



EUROPEAN UNION SANCTIONS AGAINST NORTH KOREA UPDATE

In our last briefing¹ we outlined the increased sanctions which had been imposed against North Korea by, among others, the UN, the US and the EU following the nuclear test conducted by North Korea on 6 January 2016 and the rocket launch conducted on 7 February 2016.

The EU has now published Regulation 2016/682 (the Regulation) imposing additional sanctions against North Korea in line with UN Resolution 2270 (2016) (the UN Resolution) and Council Decision (CFSP) 2016/476 (the Decision).

Like other EU Regulations, the Regulation has direct effect on individuals and companies, and applies to EU nationals, EU companies, EU-flagged and registered aircraft and vessels, and to any legal person, entity or body in respect of any business done in whole or in part within the Union and therefore businesses need to be aware of the impact of these most recent sanctions.

The Regulation is generally in line with the Decision and includes the following:

¹ <http://www.hfw.com/North-Korea-sanctions-update-April-2016>

- A ban on leasing and chartering vessels and aircraft, as well as providing crew services, to North Korea, or designated persons and entities, or anyone acting for or on behalf of them, or any entity which is owned or controlled by them (in all cases subject to the “livelihood purposes” exception in the UN Resolution, which the EU has expressed as a requirement for the relevant EU Member State to authorise the activity, having provided information to the UN Sanctions Committee in advance demonstrating that the activities are exclusively for livelihood purposes which will not be used by North Korean individuals or entities to generate revenue).
- An obligation to de-register vessels owned, operated or crewed by North Korea or North Korean nationals, or vessels that have been deregistered by another state pursuant to the UN Resolution (subject to the “livelihood purposes” exception mentioned above).
- A ban on owning, operating, insuring or providing any vessel classification certification



or associated services to North Korean flagged vessels (subject to the “livelihood purposes” exception mentioned above).

- A ban on allowing vessels to enter EU ports if the vessel is known or believed to be owned or controlled by a designated person or entity or the vessel is North Korean flagged or if there are reasonable grounds to believe there is prohibited cargo on board or the vessel has refused to be inspected (subject to certain exceptions – for example in case of an emergency).
- A ban on allowing any aircraft to take off from, land in or overfly the EU if there are reasonable grounds to believe that the aircraft contains prohibited items (subject to certain exceptions – eg in case of an emergency).
- Prohibitions on the sale and supply of aviation fuel to North Korea, including a ban on the transportation to North Korea of aviation fuel on board an aircraft. However, it is permitted to supply fuel to civilian passenger aircraft outside North Korea if that fuel will be used to fly to North Korea and back to the airport of origin. In addition, an exception can be made for essential humanitarian purposes.
- A ban on the purchase or transportation from North Korea of certain gold, titanium ore, vanadium ore, rare earth minerals, coal, iron and iron ore (in each case as listed in the relevant Annex to the Regulation) whether or not originating in North Korea. This prohibition is also subject to a “livelihood purposes” exception, which is broadly similar to the one mentioned above, but the terms

are not precisely the same, and this should be carefully reviewed before proceeding with any trade which is considered to fall within this exception. In addition, the prohibition does not apply to coal not originating in North Korea which is transported through North Korea solely for export from the Port of Rajin (Rason), provided the transaction is notified in advance to the UN Sanctions Committee.

- A trade ban, applying to all imports to and exports from North Korea, of products which are known or believed to be destined for North Korea's armed forces or where the export could support or enhance the operational capabilities of the armed forces of a State other than North Korea. This prohibition is subject to a number of exceptions (including in respect of food and medicine).
- Authority to inspect any cargo moving to and from North Korea, as well as any cargo brokered or facilitated by North Korea or its nationals or transported on board North Korea flagged vessels or aircraft registered in North Korea.
- A ban on the provision of financial support (such as granting of export credits, guarantees or insurance) to trade with North Korea where such financial support could contribute to North Korea's nuclear or ballistic missile programmes or other activities prohibited by the UN Security Council Resolutions.
- The prohibition on the provision of funds and economic resources is extended to cover the Government of North Korea, the Worker's Party of North Korea and persons and entities acting on their behalf or owned or controlled by them.

In the financial sector, additional restrictions are imposed on the operation of EU credit and financial institutions in North Korea, as follows:

- A ban on opening bank accounts or establishing correspondent banking relationships with North Korean financial and credit institutions. Additionally, there is also a ban on opening new branches, representative offices and subsidiaries in North Korea, as well as establishing joint ventures or taking an ownership interest in North Korean financial and credit institutions.
- EU credit and financial institutions must terminate any existing correspondent relationships, joint ventures with North Korean financial and credit institutions and relinquish any ownership interest in North Korean financial and credit institutions.
- Existing representative offices, subsidiaries, branches or bank accounts in North Korea can remain open unless suspected of contributing to North Korea's nuclear or ballistic missile program or other prohibited activities. Even in such circumstances, bank accounts, representative offices, subsidiaries and branches may remain open if necessary for the delivery of humanitarian assistance or the activities of diplomatic missions in North Korea.



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