



Security Council

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Security Council Committee established pursuant to resolution [1718 \(2006\)](#)

Note verbale dated 14 November 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1718 \(2006\)](#) and has the honour to transmit herewith the report on the measures taken by Spain in accordance with paragraph 18 of resolution [2371 \(2017\)](#) (see annex).



Annex to the note verbale dated 14 November 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain on the implementation of Security Council resolution [2371 \(2017\)](#)

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1718 \(2006\)](#) and, in accordance with paragraph 18 of resolution [2371 \(2017\)](#), has the honour to submit the report on the concrete measures taken by Spain to ensure effective implementation of the provisions of that resolution.

In response to the nuclear test conducted by the Democratic People's Republic of Korea in 2017 and, in particular, following the ballistic missile launches on 3 and 28 July 2017, the Security Council adopted resolution [2371 \(2017\)](#) imposing fresh international sanctions against that country and expanding the scope of the measures previously adopted.

The States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea set forth in resolution [2371 \(2017\)](#) through the adoption of the following common measures:

- Council Implementing Decision (CFSP) 2017/1459 of 10 August 2017, amending Council Decision (CFSP) 2016/849 of 27 May 2016, which adds to the list of persons and entities subject to restrictive measures (entry bans and asset freezes).
- Commission Implementing Regulation (EU) 2017/1457 of 10 August 2017, amending Council Regulation (EC) No. 329/2007 of 27 March 2007, which adds to the list of persons and entities subject to restrictive measures.
- Council Decision (CFSP) 2017/1504 of 24 August 2017, amending Council Decision (CFSP) 2016/849 by extending a specific exemption from the asset freeze for the Foreign Trade Bank and the Korean National Insurance Company pursuant to resolution [2371 \(2017\)](#).
- Council Regulation (EU) 2017/1501 of 24 August 2017, amending Council Regulation (EC) No. 329/2007, in the same matter as the previous point.
- Council Decision (CFSP) 2017/1562 of 14 September 2017, amending Council Decision (CFSP) 2016/849.
- Council Regulation (EU) 2017/1548 of 14 September 2017, amending Council Regulation (EU) 2017/1509 of 30 August 2017, repealing Council Regulation (EC) No. 329/2007.

The Council's decision reflects the commitment of the European Union to implementing the measures contained in resolution [2371 \(2017\)](#):

- Prohibition on the entry into the ports of Member States of vessels designated by the Committee, pursuant to paragraph 6 of resolution [2371 \(2017\)](#), unless entry is required because of an emergency or in the case of the vessel's return to its port of origination. The Committee can grant an exemption under certain conditions.
- Clarification that the prohibition on owning, leasing or operating any vessel flagged by the Democratic People's Republic of Korea also includes the chartering of vessels flagged by the Democratic People's Republic of Korea.

- Prohibition on procuring coal, iron and iron ore from the Democratic People's Republic of Korea. The prohibition does not apply if the conditions mentioned in paragraph 8 of resolution [2371 \(2017\)](#) are met.
- Prohibition on procuring seafood from the Democratic People's Republic of Korea.
- Prohibition on procuring lead and lead ore from the Democratic People's Republic of Korea.
- Prohibition on exceeding, on any date after 5 August 2017, the total number of work authorizations for nationals of the Democratic People's Republic of Korea provided in the jurisdictions of Member States and valid on 5 August 2017. The Committee can grant an exemption on a case-by-case basis under certain conditions.
- Prohibition on opening new joint ventures or cooperation entities and expanding existing joint ventures. The Committee can grant exemptions on a case-by-case basis.
- Clarification that the prohibition on transferring funds to or from the Democratic People's Republic of Korea also applies to the clearing of funds.
- Clarification that companies performing financial services commensurate with those provided by banks are considered financial institutions.
- Obligation to seize and dispose of items the export of which is prohibited in resolution [2371 \(2017\)](#).

Spain also has comprehensive national legislation in various areas which are closely related to some of the matters covered by resolution [2371 \(2017\)](#), including non-proliferation, international trade in certain types of goods, entry and travel bans and financial measures; these laws complement the above-mentioned legal instruments adopted within the European Union.

Measures adopted for the effective implementation of the provisions of resolution [2371 \(2017\)](#)

Measures related to the embargo on conventional weapons and weapons of mass destruction, as well as on related materials, equipment, goods and technology

Spain has its own legislation on the control of foreign trade in defence-related and dual-use materials, which subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority.

The applicable national legislation is Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials and Royal Decree No. 679/2014 of 1 August 2014 approving the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology. However, pursuant to the above-mentioned legislation, there is currently no trade in weapons and related goods between Spain and the Democratic People's Republic of Korea.

The above legislation applies to the ban on the direct or indirect supply, sale or transfer to the Democratic People's Republic of Korea of nuclear-related, ballistic missile-related or other weapons of mass destruction-related items, materials, equipment, goods and technology.

Council Regulation (EC) No. 428/2009 of 5 May 2009, setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is

also noteworthy. This Regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in their destination country, or of any dual-use material with possible military use in a State subject to an arms embargo.

Trade restrictions

With regard to defence-related and dual-use materials, no operations requiring authorization by the Spanish authorities have been conducted since the sanctions were imposed.

Applications for licences for the import or export of goods to or from the Democratic People's Republic of Korea are examined on a case-by-case basis by the competent national authority, which shall grant the licences only once it has been verified that the conditions established by the relevant national, international and European Union provisions have been met.

In the case of exports to countries considered sensitive or subject to an embargo, such as the Democratic People's Republic of Korea, a strengthened and exhaustive examination is conducted before any licence is granted. Spain has an alert system in place that was established by the Customs and Excise Department, which is the department responsible for identifying imports from and exports to countries subject to restrictive measures and stopping the customs clearance of the goods concerned. These filters were established for any goods originating in or headed to the Democratic People's Republic of Korea. The export of such goods without the required licence constitutes an offence in accordance with the criminal legislation in force, in particular Organic Act No. 12/1995 of 12 December 1995 on countering smuggling.

Exporting certain luxury goods, the complete list of which is contained in annex VIII of Council Regulation (EU) 2017/1509, constitutes a criminal offence under current Spanish legislation and is punishable by law.

Entry bans and travel restrictions

By Council Implementing Decision (CFSP) 2017/1459 and Commission Implementing Regulation (EU) 2017/1457, the European Union has incorporated the persons and entities subject to entry and travel bans added to the list by resolution [2371 \(2017\)](#).

This, together with Council Regulation (EC) No. 539/2001 of 15 March 2001, listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, forms the basis for prohibiting entry into the territory of the European Union.

In this regard, Spanish policy on foreign nationals is governed by Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration.

Transport restrictions

The entry of vessels into Spanish ports open to national and international maritime navigation is subject to the rules set out in Act No. 14/2014 of 24 July 2014 on maritime navigation, and to the other legislation pertaining to ports, security, customs, aliens and immigration, police, health, the environment and fisheries, including the established operational conditions. Within the scope of its competences, the maritime administration shall authorize or refuse entry into waters over which Spain has sovereignty, sovereign rights or jurisdiction, and the port administration

shall authorize the entry into ports in the national territory, meaning that authorization granted by the port administration to enter port shall always be subject to compliance with legislation and other related rules.

There is currently no direct air link between Spain and the Democratic People's Republic of Korea and there are no plans to operate commercial flights between the two countries. However, Spain has a licensing department and any future requests relating to flights to or from the Democratic People's Republic of Korea will be subject to the relevant legislation.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing. Article 42 of Act No. 10/2010 of 28 April 2010 on preventing money-laundering and terrorist financing explicitly mentions the freezing of funds in accordance with international sanctions and is fully applicable to the Democratic People's Republic of Korea.

Measures taken to prohibit the establishment of and participation in companies of the Democratic People's Republic of Korea in certain sectors

The extension of sanctions against the Democratic People's Republic of Korea provides for a ban on the establishment of joint venture companies and the acquisition of any equity, through the purchase of shares or other assets, in companies involved in nuclear programmes or the production of ballistic missiles or other weapons of mass destruction, as well as the conventional arms, metallurgical, mining, chemical, refining and aerospace industries.

In addition, the prohibition includes financing or financial assistance and the provision of direct or indirect investment services related to the above activities.

Spain has specific national legislation on Spanish investments abroad and foreign investments in Spain, namely Royal Decree No. 664/1999 of 23 April 1999 on foreign investments and Act No. 19/2003 of 4 July 2003 on the legal framework for capital transfers and financial transactions abroad and certain measures to prevent money-laundering, which complement Act No. 10/2010 of 28 April 2010 on the prevention of money-laundering and terrorist financing.
