In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the person seeking the enforcement of that claim.

4 This Article is without prejudice to the right of the persons, entities and bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Regulation.



#### *Article 54*

1 The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it, or its directors or employees, unless it is proven that the funds and economic resources were frozen or withheld as a result of negligence.

2 Actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation.

#### *Article 55*

1 Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

2 Member States shall notify the Commission of those rules without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

#### *Article 56*

Regulation (EC) No 329/2007 is hereby repealed. References to the repealed Regulation shall be construed as references to this Regulation.

#### *Article 57*

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, 30 August 2017.

*For the Council*

*The President*

M. MAASIKAS

- (1) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (OJ L 176, 27.6.2013, p. 1).
- (2) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
- (3) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).
- (4) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).
- (5) Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJ L 9, 15.1.2003, p. 3).
- (6) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market (OJ L 319, 5.12.2007, p. 1).
- (7) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions (OJ L 267, 10.10.2009, p. 7).
- (8) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22)
- (9) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).
- (10) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).
- (11) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).
- (12) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).
- (13) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).
- (14) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).