

## **STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS**

**Council Decision (CFSP) 2018/611 of 20 April 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea**

**Council Regulation (EU) 2018/602 of 20 April 2018 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea**

Submitted by the Foreign and Commonwealth Office on 10 May 2018.

### **SUBJECT MATTER**

1. The attached Council Decision (CFSP) 2018/611 and Regulation (EU) 2018/602 concerning restrictive measures against the Democratic People's Republic of Korea, adding 4 individuals to those subject to EU autonomous measures. The additions were added to Annex 1 to Decision (CFSP) 2016/849 and Annex XIII of Regulation (EU) 2017/1509 by the Council on 20 April 2018.

### **SCRUTINY HISTORY**

2. An Explanatory Memorandum on Council Decision (CFSP) 2016/849 of 27 May 2016 amending Decision (CFSP) 2016/849 and Council Regulation (EU) 2017/2062 of 13 November 2017 amending Regulation (EU) 2017/1509 restrictive measures against the Democratic People's Republic of Korea was submitted for Parliamentary Scrutiny on 23 November 2017. Both documents were cleared at the Lord's sift on 28 November. The House of Commons European Scrutiny Committee cleared the documents as not legally or politically important on 5 December 2017.

### **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.

- i. Legal Basis: Article 29 of The Treaty on European Union for the Council Decision and Article 215 of The Treaty on the Functioning of the European Union for the Council Regulation.
- ii. Voting Procedures: Council acting by Unanimity for the Council Decision and Council Regulation, and by Qualified Majority Voting for the Council Implementing Regulation.
- iii. 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.
- iv. Application to Gibraltar: Yes
- vi. Fundamental rights analysis: The procedures for designating individuals are compliant with fundamental rights.

## **APPLICATION TO THE EUROPEAN ECONOMIC AREA**

6. None

## **SUBSIDIARITY**

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

## **POLICY IMPLICATIONS (including Exit implications where appropriate)**

8. 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.
9. On 22 December, the United Nations Security Council unanimously adopted Resolution 2397 (2017) in response to the DPRK intercontinental ballistic missile launch on 28 November. The resolution included the listing of 16 individuals and one entity linked to the DPRK's nuclear and ballistic missile programmes.
10. The EU has gone further on these measures by adding an additional 4 individuals to the EU autonomous lists. These individuals are linked to the DPRK's nuclear and ballistic missile programmes or involved in the evasion of sanctions.

## **FINANCIAL IMPLICATIONS**

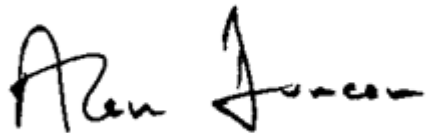
11. None

## **TIMETABLE**

12. These legal acts were adopted by the Foreign Affairs Council on 19 April 2018 and published in the Official Journal on 20 April.

## **OTHER OBSERVATIONS**

13. 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 underline.

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