



Security Council

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

Note verbale dated 6 November 2017 from the United States Mission to the United Nations addressed to the Chair of the Committee

Please find attached the report of the United States of America on its implementation of resolution [2371 \(2017\)](#) (see annex). The United States Mission to the United Nations would appreciate the circulation of the report to the Committee.



Annex to the note verbale dated 6 November 2017 from the United States Mission to the United Nations addressed to the Chair of the Committee

Report of the United States of America on the implementation of Security Council resolution 2371 (2017)

The present report describes concrete measures by which the United States implements paragraphs 3 to 13 of Security Council resolution 2371 (2017) regarding the Democratic People's Republic of Korea (DPRK). The United States considers it essential for Member States to fully and effectively implement that resolution. The United States intends to continue to support the efforts of other States, as requested, and to the extent possible, to implement the resolution.

Among the measures through which the United States implements the relevant provisions of the resolution are the following:

Designations

Paragraph 3. Decides that the measures specified in paragraph 8(d) of resolution 1718 (2006) shall apply also to the individuals and entities listed in Annex I and II of this resolution and to any individuals or entities acting on their behalf or at their direction, and to entities owned or controlled by them, including through illicit means, and decides further that the measures specified in paragraph 8(e) of resolution 1718 (2006) shall also apply to the individuals listed in Annex I of this resolution and to individuals acting on their behalf or at their direction;

The United States has designated all of the individuals and entities listed in annex I to resolution 2371 (2017) for an asset freeze under various authorities administered by the Department of the Treasury and the Department of State. Pursuant to public guidance issued by the Office of Foreign Assets Control, this freeze applies to entities that are 50 per cent or more owned by one or more designated persons. Individuals and entities acting on behalf or at the direction of a designated individual or entity, and entities that are controlled (but are not 50 per cent or more owned) by designated entities, may be subject to derivative designations under the authority used to designate the primary target.

The names of all individuals listed in annex I have been entered into the appropriate consular database for assessment should an individual apply for a visa or entry. Individuals and entities acting on behalf or at the direction of a designated individual or entity may be subject to derivative designations under the authority used to designate the primary target.

The Department of Homeland Security has the authority to deny aliens entry into or transit through the United States based on grounds specified by the relevant laws and regulations, including, for example, Title 8, Section 1182(a)(3)(A)(i) of the United States Code (seeking to enter the United States “to engage solely, principally, or incidentally in ... any activity ... to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information”); (a)(3)(C) (reason to believe entry “would have potentially serious adverse foreign policy consequences for the United States”); and (f) (entry “would be detrimental to the interests of the United States”).

Paragraph 4. Decides to adjust the measures imposed by paragraph 8 of resolution 1718 (2006) and this resolution through the designation of additional goods, directs the Committee to undertake its tasks to this effect and to report to the Security Council within fifteen days of adoption of this resolution, and further decides that, if the

Committee has not acted, then the Security Council will complete action to adjust the measures within seven days of receiving that report;

The United States does not permit the export or re-export to North Korea of any items that could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes. Those restrictions apply to the items listed in the annex to the letter dated 22 August 2017 submitted by the Chair of the Committee in accordance with paragraph 4 of resolution [2371 \(2017\)](#) that includes items that are controlled for nuclear non-proliferation, missile technology and chemical and biological reasons.

The items in the annex to that letter require a licence from the United States Department of Commerce under the Export Administration Regulations for export or re-export to North Korea. Applications for export and re-export to all end users in North Korea of the items listed in the annex are subject to a policy of denial.

The United States works with like-minded countries, including those in the Wassenaar Arrangement, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Proliferation Security Initiative, and participates in outreach programmes to non-member countries, to prevent transfers to North Korea of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in the annex to the letter dated 22 August.

Paragraph 5. Decides to adjust the measures imposed by paragraph 7 of resolution [2321 \(2016\)](#) through the designation of additional conventional arms-related items, materials, equipment, goods, and technology, directs the Committee to undertake its tasks to this effect and to report to the Security Council within thirty days of adoption of this resolution, further decides that, if the Committee has not acted, then the Security Council will complete action to adjust the measures within seven days of receiving that report, and directs the Committee to update this list every 12 months;

The United States does not permit the export or re-export to North Korea of conventional arms-related items, materials, equipment, goods and technology. Those restrictions apply to the items listed in the annex to the letter dated 5 September 2017 submitted by the Chair of the Committee in accordance with paragraph 5 of resolution [2371 \(2017\)](#) that includes conventional arms-related items.

The items in the annex to that letter require a licence from the United States Department of Commerce under the Export Administration Regulations for export or re-export to North Korea. Applications for export and re-export to all end users in North Korea of the items listed in the annex are subject to a policy of denial.

Transportation

Paragraph 6. Decides that the Committee may designate vessels for which it has information indicating they are, or have been, related to activities prohibited by resolutions [1718 \(2006\)](#), [1874 \(2009\)](#), [2087 \(2013\)](#), [2094 \(2013\)](#), [2270 \(2016\)](#), [2321 \(2016\)](#), [2356 \(2017\)](#), or this resolution and all Member States shall prohibit the entry into their ports of such designated vessels, unless entry is required in the case of emergency or in the case of return to its port of origination, or unless the Committee determines in advance that such entry is required for humanitarian purposes or any other purposes consistent with the objectives of resolutions [1718 \(2006\)](#), [1874 \(2009\)](#), [2087 \(2013\)](#), [2094 \(2013\)](#), [2270 \(2016\)](#), [2321 \(2016\)](#), [2356 \(2017\)](#), or this resolution;

Title 50, Section 191 of the United States Code and the regulations issued thereunder by the United States Coast Guard authorize the captain of the port to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards

thereon, and, if necessary in the captain of the port's opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbour or waters of the United States, or to secure the observance of rights and obligations of the United States, to take for such purposes full possession and control of such vessels.

Paragraph 7. Clarifies that the measures set forth in paragraph 20 of resolution 2270 (2016) and paragraph 9 of resolution 2321 (2016), requiring States to prohibit their nationals, persons subject to their jurisdiction and entities incorporated in their territory or subject to their jurisdiction from owning, leasing, operating any vessel flagged by the DPRK, without exception, unless the Committee approves on a case-by-case basis in advance, apply to chartering vessels flagged by the DPRK;

Executive Order 13466, implemented by the Office of Foreign Assets Control with respect to Title 31, Part 510 of the Code of Federal Regulations, prohibits United States persons from registering a vessel in North Korea, obtaining authorization for a vessel to fly the North Korean flag, and owning, leasing, operating, or insuring any vessel flagged by North Korea.

Consolidated response to paragraphs 8, 9 and 10

Sectoral

Paragraph 8. Decides that paragraph 26 of resolution 2321 (2016) shall be replaced by the following:

“Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, coal, iron, and iron ore, and that all States shall prohibit the procurement of such material from the DPRK by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of the DPRK, decides that for sales and transactions of iron and iron ore for which written contracts have been finalized prior to the adoption of this resolution, all States may allow those shipments to be imported into their territories up to 30 days from the date of adoption of this resolution with notification provided to the Committee containing details on those imports by no later than 45 days after the date of adoption of this resolution, and decides further that this provision shall not apply with respect to coal that the exporting State confirms on the basis of credible information has originated outside the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason), provided that the exporting State notifies the Committee in advance and such transactions involving coal originating outside of the DPRK are unrelated to generating revenue for the DPRK's nuclear or ballistic missile programs or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), or this resolution;”

Paragraph 9: Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, seafood (including fish, crustaceans, mollusks, and other aquatic invertebrates in all forms), and that all States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of the DPRK, and further decides that for sales and transactions of seafood (including fish, crustaceans, mollusks, and other aquatic invertebrates in all forms) for which written contracts have been finalized prior to the adoption of this resolution, all States may allow those shipments to be imported into their territories up to 30 days from the date of adoption of this resolution with notification provided to the Committee containing details on those imports by no later than 45 days after the date of adoption of this resolution;

Paragraph 10. Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, lead and lead ore, and that all States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of the DPRK, and further decides that for sales and transactions of lead and lead ore for which written contracts have been finalized prior to the adoption of this resolution, all States may allow those shipments to be imported into their territories up to 30 days from the date of adoption of this resolution with notification provided to the Committee containing details on those imports by no later than 45 days after the date of adoption of this resolution;

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person or the Government of DPRK has any interest.

Since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes DPRK territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The United States Customs and Border Protection of the Department of Homeland Security can inspect all cargo on aircraft destined for or departing from the United States (see, for example Title 19, Sections 482 and 1499 of the United States Code) and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, for example, Title 19, Section 1595a, and Title 22, Section 401 of the United States Code).

With respect to United States-flagged vessels, pursuant to Title 14, Section 89 of the United States Code, the United States Coast Guard of the Department of Homeland Security may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial sea of another country, to enforce United States laws. Within the United States contiguous zone (up to 24 nautical miles from the coastline of the United States), the United States Coast Guard and the United States Customs and Border Protection may board vessels destined for or departing from the United States, examine manifests and search cargo (see, for example, Title 19 Sections 1581 and 1587, and Title 14, Section 89 of the United States Code).

If a vessel or aircraft is itself of United States origin, regardless of its flag, or if the value of the United States-origin parts of the vessel or aircraft exceeds 10 per cent of the total value of the vessel/aircraft, the vessel or aircraft itself is subject to the Export Administration Regulations, and a Bureau of Industry and Security licence would be required for the aircraft or vessel to travel to DPRK. These export and

re-export rules under the Export Administration Regulations apply even if the items the vessel or aircraft is transporting are not themselves subject to the Export Administration Regulations because they do not meet the de minimis threshold for controlled United States-origin content.

Paragraph 11. Expresses concern that DPRK nationals frequently work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs, decides that all Member States shall not exceed on any date after the date of adoption of this resolution the total number of work authorizations for DPRK nationals provided in their jurisdictions at the time of the adoption of this resolution unless the Committee approves on a case-by-case basis in advance that employment of additional DPRK nationals beyond the number of work authorizations provided in a member state's jurisdiction at the time of the adoption of this resolution is required for the delivery of humanitarian assistance, denuclearization or any other purpose consistent with the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), or this resolution;

Currently there are very few DPRK nationals who have authorization to work in the United States. The majority of those who do were granted refugee status, asylum status or are currently applying for asylum (see North Korean Human Rights Act of 2004, Public Law No. 108-133). On 24 September 2017, President Trump issued Proclamation No. 9645, which, among other things, suspends the entry into the United States of DPRK nationals, subject to certain exceptions and waivers. The Proclamation restricts entry into the United States of DPRK nationals who were outside the United States on 18 October 2017 if they did not have a valid visa on that date and if they do not qualify for a visa or other valid travel document based on revocation or cancellation of a visa as a result of Executive Order 13769.

The Proclamation provides exceptions to that restriction for DPRK nationals who (1) are lawful permanent residents of the United States; (2) are admitted to or paroled into the United States on or after 18 October 2017; (3) have a document other than a visa valid on 18 October 2017 or issued on any date thereafter that permits them to travel to the United States and seek entry or admission; (4) are dual nationals of a non-designated country traveling on a passport issued by the non-designated country; (5) are traveling on a diplomatic or diplomatic-type visa; or (6) are applying for or have been granted asylum in the United States, are refugees who have already been admitted into the United States, or are applying for or have been granted protection from removal under the Convention Against Torture. The Proclamation also provides for case-by-case waivers for DPRK nationals if it is determined that denying entry would cause undue hardship, entry would not pose a threat to national security or public safety, and entry would be in the national interest.

In addition, bringing individuals who are ordinarily resident in DPRK to the United States for work is a prohibited importation of services from DPRK under Section 1 of Executive Order 13570.

Financial

Paragraph 12. Decides that States shall prohibit, by their nationals or in their territories, the opening of new joint ventures or cooperative entities with DPRK entities or individuals, or the expansion of existing joint ventures through additional investments, whether or not acting for or on behalf of the government of the DPRK, unless such joint ventures or cooperative entities have been approved by the Committee in advance on a case-by-case basis;

Section 3(a)(i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation

or re-exportation, direct or indirect, from the United States or by a United States person, wherever located, of any goods, services or technology to DPRK, except as otherwise licensed or exempt. Section 3(a)(ii) of Executive Order 13722 prohibits new investment in DPRK by United States persons, wherever located.

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from DPRK. Section 2(a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

Paragraph 13. Clarifies that the prohibitions contained in paragraph 11 of resolution 2094 (2013) apply to clearing of funds through all Member States' territories;

Executive Orders 13570 and 13722 prohibit, respectively, the importation and exportation of any services to and from DPRK. Clearing of funds is considered a service for the purposes of those provisions, and its exportation from and importation to DPRK is therefore prohibited.
