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General Secretariat

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**Brussels, 16 January 2018**

**WK 434/2018 INIT**

**LIMITE**

**CFSP/PESC  
COASI  
CORLX**

**WORKING PAPER**

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**WORKING DOCUMENT**

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From:	Presidency
To:	Working Party of Foreign Relations Counsellors
N° prev. doc.:	ST 5190/18
Subject:	DPRK - revised draft Council Decision

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With a view to further discussion in RELEX on 18/01, please find attached revised Council Decision.

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### Explanations from the EEAS concerning some of the additions:

**Article 9a** – We have added the words "*as well as the acquisition of*" in square brackets following a suggestion by Michael yesterday to reflect the fact that the UNSCR prohibits both the sale/purchase and transfer/receipt of fishing rights. "Acquisition" covers both of these.

**Article 9d** – We have added wording in square brackets to reflect FR observation. We agree that this wording is required to fully reflect the scope of OP6 of the Resolution. We have placed this in square brackets as it was not agreed in RELEX yesterday.

**Article 18b** – We have added a new paragraph 2 to separate "inspection" of vessels from "seizing and freezing". This would mean that a vessel does not have to be listed in an Annex before it can be inspected. This reflects the change discussed on 11.01 and 15.01 in RELEX.

**Article 32a** – We have added a transposition of OP 22 to reflect the exemption for Embassies etc.

**Article 36a** - This has been amended to fully reflect the provisions of OP 25.

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EUROPEAN EXTERNAL ACTION SERVICE



GREFFE

**Proposal of the High Representative of the Union for Foreign Affairs and Security  
Policy to the Council**

**of 10/01/2018**

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

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**COUNCIL DECISION (CFSP) 2018/XXX**

of [dd/01/2018]

**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 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 <sup>(1)</sup>,

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

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<sup>(1)</sup> OJ L 141, 28.5.2016, p.79.

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Whereas:

- (1) On 27 May 2016, the Council adopted Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea ('DPRK').
- (2) On 22 December 2017, the United Nations Security Council ('UNSC') adopted Resolution 2397 (2017) ('UNSCR 2397 (2017)') expressing its gravest concern at the ballistic missile launch by the DPRK of 28 November 2017 in violation of existing UNSC Resolutions and the danger it poses to peace and stability in the region and beyond, and determined that there continues to exist a clear threat to international peace and security.
- (3) The UNSC acknowledged that the proceeds of the DPRK's trade in sectoral goods as well as the revenue generated from DPRK workers overseas, among others, contribute to the DPRK's nuclear weapons and ballistic missile programmes, and expressed great concern that these programmes were diverting critically needed resources away from the people of DPRK at tremendous cost.
- (4) The UNSC decided to increase the existing restrictive measures in a number of sectors including the supply of crude oil and all refined petroleum products to DPRK, and introduced new prohibitions in a number of sectors including the supply by DPRK of food and agricultural products, machinery, electrical equipment, earth and stone, and wood, and prohibitions on the supply to DPRK of all industrial machinery, transportation vehicles, and iron, steel and other metals.
- (5) The UNSC also provided powers to seize, inspect and freeze any vessel which is believed to be involved in the breach of existing SCRs, and to require the repatriation of all DPRK workers abroad, subject to applicable national and international law.
- (6) One person and one entity that have been designated by the UNSC and added to Annex I should be removed from the Annex of persons and entities designated by the Council.
- (7) Further action by the Union is necessary to implement certain measures in this Decision.
- (8) Decision (CFSP) 2016/849 should therefore be amended accordingly

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HAS ADOPTED THIS DECISION:

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### *Article 1*

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

(1) Article 9 paragraph 2 is replaced by the following:

'2. The direct or indirect supply, sale or transfer of all refined petroleum products to the DPRK by nationals of Member States, through or from the territories of Member States, or using the flag vessels, aircraft, pipelines, rail lines, or vehicles of Member States shall be prohibited, regardless of whether those refined petroleum products originate in the territories of those Member States.

(2+) Article 9 paragraph 3 is replaced by the following:

'3. By derogation from the prohibition in paragraph 2, where the amount of refined petroleum products, including diesel and kerosene, supplied, sold or transferred to the DPRK does not exceed 500,000 barrels during the period of twelve months beginning on January 1, 2018, and for twelve month periods thereafter, the ~~c~~Competent ~~a~~Authority of a Member State may authorize on a case by case basis the supply, sale or transfer to the DPRK ~~of~~ refined petroleum products where the ~~c~~Competent ~~a~~Authority has determined that the supply, sale or transfer is exclusively for humanitarian purposes and provided that:

(a) the Member State notifies the Sanctions Committee every 30 days of the amount of such supply, sale or transfer of refined petroleum products to the DPRK, along with information about all the parties to the transaction;

(b) the supply, sale or transfer of such refined petroleum products does not involve individuals that are associated with the DPRK's nuclear or ballistic missile programmes or other activities prohibited by UNSC Resolutions 1718 (2006), 1874 (2009), 2087 (2013) 2094 (2013) 2270 (2016) 2321 (2016) 2356 (2017), 2371 (2017) 2375 (2017) or 2397 (2017) including designated individuals or entities ~~or individuals or entities acting on their behalf or at their direction or entities owned or controlled by them, directly or indirectly, or individual or entities assisting in the evasion of sanctions,~~ and

(c) the supply, sale or transfer of refined petroleum products is unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes or other activities

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prohibited by UNSCR 1718 (2006) 1874 (2009) 2087 (2013) 2094 (2013) 2270 (2016) 2321 (2016) 2356 (2017) 2371 (2017) 2375 (2017) or 2397 (2017).'

(3) Article 9a paragraph 1 is replaced by the following:

### *'Article 9a*

1. The procurement from the DPRK by nationals of Member States or using the flag vessels or aircraft of Member States of seafood ~~including as well as~~ [the acquisition of] fishing rights shall be prohibited, whether or not originating in the territory of the DPRK.'

(4) Article 9b is replaced by the following:

### *'Article 9b*

1. The direct or indirect supply, sale or transfer of all crude oil to the DPRK by nationals of Member States or through or from the territories of Member States or using the flag vessels, aircraft, pipelines, rail lines or vehicles of Member States shall be prohibited, whether or not originating in the territories of the Member States.

2. By derogation from paragraph 1, the prohibition in paragraph 1 shall not apply where a Member State determines that the supply, sale or transfer of crude oil to the DPRK is exclusively for humanitarian purposes and the Sanctions Committee has approved that shipment in advance on a case by case basis in accordance with paragraph 4 of UNSCR 2397 (2017).

3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.'

(5) The following article is inserted:



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### *'Article 9d*

1. The [direct or indirect] procurement [from the DPRK or its nationals or using the flag vessels or aircraft of the DPRK] by nationals of Member States~~[, or using the flag vessels or aircraft of Member States,]~~ ~~directly or indirectly from the DPRK or its nationals~~ of food and agricultural products, machinery, electrical equipment, earth and stone including magnesite and magnesia, wood, and vessels, ~~or using its flag vessels or aircraft,~~ shall be prohibited, whether or not originating in the territory of the DPRK.
2. The prohibition in paragraph 1 shall be without prejudice to the execution until 21 January 2018 of contracts concluded before 22 December 2017. The details of any shipment must be notified to the Sanctions Committee by 5 February 2018.
3. The Union shall take the necessary measures to determine the relevant items covered by paragraph 1.!

(6) The following article is inserted:

### *'Article 9e*

1. The direct or indirect supply, sale or transfer to the DPRK by nationals of Member States or through the territory of Member States ~~-or using their flag vessels, aircraft, pipelines, rail lines or vehicles~~ ~~-of all industrial machinery, transportation vehicles, iron, steel, and other metals,~~ shall be prohibited, whether or not originating in their territory.
2. The prohibition in paragraph 1 shall not apply with respect to the provision of spare parts needed to maintain the safe operation of DPRK passenger aircraft.
3. The Union shall take the necessary measures to determine the relevant items to be covered by this article.!

(7) Article 16 paragraph 4 is replaced by the following:

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'4. Member States shall cooperate in accordance with their national legislation with inspections pursuant to paragraphs 1 to 3.

Member States shall cooperate as promptly as possible and in an appropriate manner with a request from another State which has information to suspect that the DPRK is attempting to supply, sell, transfer or procure directly or indirectly illicit cargo, for additional maritime and shipping information including to determine whether the item, commodity or product in question originated in the DPRK.!

(8) Article 16 paragraph 6 is replaced by the following:

'6. Member States shall take the necessary measures to seize and dispose of, such as through destruction, rendering inoperable or unusable, storage, or transferring to a State other than the originating or destination State for disposal, items the supply, sale, transfer or export of which is prohibited by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2371 (2017), 2375 (2017) or 2397 (2017) that are identified in inspections, in a manner that is consistent with their obligations under applicable international law.!

(9) The following article is inserted:

### *Article 18b*

1. Member States shall seize, ~~inspect~~ and freeze (impound) any vessel listed in Annex VI in their ports, and may seize, ~~inspect~~ and freeze (impound) any vessel listed in Annex VI subject to their jurisdiction in their territorial waters.

2. Member States shall inspect any vessel in their ports, and may inspect any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).

~~23.~~ The provisions for the freezing (impounding) of vessels in sub-paragraph 1 shall not apply after 6 months from the date such a vessel was frozen (impounded) if the Sanctions Committee

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decides on a case-by-case basis and upon request of a flag State, that adequate arrangements have been made to prevent the vessel from contributing to future violations of the resolutions referred to in sub-paragraph 1.!

~~34.~~ Member States shall de-register any vessel listed in Annex VI.

~~45.~~ The provision by nationals of Member States or from the territories of Member States of classification services to vessels listed in Annex VI shall be prohibited unless approval have been granted in advance by the Sanctions Committee on a case-by-case basis.

~~56.~~ The provision by nationals of Member States or from the territories of Member States of insurance or re-insurance services to vessels listed in Annex VI shall be prohibited.

~~67.~~ Paragraph 5 shall not apply where the Sanctions Committee determines on a case-by-case basis that the vessel is engaged in activities exclusively for livelihood purposes which will not be used by DPRK individuals or entities to generate revenue or exclusively for humanitarian purposes.

~~78.~~ Annex VI shall contain the vessels referred to in paragraphs 1 ~~to~~ and 3 - 6 of this Article where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited by resolutions 1718 (2006), 1874 (2009) 2087 (2013) 2094 (2013) 2270 (2016), 2321 (2016) 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017).!;

(10) Article 21 is replaced by the following:

'Member States shall de-register any vessel that is owned, controlled or operated by the DPRK, and shall not register any vessel that has been de-registered by another State except as approved in advance by the Sanctions Committee on a case-by-case basis.'

(11) In Article 26a the following paragraph is inserted:

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5. Member States shall repatriate to the DPRK all DPRK nationals earning income in that Member State's jurisdiction and all DPRK government safety oversight attachés monitoring DPRK workers abroad immediately but no later than 21 December 2019 unless the Member State determines that a DPRK national is a national of ~~that an EU~~ Member State or a DPRK national whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, and the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations.'

(12) Article 32 is replaced by the following:

### *'Article 32*

No claims in connection with any contract or transaction the performance of which has been affected directly or indirectly, wholly or in part by the measures imposed pursuant to UNSCR 1718 (2006) 1874 (2009) 2087 (2013) 2094 (2013) 2270 (2016) 2321 (2016) 2356 (2017) 2375 (2017) or 2397 (2017), including measures of the Union or any Member State in accordance with, as required by or in any connection with the implementation of the relevant decisions of the UN Security Council or measures covered by this Decision, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, notably a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

(a) designated persons or entities listed in Annex I, II, III, IV, V or VI;

(b) any other person or entity in the DPRK, including the Government of the DPRK, its public bodies, corporation and agencies; or

(c) any person or entity acting through or on behalf of one of the persons or entities referred to in points (a) or (b).'

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(13) The following article is inserted:

### "Article 32a

The measures imposed in resolutions UNSCR 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017) shall not apply if they impede in any way the activities of diplomatic or consular missions in the DPRK pursuant to the Vienna Conventions on Diplomatic and Consular Relations."

(14) [Article 33 paragraph 1 is replaced by the following:

'1. The Council shall implement modifications to Annexes I and IV on the basis of determinations made by the UN Security Council or by the Sanctions Committee.']

(1354). 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, V or VI and adopt modifications thereto.'

(1465) 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), point (b) (c) or (d) of Article 27(1), or paragraph 1, ~~3, 4, or 5~~ or 6 of Article 18b, it shall amend Annex II, III, ~~IV~~ or VI accordingly.'

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(1576) Article 36a is replaced by the following:

By way of derogation from the measures imposed by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) or 2397 (2017), provided that the Sanctions Committee has determined that an exemption is necessary to facilitate the work of international and non-governmental organisations carrying out assistance and relief activities in the DPRK for the benefit of the civilian population in the DPRK or for any other purpose consistent with the objectives of these resolutions, the competent authority of a Member State shall grant the necessary authorization.!

(1678) The persons listed in Annex II to this Decision are removed from Annex II of Decision CFSP 2016/849.

(19) Annex IV is replaced by Annex III to this Decision.

### *Article 2*

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

Done at Brussels,

*For the Council*

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*The President*

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**ANNEX I**

'Annex VI

List of vessels referred to in Article 18b (7)



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### ANNEX II

The following persons and entities are removed from Annex II of Council Decision (CFSP) 2016/849

a. Persons

Kim Jong Sik

b. Entities

Ministry of People's Armed Forces

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## ANNEX III

Annex IV is replaced by the following

'Annex IV

List of vessels referred to in Article 18a(6)

A. De-flagged vessels

B. Vessels directed to a port

C. De-registered vessels

D. Vessels which are prohibited entry into ports

E. Vessels subject to an asset freeze

1.Name: PETREL 8

**Additional information**

IMO: 9562233. MMSI: 620233000

2.Name: HAO FAN 6

**Additional information**

IMO: 8628597. MMSI: 341985000

3.Name: TONG SAN 2

**Additional information**

IMO: 8937675. MMSI: 445539000

4.Name: JIE SHUN

**Additional information**

IMO: 8518780. MMSI: 514569000

5. Name: BILLIONS NO. 18

**Additional information**

IMO: 9191773

6. Name: UL JI BONG 6

**Additional information**

IMO: 9114555

7. Name: RUNG RA 2

**Additional information**

IMO: 9020534

8. Name: RYE SONG GANG 1

**Additional information**

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| IMO: 7389704'