EXPLANATORY MEMORANDUM TO

THE NORTH KOREA (UNITED NATIONS SANCTIONS) (AMENDMENT) (NO. 2) ORDER 2018

2018 No. 1060

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order gives effect to certain elements of the United Nations sanctions regime in respect of North Korea. This Order amends and extends the enforcement provisions in the North Korea (United Nations Sanctions) Order 2009 (S.I. 2009/1749) as amended (the "principal Order") in order to provide express legal authority for the seizure and disposal of items identified on foreign ships and ships without nationality in international waters, where the sale, supply, transfer or export of those items to or from North Korea is prohibited by relevant resolutions of the United Nations Security Council ("prohibited items").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is not subject to any Parliamentary procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is not subject to parliamentary procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The United Nations sanctions regime in respect of North Korea is set out in a series of resolutions adopted by the United Nations Security Council, most recently resolution 2407 adopted on 21 March 2018.

6.2 The principal Order provides for the enforcement in the United Kingdom of certain aspects of the trade restrictions against North Korea, including prohibitions on the use of certain ships, aircraft and vehicles to carry specified goods to and from North

Korea, and provisions relating to fishing rights, and registration, insurance and classification services for certain vessels.

7. Policy background

What is being done and why?

7.1 The United Nations Security Council has adopted wide-ranging sanctions measures in respect of North Korea with the goal that North Korea shall abandon its nuclear, other weapons of mass destruction, and ballistic missile related programmes in a complete, verifiable and irreversible manner.

7.2 Operative paragraph 21 of resolution 2371, adopted by the United Nations Security Council on 5 August 2017, authorises and requires all Member States to seize and dispose of items identified in inspections, where the sale, supply, transfer or export of those items is prohibited by relevant resolutions of the United Nations Security Council.

7.3 There are existing prerogative powers that could be relied upon to satisfy these seizure and disposal obligations. However, these amendments to the principal Order provide clear statutory authority and procedures to better regulate this activity.

7.4 This Order also repeals a provision in the principal Order in respect of ships that have been de-flagged pursuant to paragraph 8 of United Nations Security Council resolution 2375 which has been superseded by the provisions in this Order applicable to all ships without nationality in international waters.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The Foreign and Commonwealth Office will keep the need for consolidation of the principal Order under review.

10. Consultation outcome

10.1 There was no public consultation in the United Kingdom.

11. Guidance

11.1 No guidance will be issued.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 United Nations sanctions are monitored and reviewed by the United Nations Security Council. This Order will be reviewed and amended as appropriate following any further modifications to the sanctions regime by the United Nations Security Council.

15. Contact

15.1 George Howe at the Foreign and Commonwealth Office Telephone: 0207 008 1585 or email: George.Howe@fco.gov.uk can be contacted with any queries regarding the instrument.

15.2 Nicola Smith, Legal Counsellor at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Sir Alan Duncan KCMG MP, Minister of State at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.