

UNNUMBERED DOCUMENTS

EXPLANATORY MEMORANDUM ON THE EUROPEAN UNION'S COMMON FOREIGN AND SECURITY POLICY

Council Decision (CFSP) 2017/1504 of 24 August 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea

Council Regulation (EU) 2017/1501 of 24 August 2017 amending Regulation (EC) No.329/2007 concerning restrictive measures against the Democratic People's Republic of Korea

Submitted by the Foreign and Commonwealth Office on 08 September 2017.

SUBJECT MATTER

1. Council Decision (CFSP) 2017/1504 and Council Regulation (EU) 2017/1501, concerning restrictive measures against the Democratic People's Republic of Korea, transpose certain exemptions under a new UN Security Council Resolution 2371 (2017) which extends sanctions on DPRK's illegal nuclear and ballistic missile programmes.

SCRUTINY HISTORY

2. An Explanatory Memorandum on restrictive measures against the Democratic People's Republic of Korea was last submitted for Parliamentary Scrutiny on 4 September 2017. Both the House of Commons European Scrutiny Committee and the House of Lords Select Committee on the European Union have yet to consider the documents.

MINISTERIAL RESPONSIBILITY

3. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common Foreign and Security Policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

4. The UK's Foreign Affairs policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

5. Legal Basis: Article 29 of the Treaty on European Union and Article 215 of the Treaty on the Functioning of the European Union.
6. Voting Procedures: Council acting by Unanimity for the Council Decision and by Qualified Majority for the Council Regulation.

7. Impact on UK Law: The Regulation will be directly applicable in UK law. The travel ban is enforced using secondary legislation under Section 8B of the Immigration Act 1971 (as inserted by Section 8 of the Immigration and Asylum Act 1999). The asset freeze is given direct effect by the Regulation; penalties applicable for infringement are enforced using secondary legislation. HM Treasury administers and implements the asset freeze in the UK.
8. Application to Gibraltar: Yes.
9. Fundamental rights analysis: The procedures for designating individuals under the principal Council Decision and the Council Regulation are considered to be compliant with fundamental rights.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

10. None.

SUBSIDIARITY

11. Action by the EU is appropriate to ensure the uniform application across the EU of the sanctions measures against DPRK.

POLICY IMPLICATIONS

12. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29 March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period, the Government will also continue to negotiate, implement and apply EU legislation.
13. The UK and the international community have taken further action to address the continuing nuclear threat from DPRK. The UN Security Council unanimously adopted Resolution 2371 (2017) on 5 August 2017 extending sanctions on DPRK's illegal nuclear and ballistic missile programmes. Nine individuals and four entities were listed. The Resolution created certain exemptions for two of these entities: the Foreign Trade Bank and the Korean National Insurance Company to allow for diplomatic, consular and humanitarian activity to take place. The attached Council Decision and Council Regulation transpose this exemption into EU law.

REGULATORY IMPACT ASSESSMENT

14. Not applicable.

FINANCIAL IMPLICATIONS

15. None.

TIMETABLE

16. These legal acts were adopted by the Council on 24 August 2017 and published in the Official Journal on 26 August 2017.

OTHER OBSERVATIONS

17. None.

A handwritten signature in black ink that reads "Alan Duncan". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail on the 'n'.

Rt Hon Sir Alan Duncan MP
Minister for Europe and the Americas
Foreign and Commonwealth Office