

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (NORTH KOREA SANCTIONS AND IRAN, IVORY
COAST AND SYRIA AMENDMENT) ORDER 2017

2017 No. 83

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Export Control (North Korea Sanctions and Iran, Ivory Coast and Syria Amendment) Order 2017 provides for the enforcement of trade restrictions against North Korea set out in Council Regulation (EC) No 329/2007 (OJ No L 88, 29.3.2007, p.1) (the “North Korea Regulation”) as last amended by Council Implementing Regulation (EU) 2017/80 (OJ No L 12, 17.1.2017, p.86).
- 2.2 The Order revokes the Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013 (S.I. 2013/3182).
- 2.3 The Order also makes miscellaneous amendments to the Export Control Order 2008 (S.I. 2008/3231), the Export Control (Iran Sanctions) Order 2016 (S.I. 2016/503) and the Export Control (Syria Sanctions) Order 2013 (S.I. 2013/2012).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 On 27 May 2016, the Council of the European Union adopted new restrictive measures against North Korea by means of Council Decision (CSFP) 2016/849 (OJ No L 141, 28.5.2016, p.79) and Council Regulation (EU) No 2016/841 concerning restrictive measures against North Korea (OJ No L 141, 28.5.2016, p.36), which amended Council Regulation (EC), No 329/2007.
- 4.2 On 4 August 2016 the Council adopted further new measures against North Korea by means of Council Decision (CSFP) 2016/1341 (OJ No L 212, 5.8.2016, p.116) and Council Regulation (EU) No 2016/1333 concerning restrictive measures against the Democratic People’s Republic of Korea (OJ No L 212, 5.8.2016, p.1), which also amended Council Regulation (EC) No 329/2007. Annex Ig to Council Regulation 329/2007, which was inserted by Council Regulation (EU) No 2016/1333, was amended on 14 October 2016 by Commission Implementing Regulation (EU) 2016/1831 (OJ No L 280, 18.10.2016, p.3).

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the whole of the United Kingdom.
- 5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 This Order provides for the enforcement of trade restrictions against North Korea specified in Council Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea (OJ No L 88, 29.3.2007, p.1) (the "North Korea Regulation") as last amended by Council Implementing Regulation (EU) 2016/1831. This Order revokes the Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013.
- 7.2 The Order provides for offences, penalties and licensing provisions that are set out in the Regulation. The following activities are prohibited by the Regulation unless authorised:
- the sale, supply, etc. of goods and technology, including software, listed in Annexes I, Ia, Ib and Ig, to any natural or legal person, entity or body in, or for use in North Korea;
 - the sale, supply, etc. of aviation fuel as listed in Annex Ie to North Korea or transport to North Korea of aviation fuel on board flag vessels and aircraft of Member States;
 - the purchase, import or transport of goods and technology listed in Annexes I, Ia, Ib and Ig from North Korea;
 - the import, purchase or transport of gold, titanium ore, vanadium ore and rare-earth minerals, as listed in Annex Ic, or coal, iron and iron ore, as listed in Annex Id, from North Korea;
 - the import, purchase or transfer from North Korea of petroleum products, as listed in annex If;
 - the sale, supply, etc. of any item, except food or medicine, if the exporter knows or has reasonable grounds to believe the item is destined for North Korea's or another State's armed forces;
 - the purchase, import or transport from North Korea of items referred to in article 2a(1);
 - the provision of technical assistance and brokering services related to goods and technology listed in the EU Common Military List or in Annexes I, Ia, Ib and Ig to any natural or legal person, entity or body in, or for use in, North Korea;
 - the provision of financing or financial assistance related to goods and technology listed in the EU Common Military List or in Annexes I, Ia, Ib and Ig to any natural or legal person, entity or body in, or for use in, North Korea;

- obtaining technical assistance related goods and technology listed in the EU Common Military List or in Annexes I, Ia, Ib and Ig from any natural or legal person, entity or body in, or for use in, North Korea;
- obtaining financing or financial assistance related to goods and technology listed in the EU Common Military List or in annexes I, Ia, Ib and Ig from any natural or legal person, entity or body in, or for use in, North Korea;
- the sale, supply, etc. of luxury goods, as listed in Annex III, to North Korea;

7.3 The following activities are prohibited by the Regulation (authorisation not applicable):

- the purchase, import or transfer from North Korea of luxury goods, as listed in Annex III;
- the sale, supply, etc. of gold, precious metals and diamonds, as listed in Annex VII, to or for the Government of North Korea and public bodies;
- the purchase, import or transport of gold, precious metals and diamonds, as listed in Annex VII, from the Government of North Korea and certain other public bodies;
- the provision of technical assistance, brokering services, financing or financial assistance, related to the goods referred to in articles 4a(1)(a) and (b), to the Government of North Korea and public bodies either –
 - insofar as that Article concerns the provision of technical assistance or brokering services; or
 - insofar as that Article concerns the provision of financing or financial assistance;
- the sale, supply, etc. of newly printed or unissued North Korean denominated banknotes and minted coinage, to or for the benefit of the Central Bank or North Korea;
- accepting or approving investment in any commercial activity where such investment is made by certain persons, entities or bodies associated with North Korea;
- establishing a joint venture with or taking or extending an ownership interest in any legal person, entity or body referred to in points (a) to (f) of Article 5b(1) engaged in North Korea's nuclear-related, ballistic-missile-related or other weapons-of-mass-destruction-related activities or programmes, or in the sectors of mining, refining and chemical industries;
- granting financing or financial assistance to any legal person, entity or body referred to in points (d) to (f) of Article 5b(1) or for the documented purpose of financing such legal persons, entities or bodies;
- providing investment services directly related to the activities referred to in points (a) and (b) of Article 5b(2);
- participating in joint ventures or any other business arrangements with entities listed in Annex IV as well as individuals or entities acting for or on their behalf or direction; and
- provision of financing or financial assistance for trade with North Korea where such financial support could contribute to North Korea's nuclear-

missile programmes or other activities prohibited by the North Korea Regulation or to the circumvention of this prohibition.

- 7.4 The Order also makes amendments to the Export Control Order 2008 to move the Ivory Coast from Part 2 of Schedule 4 to that Order to Part 4 of Schedule 4 as sanctions against the Ivory Coast have recently been lifted.
- 7.5 In addition, the Order amends the Export Control (Iran Sanctions) Order 2016 to correct a small drafting error and the Order re-enacts and therefore continues amendments to the Export Control (Syria Sanctions) Order 2013 that were contained in the Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013, which is revoked by this Order.

Consolidation

- 7.6 None.

8. Consultation outcome

- 8.1 The Order consists of a technical implementation of a directly applicable EU Regulation. Accordingly, no consultation was necessary.

9. Guidance

- 9.1 A Notice to Exporters will be published on GOV.UK explaining the purpose and effect of the Regulation.

10. Impact

- 10.1 There is minimal impact on business, charities or voluntary bodies. The impact is that business must apply for authorisation (an export licence) for the provision of the activities referred to in 7.2 above and that the activities in 7.3 cannot be authorised.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 The impact on small business is minimal.

12. Monitoring & review

- 12.1 The Department will monitor the developments in North Korea, the actions taken by the EU and the impact of the Order and give effect to any necessary changes if the sanctions are reviewed.

13. Contact

- 13.1 Christopher Chew at the Department for International Trade, Tel: 020 7215 8088 or email: chris.chew@trade.gsi.gov.uk can answer any queries regarding the instrument.