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Note verbale dated 12 December 2017 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Kingdom of the Netherlands 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 submit the combined national implementation report prepared by the national authorities of the Netherlands pursuant to paragraph 18 of Security Council resolution [2371 \(2017\)](#) and paragraph 19 of Council resolution [2375 \(2017\)](#) (see annex).

The Kingdom of the Netherlands welcomes the updated Implementation Assistance Notice No. 2 containing guidelines on the preparation and submission of national implementation reports and the fact sheet compiling certain measures imposed by the Council in its resolutions [1718 \(2006\)](#), [1874 \(2009\)](#), [2087 \(2013\)](#), [2094 \(2013\)](#), [2270 \(2016\)](#), [2321 \(2016\)](#), [2356 \(2017\)](#), [2371 \(2017\)](#) and [2375 \(2017\)](#), and extends its gratitude to the Committee for its efforts in that regard. The optional checklist template contained in Implementation Assistance Notice No. 2 is a useful tool, and elements from the checklist have been incorporated into the report.



Annex to the note verbale dated 12 December 2017 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee

Report of the Netherlands on the implementation of Security Council resolutions 2371 (2017) and 2375 (2017)

Pursuant to paragraph 18 of Security Council resolution 2371 (2017) and paragraph 19 of Council resolution 2375 (2017), the Permanent Mission of the Kingdom of the Netherlands to the United Nations has the honour to inform the Committee of the steps taken by the Government of the Kingdom of the Netherlands to implement the measures imposed by the Council in resolutions 2371 (2017) and 2375 (2017).

The implementation of United Nations sanctions is an autonomous competence of Aruba, Curaçao, Sint Maarten and the Netherlands, although the Kingdom of the Netherlands remains accountable under international law. Only the Netherlands is a member of the European Union.

Member States of the European Union implement the provisions of Security Council resolutions that fall within the scope of the competence of the European Union by means of the relevant European regulatory acts, comprising regulations, decisions and common positions of the Council of the European Union. The Netherlands and the other European Union member States have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in resolution 2371 (2017) and 2375 (2017) by taking the following common measures:

With regard to resolution 2371 (2017):

(a) Council Implementing Decision (CFSP) 2017/1459 of 10 August 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and entities (travel ban and asset freeze);

(b) Commission Implementing Regulation (EU) 2017/1457 of 10 August 2017 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea;

(c) Council Decision (CFSP) 2017/1562 of 14 September 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to implementing the measures contained in resolution 2371 (2017), namely:

(i) Prohibition on entering into ports of Member States for vessels designated by the Committee pursuant to paragraph 6 of resolution 2371 (2017), unless such entry is required because of an emergency or the vessel is returning to its port of origination. The Committee may grant exemptions under certain conditions;

(ii) Clarification that the prohibition on owning, leasing or operating any vessel flagged by the Democratic People's Republic of Korea includes chartering vessels flagged by that country;

(iii) Prohibition on procuring coal, iron and iron ore from the Democratic People's Republic of Korea. The prohibition does not apply if the conditions set out in paragraph 8 of resolution 2371 (2017) are met;

(iv) Prohibition on procuring seafood from the Democratic People's Republic of Korea;

- (v) Prohibition on procuring lead and lead ore from the Democratic People's Republic of Korea;
 - (vi) 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 may grant exemptions on a case-by-case basis under certain conditions;
 - (vii) Prohibition on opening new joint ventures or expanding existing joint ventures. The Committee may grant exemptions on a case-by-case basis;
 - (viii) Clarification that the prohibition on transferring funds to or from the Democratic People's Republic of Korea applies also to the clearing of funds;
 - (ix) Clarification that companies performing financial services commensurate with those provided by banks are considered financial institutions;
 - (x) Obligation to seize and dispose of items the export of which is prohibited by resolution [2371 \(2017\)](#);
- (d) Council Regulation (EU) 2017/1548 of 14 September 2017 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea.

With regard to resolution [2375 \(2017\)](#):

- (a) Council Implementing Decision (CFSP) 2017/1573 of 15 September 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and entities (travel ban and asset freeze);
- (b) Council Implementing Regulation (EU) 2017/1568 of 15 September 2017 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to Council Implementing Decision (CFSP) 2017/1573;
- (c) Council Decision (CFSP) 2017/1838 of 10 October 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to implementing the measures contained in resolution [2375 \(2017\)](#), namely:
 - (i) Trade ban on dual-use items related to weapons of mass destruction, adopted by the Committee pursuant to paragraph 4 of resolution [2375 \(2017\)](#);
 - (ii) Trade ban on conventional arms-related items, adopted by the Committee pursuant to paragraph 5 of resolution [2375 \(2017\)](#);
 - (iii) Prohibition on entering into ports of Member States for vessels designated by the Committee pursuant to paragraph 6 of resolution [2375 \(2017\)](#);
 - (iv) Obligation for Member States that are flag States and do not consent to inspection of a vessel on the high seas to direct the vessel to proceed to an appropriate and convenient port for the required inspection;
 - (v) Deregistration of vessels designated by the Committee pursuant to paragraph 8 of resolution [2375 \(2017\)](#);
 - (vi) Obligation for Member States to submit a report to the Committee when a flag State does not cooperate with inspections;
 - (vii) Prohibition on facilitating or engaging in ship-to-ship transfers to or from vessels flagged by the Democratic People's Republic of Korea of any goods or

items that are being supplied, sold or transferred to or from the Democratic People's Republic of Korea;

(viii) Prohibition on exporting condensates and natural gas liquids to the Democratic People's Republic of Korea;

(ix) Prohibition on exporting refined petroleum products to the Democratic People's Republic of Korea. The prohibition does not apply if the conditions set out in paragraph 14 of resolution [2375 \(2017\)](#) are met;

(x) Prohibition on exporting an amount of crude oil that exceeds the amount that the Member State exported in the 12-month period prior to 11 September 2017. The Committee may grant exemptions on a case-by-case basis under certain conditions;

(xi) Prohibition on importing textiles from the Democratic People's Republic of Korea. The prohibition does not apply if the conditions set out in paragraph 16 of resolution [2375 \(2017\)](#) are met. The Committee may grant exemptions on a case-by-case basis under certain conditions;

(xii) Prohibition on providing work authorizations for nationals of the Democratic People's Republic of Korea in the jurisdiction of Member States in connection with admission to their territories. The Committee may grant exemptions on a case-by-case basis under certain conditions;

(xiii) Prohibition on opening, maintaining and operating joint ventures unless approved by the Committee on a case-by-case basis and obligation to close existing joint ventures;

(xiv) Obligation to seize and dispose of items the export of which is prohibited by resolution [2371 \(2017\)](#);

(d) Council Regulation (EU) 2017/1836 of 10 October 2017 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures provided for by Council Decision (CFSP) 2017/1838.

Implementation of resolutions [2371 \(2017\)](#) and [2375 \(2017\)](#) in the Netherlands

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all member States of the European Union. As soon as the European legislation was adopted, the Minister for Foreign Affairs of the Netherlands, in cooperation with other ministers concerned, laid down the necessary national provisions in secondary legislation within the framework of the Sanctions Act 1977 (Sanctiewet 1977). Regulation (EU) 2017/1509 requires member States to determine the penalties applicable to infringements of its provisions. The penalties determined by the Netherlands are set out in the Economic Offences Act (Wet op de Economische Delicten).

The Netherlands has the following national legislation requiring an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services and other services related to military activities: the General Customs Act (Algemene Douanewet), the Strategic Goods Decree (Besluit Strategische Goederen) and the Strategic Services Act (Wet Strategische Diensten).

The Netherlands has the following national legislation prohibiting the sale, supply, transfer or export of arms and related materiel to the Democratic People's Republic of Korea and the provision of brokering services and other services related

to military activities: the North Korea Sanctions Order 2017 (Sanctieregeling Noord-Korea 2017).

The Order, which repeals the North Korea Sanctions Order 2007, came into force on 18 November 2017 and is in line with the latest European Union legislation, Council Regulation (EU) 2017/1509 of 30 August 2017, Council Regulation (EU) 2017/1548 of 14 September 2017 and Council Regulation (EU) 2017/1836 of 10 October 2017. Article 1 (1) prohibits the actions listed in Council Regulation (EU) 2017/1509. These entail restrictive measures with regard to the import and export of goods, services and technologies that could contribute to activities of the Democratic People's Republic of Korea in the fields of nuclear weapons, ballistic missiles or other weapons of mass destruction, as well as restrictive measures concerning commercial activities, money transfers and financial services in the Democratic People's Republic of Korea. Article 2 prohibits the direct or indirect sale, supply, transfer or export of military goods and technologies, as outlined in the Strategic Goods Implementation Order 2012 (Uitvoeringsregeling Strategische Goederen 2012), to persons or entities in the Democratic People's Republic of Korea. This legislation provides the basis for enforcing the arms embargo against the Democratic People's Republic of Korea.

Financial control

Provisions from international sanctions regimes, such as those of the United Nations and the European Union, have been transposed into nationally applicable standards through the Sanctions Act 1977 (Sanctiewet 1977). The Act states that the Minister of Finance may designate one or more legal entities to monitor compliance with sanctions legislation (the Sanctions Act 1977 and secondary legislation) in relation to financial transactions. In the Legal Entities Designation Order pursuant to the Sanctions Act 1977, the Minister of Finance designated the Dutch Central Bank (De Nederlandsche Bank NV) and the Dutch Financial Markets Authority (Autoriteit Financiële Markten) as supervisors of compliance with sanctions legislation by specific categories of financial institutions. The Central Bank is responsible for the supervision of credit institutions, trust offices, payment institutions, pension funds and insurers. The Financial Markets Authority supervises the following financial institutions: managers of undertakings for collective investment in transferable securities, managers of alternative investment funds, as referred to in sections 2:65 and 2:66a of the Financial Supervision Act (Wet op het financieel toezicht), and investment firms.

The Supervision Order pursuant to the Sanctions Act 1977 (Regeling Toezicht Sanctiewet 1977), prepared jointly by the Financial Markets Authority and the Central Bank, provides financial institutions with a framework for taking measures. There are two types of financial sanctions: an order to freeze assets and a ban or restrictions on providing financial services. These sanctions are intended to prevent undesirable transactions (embargoes) and to combat terrorism. Institutions take measures to ensure that they can identify clients and associates that are legal or natural persons or entities referred to in sanctions legislation. Institutions subsequently ensure that they do not provide financial resources or services to those clients and associates and that they are able to freeze their financial assets.

In short, financial institutions are required to have proper internal controls so that they can meet their obligations under sanctions legislation. They also have an obligation to notify supervisory bodies of any frozen funds or frozen financial assistance. Failure to meet those obligations can result in a penalty under national administrative law. Infringement of those standards is also deemed to be an offence under the Economic Offences Act (Wet op de Economische Delicten). There are currently no reports of frozen funds or frozen financial assistance under European Union Council regulations that derive from the sanctions regime against the Democratic People's Republic of Korea.

As part of an annual risk analysis, financial institutions are required to report their activities in countries named under sanctions regimes. The Central Bank assesses the inherent sanctions risks of financial institutions. The information provided is analysed and outliers are assessed. The Central Bank conducts thematic reviews of compliance with sanctions legislation and takes action in response to occasional incidents (e.g. if a financial institution or other entity reports an alleged breach of sanctions legislation).

In 2017, no financial institution reported any business with regard to the Democratic People's Republic of Korea. Any new obligation stemming from sanctions legislation is communicated to financial institutions to further increase awareness in the financial sector.

In 2016 and 2017, the Financial Markets Authority investigated an entity under its supervision that might have violated sanctions measures. The Government received information through diplomatic channels about possible sanctions violations by a financial institution under the Authority's supervision, including possible violations of the sanctions regime against the Democratic People's Republic of Korea, specifically:

- Council Regulation (EU) 2016/682 of 29 April 2016
- Security Council resolution [2321 \(2016\)](#) (which, at that time, had not yet been transposed into a European Union regulation)
- Council Regulation (EU) 2017/1509 of 30 August 2017

The Financial Markets Authority took action and contacted the financial institution. It conducted two on-site investigations, one of which was unannounced. In both cases, a violation of the sanctions regime could not be established.

In addition to conducting investigations, the Financial Markets Authority operated the sanctions alert system of the Central Bank in 2017. The Central Bank uses the system to publicize new sanctions measures of relevance to financial businesses.

Import and export control

The export control unit is located at the Ministry of Foreign Affairs of the Netherlands and falls under the responsibility of the Minister for Foreign Trade and Development Cooperation. All enforcement activities, however, are the responsibility of the Customs Service, which is part of the Ministry of Finance. In addition to general customs tasks related to sanctions, a special customs unit, the precursors, strategic goods and sanctions legislation team, is responsible for company audits, inspections and investigations. The team also contacts the public prosecutor whenever sufficient evidence has been collected to bring a case to court. There is a distinction between daily customs tasks at the border (port of Rotterdam and Schiphol airport) and the tasks of the team. Border officials are responsible for checking export declarations and conducting physical checks. Such checks are based mainly on risk management (warning signals, intelligence information, etc.) and are overseen by the customs national tactical centre. As all imports from and exports to the Democratic People's Republic of Korea have a risk profile, they are automatically checked. The precursors, strategic goods and sanctions legislation team of the Customs Service selects cases to be subject to enforcement activity. The team specializes in enforcement, including supervisory inspections (audits) and (criminal) investigations, in relation to drug precursors, strategic goods (dual-use and military) and sanctions and anti-torture legislation. The Ministry of Foreign Affairs works closely with the export control unit and the Customs Service. Planned inspections are jointly implemented, and there is close communication to ensure prompt notification and action whenever irregular behaviour by an organization is observed. Cases are selected on the basis of the severity of a violation and the evidence available. The

Customs Service keeps the export control unit updated if a case is brought to the attention of the public prosecutor.

In cooperation with other European Union member States, the Dutch enforcement authorities intercepted a consignment of equipment destined for the Democratic People's Republic of Korea. Information was received from a European Union member State that a Dutch company was involved in the shipment of generators to the Democratic People's Republic of Korea. The company was visited immediately, and it turned out that the equipment had been shipped a few days before the information was received. The vessel's route was determined by means of a track-and-trace system. The customs authorities at the first port of call were contacted, and, under customs supervision, the container was unloaded and returned to the Netherlands. The investigation revealed that the Dutch company had conducted business with a citizen of the Democratic People's Republic of Korea living in Europe, who had told the exporter that he was a Chinese citizen and that it was his third consignment. All three consignments were ultimately destined for a trading company in the Democratic People's Republic of Korea, but were shipped to and through Chinese companies, mainly logistics service providers, in China. The Dutch exporter was not aware of the final destination. The citizen of the Democratic People's Republic of Korea was interviewed and admitted that the equipment was destined for a trading company of the Democratic People's Republic of Korea. Remarkably, the payments for the three shipments came from four different entities that were not involved in the transaction. Based on the information received and an inspection of the documentation, however, the Customs Service was unable to establish that a sanctions measure had been breached. Consequently, no further steps were taken in the case.

Visa control

With regard to the restrictions on admissions (visa bans), the Netherlands implements the relevant provisions in accordance with existing national frameworks. Council Decision (CFSP) 2016/849 of 27 May 2016 and Council Regulation (EC) 539/2001 of 15 March 2001 provide the basis for refusing admission and denying visa requests.

Individuals listed in Council Decision (CFSP) 2016/849 have been registered in the Schengen Information System, which ensures that any Schengen visa application requested by those individuals will be denied. The embassy of the Netherlands in Beijing processes almost all visa applications for nationals of the Democratic People's Republic of Korea and is aware of the importance of implementing the sanctions against the individuals listed in Decision (CFSP) 2016/849. In 2017, as at mid-November, two visas have been granted to nationals of the Democratic People's Republic of Korea.

With regard to the prohibition on providing work authorizations for nationals of the Democratic People's Republic of Korea, the Netherlands will implement it through an amendment of the Implementation Decree pursuant to the Foreign Nationals Employment Act (Besluit uitvoering Wet arbeid vreemdelingen), which stipulates that no work authorizations may be granted for nationals of the Democratic People's Republic of Korea. Anticipating the entry into force of the amended Implementation Decree, the authorizing authority in the Netherlands has been instructed to refuse any requests for work authorizations for nationals of the Democratic People's Republic of Korea.