

DECISIONS

COUNCIL DECISION (CFSP) 2017/1512

of 30 August 2017

amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 22 April 2013, the Council adopted Decision 2013/183/CFSP ⁽¹⁾ concerning restrictive measures against the Democratic People's Republic of Korea ('the DPRK'), which replaced Decision 2010/800/CFSP ⁽²⁾ and, inter alia, implemented United Nations Security Council Resolutions ('UNSCRs') 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013).
- (2) On 2 March 2016, the UN Security Council adopted UNSCR 2270 (2016) providing for new measures against the DPRK.
- (3) On 31 March 2016, the Council adopted Decision (CFSP) 2016/476 ⁽³⁾ giving effect to those measures.
- (4) On 27 May 2016, the Council adopted Decision (CFSP) 2016/849 ⁽⁴⁾ concerning restrictive measures against the DPRK, which replaced Decision 2013/183/CFSP and, inter alia, implemented UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and 2270 (2016).
- (5) UNSCR 2270 (2016) provides that the asset freeze is to apply with respect to entities of the Government of the DPRK or the Workers' Party of Korea, or by persons acting on their behalf or at their direction, where a UN Member State determines that they are associated with the DPRK's nuclear or ballistic missile programs or other activities prohibited by the relevant UNSCRs. Moreover, the Council considers that persons acting on behalf or at the direction of the entities of the Government of the DPRK or the Workers' Party of Korea that the Council determines are associated with the DPRK's nuclear or ballistic-missile programmes or other activities prohibited by the relevant UNSCRs should be subject to travel restrictions.
- (6) The Council considers it necessary to include a new Annex to list those persons and entities.
- (7) UNSCR 2270 (2016) also provides that the asset freeze applicable with respect to entities of the Government of the DPRK or the Workers' Party of Korea, or by persons acting on their behalf or at their direction, does not apply where the funds, other financial assets or economic resources, are required to carry out the activities of DPRK's missions to the UN and other specialised agencies.
- (8) Further action by the Union is needed in order to implement certain measures provided for in this Decision.
- (9) Decision (CFSP) 2016/849 should therefore be amended accordingly,

⁽¹⁾ Council Decision 2013/183/CFSP of 22 April 2013 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2010/800/CFSP (OJ L 111, 23.4.2013, p. 52).

⁽²⁾ Council Decision 2010/800/CFSP of 22 December 2010 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Common Position 2006/795/CFSP (OJ L 341, 23.12.2010, p. 32).

⁽³⁾ Council Decision (CFSP) 2016/476 of 31 March 2016 amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea (OJ L 85, 1.4.2016, p. 38).

⁽⁴⁾ Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2016/849 is amended as follows:

(1) Article 13 is amended as follows:

(a) point (2) is replaced by the following:

‘(2) Financial institutions under the jurisdiction of Member States shall not enter into, or continue to participate in, any transactions with:

(a) banks domiciled in the DPRK, including the Central Bank of the DPRK;

(b) branches or subsidiaries within the jurisdiction of the Member States of banks domiciled in the DPRK;

(c) branches or subsidiaries outside the jurisdiction of the Member States of banks domiciled in the DPRK;

(d) financial entities that are not domiciled in the DPRK, that are within the jurisdiction of the Member States and that are controlled by persons or entities domiciled in the DPRK; or

(e) financial entities that are not domiciled in the DPRK or are not within the jurisdiction of the Member States but are controlled by persons or entities domiciled in the DPRK,

unless such transactions fall within the scope of point (3) and have been authorised in accordance with point (4).’;

(b) point (5) is replaced by the following:

‘(5) The prior authorisation referred to in point (4) shall not be required for 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 the DPRK in accordance with international law.’.

(2) In Article 18, paragraph 2 is replaced by the following:

‘2. Member States shall prohibit the entry into their ports of any vessel if they have information that provides reasonable grounds to believe that the vessel is owned or controlled, directly or indirectly, by a person or entity listed in Annex I, II, III or V, or contains cargo whose supply, sale, transfer or export is prohibited by UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016) or by this Decision.’.

(3) In Article 20, paragraph 1 is replaced by the following:

‘1. It shall be prohibited to lease or charter Member States’ flagged vessels or aircraft or to provide crew services to the DPRK, any persons or entities listed in Annex I, II, III or V, any other DPRK entities, any other persons or entities whom the Member State determines to have assisted in the evasion of sanctions or in the violation of the provisions of UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or 2270 (2016) or of this Decision, any persons or entities acting on behalf or at the direction of any of the aforementioned, or any entities owned or controlled by any of the aforementioned.’.

(4) In Article 23(1), the following point is added:

‘(d) persons acting on behalf or at the direction of the entities of the Government of the DPRK or the Workers’ Party that the Council determines 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) or 2270 (2016), that are not covered by Annex I, II or III, as listed in Annex V to this Decision.’.

(5) Article 27 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

‘(d) entities of the Government of the DPRK or the Workers’ Party of Korea, or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, that the Council determines 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) or 2270 (2016), and that are not covered by Annex I, II or III, as listed in Annex V to this Decision.’;

(b) in paragraph 6, the introductory wording is replaced by the following:

‘6. Paragraph 1 shall not prevent a designated person or entity listed in Annex II, III or V from making a payment due under a contract entered into before the listing of that person or entity, provided that the relevant Member State has determined that.’.

(6) Article 28 is replaced by the following:

Article 28

Article 27(1)(d), and 27(2) insofar as it refers to the persons and entities covered by Article 27(1)(d), shall not apply with respect to funds, other financial assets or economic resources that 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 to any funds, other financial assets or economic resources that the Sanctions Committee determines in advance on a case-by-case basis are required for the delivery of humanitarian assistance, denuclearisation or any other purpose consistent with the objectives of UNSCR 2270 (2016).’.

(7) In Article 32, point (a) is replaced by the following:

‘(a) the designated persons or entities listed in Annex I, II, III, IV or V.’.

(8) In Article 33, paragraph 2 is replaced by the following:

‘2. The Council, acting by unanimity on a proposal from Member States or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish the lists in Annex II, III or V and adopt modifications thereto.’.

(9) In Article 34, paragraph 2 is replaced by the following:

‘2. Where the Council decides to subject a person or entity to the measures referred to in points (b) or (c) of Article 23(1) or point (b), (c) or (d) of Article 27(1), it shall amend Annex II, III or V accordingly.’.

(10) Article 35 is replaced by the following:

Article 35

1. Annexes I, II, III and V shall include the grounds for listing of listed persons and entities, as provided by the UN Security Council or by the Sanctions Committee with regard to Annex I.

2. Annexes I, II, III and V shall also include, where available, information necessary to identify the persons or entities concerned, as provided by the UN Security Council or by the Sanctions Committee with regard to Annex I. With regard to 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 entities, such information may include names, place and date of registration, registration number and place of business. Annex I shall also include the date of designation by the UN Security Council or by the Sanctions Committee.’.

(11) In Article 36, paragraph 2 is replaced by the following:

‘2. The measures referred to in points (b) and (c) of Article 23(1) and points (b), (c) and (d) of Article 27(1) shall be reviewed at regular intervals and at least every 12 months. They shall cease to apply in respect of the persons and entities concerned if the Council determines, in accordance with the procedure referred to in Article 33(2), that the conditions for their application are no longer met.’.

(12) The Annex set out in the Annex to this Decision is added.

Article 2

This Decision shall enter into force on the date following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 30 August 2017.

For the Council
The President
M. MAASIKAS

ANNEX

'ANNEX V

List of persons and entities referred to in point (d) of Article 23(1) and point (d) of Article 27(1)
