

2009 No. 1746

UNITED NATIONS

The North Korea (United Nations Measures) (Overseas Territories) (Amendment) Order 2009

<i>Made</i>	- - - -	<i>8th July 2009</i>
<i>Laid before Parliament</i>		<i>9th July 2009</i>
<i>Coming into force</i>	- -	<i>10th July 2009</i>

At the Court at Buckingham Palace, the 8th day of July 2009

Present,

The Queen's Most Excellent Majesty in Council

Under Article 41 of the Charter of the United Nations, the Security Council of the United Nations has, by resolution 1874(2009) adopted on 12th June 2009 called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to the Democratic People's Republic of Korea (North Korea).

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is ordered as follows:—

Citation and commencement

1.—(1) This Order may be cited as The North Korea (United Nations Measures) (Overseas Territories) (Amendment) Order 2009 and shall come into force on 10th July 2009.

(2) In this Order “the principal Order” means The North Korea (United Nations Measures) (Overseas Territories) Order 2006(b).

Amendment of the principal Order

2. Article 2(1) of the principal Order is amended—

(a) by deleting the definition of “restricted goods” and replacing it with the following definition—

(a) 1946 c.45.
(b) S.I. 2006/3327, as amended by S.I. 2007/1347 and S.I. 2009/888.

“restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) made under the Export Control Act 2002(b), as extended to the territories listed in Schedule 1 thereto by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c) and all items, materials, equipment, goods and technology, including software, listed in Annex I to Council Regulation (EC) No 329/2007(d);”;

- (b) by adding the following definition between the definitions of “ship” and “shipment”:—
“ship supply services” means the provision to a ship of bunker oil or any other supply, provision or service, other than basic provisions for the crew, to facilitate a voyage by that ship;”.

3. Article 7 of the principal Order is replaced with the following article 7:—

“Use of ships, aircraft and vehicles: restricted goods and prohibited luxury goods

7.—(1) Without prejudice to the generality of article 4 or 8, and except under the authority of a licence granted by the Governor under article 4, 5 or 8, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used—

- (i) for the carriage of restricted goods or prohibited luxury goods if the carriage is, or forms part of, carriage from any place outside North Korea to any destination therein; or
- (ii) for the carriage of restricted goods if the carriage is, or forms part of, carriage from North Korea to any destination outside North Korea.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose—

- (i) that the carriage of the goods in question was, or formed part of, carriage from any place outside North Korea to any destination therein; or
- (ii) that the carriage of the goods in question was, or formed part of, carriage from North Korea to any destination outside North Korea.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to North Korea or the procurement of the goods

(a) S.I. 2003/2764, as amended by S.I.s. 2004/1050, 2004/2561 and 2004/2741.
(b) 2002 c. 28.
(c) S.I. 2004/3101.
(d) OJ L 88, 29.3.2007, p.1.

concerned from North Korea was authorised by a licence granted by the Governor under article 4, 5, or 8.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.”

4. A new article 8A is added to the principal Order after article 8 as follows:—

“Supply services to North Korea ships

8A.—(1) Except under the authority of a licence granted by the Governor under this article, the provision of ship supply services to any ship registered in North Korea is prohibited in circumstances where there is information which provides reasonable grounds to believe that the ship is carrying restricted goods to or from North Korea, or prohibited luxury goods to North Korea.

(2) Any person knowingly concerned in the provision or attempted provision of such services in such circumstances shall be guilty of an offence under this Order.”

5. Article 23(1) of the principal Order is amended by deleting the words “article 4(1), 5(3), 6, 7(3), 8(3), 9(2), 10(2), 12 or 15” and replacing them with the following: “article 4(1), 5(3), 6, 7(3), 8(3), 8A(2), 9(2), 10(2), 12 or 15”.

6. Paragraph 1 of Schedule 2 to the principal Order is amended by deleting the words “article 4(1), 5(3), 6, 7(3), 8(3), 9(2), 10(2), 12 or 15” and replacing them with the following: “article 4(1), 5(3), 6, 7(3), 8(3), 8A(2), 9(2), 10(2), 12 or 15”.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

The Order made under the United Nations Act 1946 amends the North Korea (United Nations Measures) (Overseas Territories) Order 2006 (S.I. 2006/3327, as amended by S.I. 2007/1347 and S.I. 2009/888) (“the principal Order”).

The amendments are to give effect to measures introduced by resolution 1874 (2009) adopted by the United Nations Security Council on the 12th June 2009 and certain aspects of its previous resolution 1718 (2006).

The amendments to the principal Order are as follows:—

Article 2 adds a revised definition of “restricted goods” and a new definition of “ship supply services” to article 2(1) of the principal Order.

Article 3 replaces article 7 of the principal Order with a revised article 7 prohibiting the use of flag vessels or aircraft for the carriage of restricted goods either to or from North Korea, and for the carriage of prohibited luxury goods to North Korea.

Article 4 introduces a new article 8A into the principal Order prohibiting the provision of ship supply services to North Korean ships in specified circumstances. Any person knowingly concerned in a breach of this prohibition in such circumstances commits an offence.

Article 5 amends the penalties provisions in article 23 of the principal Order to provide penalties for a breach of article 8A.

Article 6 makes a corresponding amendment to that in article 5 in the application of article 23 of the principal Order to the Sovereign Base Areas in Cyprus.

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