

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 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*.