

Implementation of UNSC DPRK Sanctions Regime in South Asia

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Abstract

Nuclear program of Democratic People's Republic of Korea (DPRK) has been of considerable concern for the international community since its initiation in 1962. In 2006, the United Nations Security Council adopted nine major sanctions resolutions on North Korea after its nuclear test on 9 October, 2006. Each resolution condemned DPRK's nuclear and ballistic missile activity. It called upon North Korea to cease its illicit activities which are in violation of previous UN Security Council resolutions. In addition to imposing sanctions, the resolutions gave UN member states the authority to interdict and inspect North Korean cargo within their territorial waters, and seize illicit shipments. The sanctions regime was amended and extended by later UNSC resolutions, in response to subsequent nuclear and missiles tests by DPRK. With regards to its implementation by South Asian states, the 1718 committee with its panel of experts reported that a number of South Asian states including Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka have been violating the provisions of the DPRK sanction regime and demanded from them to submit their national reports.

Keywords

Democratic People's Republic of Korea, DPRK, UNSC, NPT, IAEA, South Korea

Introduction

International community in June 1945 decided to save the coming generations from the horrors of war by signing a charter establishing the United Nations Organization. The UN Charter is considered an international treaty and is an instrument of international law. To achieve this end, the international community is expected to unite and strengthen its efforts for the maintenance of international peace and security.

United Nations Security Council¹ is one of the six principal organs of the United Nations² and is entrusted with the responsibility of maintaining the international peace and security by exercising powers granted to it under the UN charter³. The

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members of the United Nations have agreed to accept and implement the decisions taken by the Security Council in fulfilling its responsibilities for maintenance of international peace and security⁴.

United Nations Security Council in fulfilling its responsibilities for maintenance of international peace and security, has applied measures (sanctions) a number of times using powers under Chapter VII of United Nations Charter. Since 1966 Security Council has established 30 sanctions regimes against various countries and entities ranging from comprehensive economic and trade sanctions to arms embargoes, travel bans, and financial restrictions etc., out of which 14 are ongoing, including DPRK sanction Regime. Every regime is administered by a sanctions committee, which is chaired by a non-permanent member of the Security Council. Besides these committees there are 10 monitoring groups, teams and panels to support the work of 11 of the 14 sanctions committees⁵.

DPRK Sanctions Regime

DPRK dispute dates back to 1985, when it acceded to the Nuclear Nonproliferation Treaty (NPT) but did not conclude the comprehensive safeguard agreement with the International Atomic Energy Agency (IAEA) within a given period of time under Article III of NPT. DPRK linked its complete adherence to the removal of the United States' nuclear weapons from South Korean territory. Following the unilateral withdrawal of the US nuclear weapons deployed in South Korea by President George Bush in September 1991, and promises made by South Korea in November 1991, a Joint Declaration was signed by the two Koreas on January 20, 1992. Consequently, ten days later DPRK after six years of signing NPT concluded the comprehensive safeguard agreement with IAEA.

However, imposition of sanctions on DPRK's entities by the US later in 1992 and IAEA's demand for special inspection of the two sites of DPRK in February 1993 again triggered the dispute. DPRK announced its intentions to withdraw from NPT under the provision of Article X in March 1993. However, after successful talks between the US and DPRK, the said withdrawal was suspended. The US, DPRK negotiations ultimately resulted in a 'Framework Agreement' in October 1994. The next eight years from 1995 to 2002 are shaded with dark and bright periods and events. Finally, the 'Framework Agreement' failed and DPRK once again announced

withdrawal from NPT, effective January 11, 2003, this time not to be suspended.

Another initiative was launched commonly known as 'six-party' talks, to restrain DPRK from pursuing its missile and nuclear program. In 2003, this initiative failed too due to inflexibility and provocative measures adopted by both DPRK and the US. DPRK carried out six test launches of various types of missiles in July 2006, which were strongly condemned by the United Nations Security Council adopting resolution 1695⁶.

United Nations Security Council, DPRK sanction regime started in response to nuclear tests and launches that used ballistic missile technology conducted by the DPRK, with adoption of Resolution 1718 on 14 Oct 2006 (S/RES/1718(2006)). A committee was established comprising all members of the United Nations Security Council under Operating Paragraph 12 of this resolution to carryout functions as enumerated in sub-paragraph 12(a) – 12(g). Since 2006 United Nations Security Council has adopted 20 resolutions as part of DPRK sanctions regime, out of these 10 resolutions: 1928(2010), 1985(2011), 2050(2012), 2141(014), 2207(2015), 2276(2016), 2345(2017), 2407(2018), 2464(2019), and 2515(2020) are only for extending the mandate of the DPRK Committee⁷.

The remaining 10 resolutions: 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017) are for imposing and/or strengthening various sanctions measures on DPRK. Salient sanctions measures adopted in these resolutions are tabulated below:⁸

1. S/RES/1718 (14 Oct, 2006)

(a) Imposition of an arms embargo, assets freeze and travel ban on persons involved in the DPRK's nuclear programme (OP 8 (a)(i)); (b) Ban on a range of imports and exports, to prohibit DPRK from conducting nuclear tests or launching ballistic missiles (OP 8(a)(ii)); (c) Transfers to/from DPRK of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of all arms as mentioned in United Nations Arms Register and items related to weapons of mass destruction as listed in NSG Part I, MTCR and Australia Group control lists

(OP 8 (c)); (d) Establishment of a Security Council Sanctions Committee (OP 12).

2. S/RES/1874 (12 June, 2009)

(a) Enhanced measures related to arms exports and imports to all arms and related material, except import of small arms and light weapons and their related materiel (OP 10); (b) States are required to assist, cooperate conduct and promptly report on inspections, seizures and disposals, as well as the sale, supply or transfer of small arms or light weapons (OP 11-15); (c) Member States are called upon to stop provision of financial services or transfer of financial resources that could contribute to prohibited programmes/activities (OP 20); (d) Establishes a Panel of Experts, consisting of seven members to assist the 1718 Committee (OP 26).

3. S/RES/2087 (22 Jan, 2013)

(a) Designates four individuals and 6 entities; expands designation criteria to include entities/individuals that have assisted in the evasion of sanctions or in violation of the resolutions (OP 5(a)); (b) Clarifies measures related to the catch-all provision (OP 5 & 9); (c) Enhanced measures imposed on persons suspected of involvement with DPRK's nuclear program (OP 6); (d) Enhanced measures related to Member States' rights to seize and destroy material suspected of being connected to the DPRK's weapons development or research (OP 8); (e) Clarifies methods of material disposal (OP 8);

4. S/RES/2094 (7 March, 2013)

(a) Designates three additional individuals and 2 additional entities; expands designations criteria to include individuals and entities that have contributed to the DPRK's prohibited programmes (OP 8 – 10 & Annex I – II); (b) Imposes targeted financial sanctions (OP 11 – 15); (c) expands the prohibited items list concerning nuclear, ballistic missile and other WMD related items (OP 20 – 22 & Annex III); (d) Provides a non-exhaustive list of prohibited luxury goods (OP 24 & Annex IV); (e) Increases the Panel of Experts to eight members; extends its mandate until 7 April 2014 (OP 29).

5. S/RES/2270 (2 March, 2016)

(a) Expands arms embargo and non-proliferation measures (OP – 5-9 & 17); (b) Designates additional 16 individuals and 12 entities (OP 10 & 11); (c) Requires Member States to expel DPRK diplomats and foreign nationals involved in illicit activities (OP 13-15); (d) Clarifies ban on specialized training to DPRK nationals in specific fields that could contribute to the DPRK's proliferation-sensitive activities (OP 17); (e) Enforces new cargo inspection and maritime procedures such as mandatory inspection on cargo, ban chartering of vessels and aircraft by DPRK etc. OP 18 – 22); (f) Expands financial measures, including an assets freeze (OP 23 & 32-36); (g) Enforces sectorial sanctions (OP 29-31 & 37); (h) Adds new items to the luxury goods ban (OP 39 & Annex IV).

6. S/RES/2321 (30 Nov, 2016)

(a) Designates additional 11 individuals and 10 entities (OP 3); (b) Adds new items to the luxury goods ban (OP 5); (c) Expands arms embargo to the items listed in a new conventional arms dual-use list (OP 7); (d) Strengthens maritime transport related provisions by prohibiting the following activities (OP 9, 12, 20, 22-24); (e) Clarifies the restrictions on specialized teaching and training and Requires the suspension of scientific and technical cooperation (OP 10 & 11); (f) Expands cargo inspection (OP 13); (g) Strengthens the proliferation network related measures (OP 14 - 19, 31-33 & 40); (h) Overhauls and expands sectorial sanctions (OP 26, 28). (i) Prohibits the DPRK from supplying, selling or transferring statues and Member States from procuring such items (OP 29); (j) Prohibits the supply, sale or transfer to the DPRK new helicopters and vessels (OP 30).

7. S/RES/2356 (2 June, 2017)

Designates additional 14 individuals and 4 entities (OP 3 & Annex I & II).

8. S/RES/2371 (2017)

(a) Designates additional 9 individuals and 4 entities (OP 3 & Annex I & II); (b) Directs the 1718 Committee that it may designate vessels involved in activities prohibited by relevant resolutions, and prohibits port calls by designated vessels and chartering of DPRK flagged vessels (OP 6 & 7); (c) Introduces a complete ban on coal, iron and iron ore, and adds lead and

lead ore to the banned commodities subject to sectoral sanctions (OP 8 & 10); (d) Prohibits the export by the DPRK of seafood (OP 9); (e) Bans the hiring and paying of additional DPRK laborers used to generate foreign export earnings (OP 11); (f) Expands financial sanctions and clarifies that companies performing financial services are considered financial institutions for the purpose of the relevant sanctions measures (OP 12-14);

9. S/RES/2375 (11 Sep, 2017)

(a) Designates one additional individual and three entities (OP 3 & Annex I & II); (b) Directs the 1718 Committee to designate additional WMD-related and conventional arms-related items (OP 4 & 5); (c) Further clarifies with regard to the call on Member States to inspect vessels with the consent of the flag State, on the high seas (OP 7-12); (d) Introduces a full ban on the supply, sale or transfer of all condensates and natural gas liquids to the DPRK (OP 13); (e) Introduces a limit for all refined petroleum products (OP 14); (f) Introduces restrictions on the supply, sale or transfer of crude oil (OP 15); (g) Introduces a ban on the export by the DPRK of textiles (OP 16); (h) Introduces a ban on Member States from providing work authorizations for DPRK nationals (OP 17); (i) Expands financial sanctions (OP 18); (j) Directs the 1718 Committee to designate vessels transporting prohibited items from the DPRK (OP 6);

10. S/RES/2397 (22 Dec, 2017)

(a) Designates an additional 16 individuals and one entity (OP 3 & Annex I&II); (b) Introduces a limit of 4 million barrels or 525,000 tons for the supply, sale or transfer of crude oil by Member States to the DPRK (OP 4); (c) Strengthens the measures regarding the supply, sale or transfer to the DPRK of all refined petroleum products (OP 5); (d) Expands sectoral sanctions (OP 6); (e) Introduces a ban on the supply, sale or transfer to DPRK of all industrial machinery, transportation vehicles, iron, steel and other metals except the spare parts required to maintain commercial civilian passenger aircraft currently in use by DPRK (OP 7); (f) Strengthens the ban on providing work authorizations for DPRK nationals by requiring Member States to repatriate all DRPK nationals earning income in their jurisdiction (OP 8); (g) Strengthens maritime measures to address the DPRK's illicit exports of prohibited items as well as illicit imports of petroleum through deceptive maritime practices (OP 9); (h) Requires that

Member States should improve mutual information-sharing and tasks the Committee, with the support of the Panel of Experts, to facilitate timely coordination (OP 10 & 15); (i) Strengthens vessel-related provisions by prohibiting the provision of insurance or re-insurance services to and requiring Member States to de-register any vessels involved in illicit activities (OP 11).

Implementation of the Regime

The 1718 Committee is mandated to, oversee the relevant targeted sanctions and undertake several main tasks. The Committee gets information from Member States on their implementation of the sanctions measures; examines and takes appropriate action on alleged violations; Committee considers and decides upon requests for exemptions to the measures, as per exemption mechanism adopted in 2018, and issues guidelines as necessary to facilitate the implementation of the sanctions measures⁹. Committee makes publicly available on its website the data about petroleum products sold, supplied, or transferred to the DPRK as reported by Member States¹⁰. Committee along with its Panel of Experts holds, “meetings on important thematic and regional topics and Member States’ capacity challenges, to identify, prioritize, and mobilize resources to areas that would benefit from technical and capacity-building assistance to enable more effective implementation by Member States”¹¹. The Committee is supported by a panel of eight experts. The Committee, since its establishment in 2006, has submitted 14 reports. Starting November 2010 the Panel of Experts has submitted three midterms and 11 final reports till March 2021.

Panel of Experts Views

In the succeeding paragraphs the effort would be to briefly describe the status of implementation/violations as observed by the Panel of Experts in their reports submitted since 2010 regarding Member States in South Asian region (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka).

2010 - 2015

The Panel of Experts in their 2010 report¹² (S/2010/571) highlighted the interdiction activity by Indian Coast Guard in which DPRK owned/flagged

ship was inspected in August 2009, however no proscribed cargo was found. In 2013 report while reporting about implementation of the arms embargo and seizer of arms shipment to DPRK, the Panel of Experts identified the use of Bandara Naike International Airport by Flight 4L-AWA¹³. No report was published in 2011, while in 2012, 2014 and 2015 reports by the Panel of Experts no Member State from South Asia was mentioned.

2016

The Panel of Experts' report of 2016 (S/2016/157) highlights post graduate training of DPRK nationals at Center for Space Science and Technology Education in Asia and the Pacific, India. The Panel of Experts based on analysis of the syllabus of the Center, viewed that there are at least three courses, which contained modules which are quite relevant to ballistic missile related activity prohibited under Operating Paragraph 8 (c) of UNSC resolution 1718 of 2006. Moreover, "the repeated applications to and participation in the programme by members of the National Aerospace Development Administration shows the relevance of the courses to its work". Since 1996 more than 30 DPRK nationals joined the center for training including 12 from 2006 to 2016¹⁴.

The Panel of Experts also reported that, 1) India exported precious metals and stones to DPRK in 2014, worth over \$1.9 million, \$1031007 more than the export of same item in 2013¹⁵; 2) Afghanistan, Bangladesh, Bhutan and Nepal did not submit their National Implementation Report¹⁶ and 3) Some of the individuals designated by Member States or subject to Panel of Expert investigations transited through, entered or exited Pakistan. Pakistan has informed that such individuals intended to visit their embassy and consulate in Pakistan¹⁷.

2017

In the midterm report (S/2017/742) the Panel of Experts highlighted that India, Pakistan and Sri Lanka imported iron and steel products (HS 72) worth \$ 0.3116, 3.886 and 1.860 million respectively during the period from October 2016 to April 2017. Such imports by member states or exports from DPRK are violation of Paragraph 26 (c) of resolution 2321 (2016), if the necessary exemptions are not made under the same

paragraph. Panel of Experts made enquiries from the concerned member states as required by paragraph mentioned above, however no reply was received. India also imported iron and steel products (HS 73) worth \$ 0.146 million from October 2016 to May 2017 from DPRK, which is also a violation of above mentioned paragraph¹⁸.

The Panel of Experts also reported that Sri Lanka imported copper (HS 74) from DPRK worth \$ 32184.00 during the month of January and February 2017 and India imported Zinc and article thereof (HS 79) worth \$5,26,018.00 in the month of January 2017, in violation of Paragraph 28 of resolution 2321 (2016)¹⁹. Additionally, India imported gold (unwrought, semi-manufactured form or powder) HS. 7108 from DPRK worth \$2,15,718.00 in October 2016 in violation of Paragraph 30 of resolution 2270 (2016)²⁰. It has also been highlighted in this report that Afghanistan, Bangladesh, Bhutan, Maldives, Nepal and Sri Lanka did not submit their National Implementation Report required under resolution 2270 (2016) and 2321 (2016)²¹.

The Panel of Experts in their final report of (S/2017/150) highlighted the seizure of a falsely declared luxury vehicle by Bangladesh Customs imported by a DPRK diplomat for resale. Bangladesh authorities also seized 26.7 kgs of gold bars and jewelry worth \$1.4 million from a DPRK diplomat in Dhaka. Additionally it was highlighted in this report that Sri Lankan authorities arrested a DPRK national at Colombo airport carrying \$167,000.00 in cash, gold jewelry and watches²². The Panel of Experts was informed by the Indian authorities that the measures have been taken to prevent the participation of nationals from DPRK in courses which could be used by prohibited programmes of DPRK, offered by 'Center for Space Science and Technology Education in Asia and the Pacific'²³.

The final report of 2017 by the Panel of Experts mentions about the import of products related to HS 72 (iron and steel) by Pakistan and India from DPRK between April – September 2016 worth \$ 271000.00 and \$ 261000.00 respectively. This import is a violation of Paragraph 29 (b) of resolution 2270 (2016) if the conditions described therein are not fulfilled²⁴. The report also points out that two DPRK diplomats visited Sri Lanka three times between 2014 -2016 in connection with a ship building project, these diplomats also met Sri Lankan Defence Minister in November 2015. The Panel did not receive the response to its queries

made to Sri Lankan government on the issue²⁵. The Panel also highlights that Afghanistan, Bangladesh, Bhutan, India, Nepal and Sri Lanka did not submit National Implementation Report as required under resolution 2270 (2016)²⁶.

2018

In this report of Panel of Experts, it was highlighted that India and Pakistan imported from DPRK, iron and steel (HS 72) during the period from January to September 2017 worth over \$ 1.4 and \$ 4.8 million respectively. Additionally, India also imported iron and steel products (HS 73) during the same period worth over \$0.23 million. These imports by member states or exports from DPRK prior to 4 September 2017 are violation of Paragraph 26 of resolution 2321 (2016) except if an exemption was made under paragraph 26 (c) of resolution 2321 (2016), and import by member states or exports from DPRK thereafter are violation of Paragraph 8 of resolution 2371 (2017)²⁷. India also imported Copper (HS 74) from DPRK between May to September 2017 worth over \$0.242 million and Zinc and articles thereof (HS 79) in January 2017 worth over \$ 0.516 million in violation of Paragraph 28 of resolution 2321 (2016)²⁸.

The report also highlights that India exported to DPRK between January to June 2017 precious metals and stones worth over \$ 0.578 million including diamonds (HS 710239) worth over \$0.514 million in violation of paragraph 8a (iii) of resolution 1718 (2006) and Paragraph 23 and Paragraph 1 of Annex IV of resolution 2094 (2013)²⁹. The report also highlights that DPRK used a property that it owned/leased in Pakistan for purpose other than diplomatic, in violation of paragraph 18 of resolution 2321 (2016). Panel enquired from Pakistan a number of times but did not receive any reply³⁰.

2019

The report (S/2019/171) by the panel of experts mentions about the imports by India of Zinc and articles thereof and Zinc ores and concentrates (HS 79 & 26) during October and November 2017 worth \$ 28851.00 and iron and steel and articles of iron and steel (HS 72 & 73) in the same period worth \$ 68383.00 in violation of paragraph 28 of resolution 2321 (2016) and Paragraph 8 of resolution 2371 (2017)³¹. India

also imported textile (HS 50-63) from DPRK between October – December 2017 worth \$ 255,589.00 in violation of Paragraph 16 of resolution 2375 (2017), which prohibits such imports by member states³².

The Panel's report also highlights that India imported from DPRK, machinery (HS 84 – Nuclear reactor, boilers, machinery and mechanical appliances, parts thereof) in January 2018 worth \$ 12,961.00 in violation of paragraph 6 of resolution 2397 (2017)³³. India also exported industrial machinery (HS 84 & 85) to DPRK in January 2018 worth \$ 19,412.00 in violation of Paragraph 7 of resolution 2397 (2017)³⁴. India also exported petroleum (HS 2710) to DPRK in October 2017 worth over \$ 16.513 million, though may not be in violation of Paragraph 14 of resolution 2375 (2017) and Paragraph 5 of resolution 2397 (2017) in terms of value, however, it did not comply with the reporting requirements as prescribed in these paragraphs³⁵.

The Panel of experts highlighted in this report that Afghanistan, Bangladesh and Bhutan did not submit their national implementation report as required by Paragraph 17 of resolution 2397 (2017)³⁶. The Panel also continued its investigation regarding falsely declared limousine seized by Bangladesh Customs in 2017 and was waiting for the reply to the inquires made to Bangladesh government³⁷. The Panel also highlighted that Indian banking regulators have taken several measures to prevent SWIFT related banking cyberattacks by DPRK actors³⁸.

2020

The report of 2020 by Panel of Experts highlights that Nepalese authorities informed the Panel about the repatriation of DPRK's information technology, medical and restaurant workers in 2019³⁹. The report also highlights the involvement of Indian flagged vessel in ship-to-ship transfer of refined petroleum which was subsequently delivered at Port Nampo of the DPRK, which is a suspected violation of prohibition contained in paragraph 5 of resolution 2397 (2017)⁴⁰. Reportedly, Indian Space Research Organization (ISRO) and the Kudankulam Nuclear Power Plant was cyberattacked, which was being investigated by the panel of experts as a possible violation of the provisions of the arms control embargo outlined in Paragraph 8 (a) (b) of Resolution 2270 (2016)⁴¹. India informed the panel of experts that the malware used in the cyberattack at

Kudankulam Nuclear Power plant was identified a “DTrack”, and was further being analysed and investigations continue⁴². It has also been highlighted in the final report for year 2020 that Afghanistan, Bangladesh, Bhutan and Maldives did not submit their report as required by paragraph 8 of Security Council resolution 2397 (2017)⁴³

Trade with the Democratic People’s Republic of Korea is prohibited under Paragraph 30 of Resolution 2270 (2016), Paragraph 26-28 of Resolution 2321 (2016), Paragraph 8-10 of Resolution 2371 (2017), Paragraph 13-15 of Resolution 2375 (2017) and Paragraph 4-7 of Resolution 2397 (2017). The report highlights following imports/exports from/to, by India in violation of these Resolutions⁴⁴:

Imports

- April – October 2018, products related to HS Code 72 & 73 (iron and steel, article of iron or steel) worth **\$248,000.00**
- April 2018 -May 2018, products related to HS Code 79 (Zinc and article thereof) worth **\$2,272,000.00**
- April 2018-August 2019, products related to HS Code 85 (Electrical machinery and equipment and parts thereof) worth **\$ 709,000.00**
- May 2018- April 2019, products related to HS Code 84 (Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof) worth **\$ 316,000.00**

Exports

- July 2018 – February 2019, products related to HS Code 72 & 73 worth **\$ 75,000.00**
- April 2018 – March 2019, products related to HS Code 84 & 85 worth **\$ 167,000.00**

2021

The report (S/2021/211) published in March 2021 highlights the inquiries made to India for the period between May 2019 to December 2019 and January to July 2020, and Pakistan for the period between September 2019 to March 2020 and June 2017 to July 2020. India from May 2019 to July 2020 imported from DPRK, Zinc, Iron and steel products, textiles, electrical

equipment, machinery and food and agricultural product worth \$ 1,364,000. India also exported industrial machinery, iron and metals and vehicles worth \$ 339,000. However, Indian response, without the original documents or other pertinent details was that “after careful checks, we found that there were no exports to or imports from DPRK” of prohibited items for both periods⁴⁵.

Pakistan responded to the first inquiry and shared the outcome of its inquiry concluding with the help of original documentation that no prohibited trade with DPRK was done. However, reply to the second inquiry for the period from June 2017 to July 2020 involving imports of copper, zinc, Iron, textile, machinery, electrical equipment and agricultural products is still awaited⁴⁶.

National Perspective

In the preceding paragraphs the views of the Panel of Experts. Supporting the United Nations Security Council DPRK Committee on implementation of DPRK sanction regime in South Asia have been summarized. However, the national perspective regarding efforts made by South Asian states in implementing the DPRK sanction regime needs to be underscored. Looking into the national reports submitted by South Asian states in response to relevant paragraphs of United Nations Security Council resolution 1718 (2006) and the follow up resolutions it come to fore that Afghanistan, Bangladesh and Bhutan have not submitted any national report as yet. India has submitted seven reports, Maldives and Nepal have submitted one, Pakistan has submitted twelve and Sri Lanka has submitted four. Succeeding paragraphs will highlight briefly the efforts made by India, Maldives, Nepal, Pakistan and Sri Lanka in ensuring implementation of DPRK sanction regime.

India

Government of India has submitted seven reports so far, starting 2007 followed by one in 2010, two in 2017, one in 2018, 2019 and 2020. Government of India reiterated its commitment to implement the UNSC sanction regime on DPRK. In doing so it has issued a number of orders and notifications under the law of the land such as United Nations (Security Council) Act 1947, Foreign Trade (Development and Regulation) Act of

1992, Prohibitions Under the Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act 2005 and Foreigners Act 1946. The Government of India claims that all concerned and competent authorities are informed to ensure implementation of UNSC sanction regime on DPRK in accordance with relevant domestic laws, regulations and administrative procedures. Government of India also highlighted the three reports it has submitted to UNSC Committee for resolution 1540 (2004) describing implementation measures India has taken which are also relevant to DPRK. Additionally, Government of India also sought clarifications on some of the aspects/issues mentioned in UNSC resolutions on DPRK such as “luxury goods” and lists of relevant persons and entities⁴⁷.

Maldives and Nepal

Republic of Maldives being state party to NPT, CTBT, CWC and BWC responding to the requirement of Paragraph 11 of resolution 1718 (2006) in its only report in 2007 reiterated its strong commitment to non-proliferation of weapons of mass destruction and their means of delivery. Republic of Maldives highlighted Maldivian Law number 75/4 (10/02/75) which prohibits the import of items mentioned at Paragraph 8 (a) (i) and (ii), and emphasized that it also does not export these items. Republic of Maldives also underscored that its law does not allow import/export or transit through of arms without the prior authorization by the relevant competent authority, and these authorities have been conveyed the obligations of Maldives under resolution 1718 (2006). Maldivian Government also issued public directives to implement the provisions of paragraph 8 (a)(iii). The Government also took necessary legislative and administrative measures for implementation of provisions of paragraph 8 (b) (c) (d) (e) & (f)⁴⁸. Government of Nepal reported in November 2019 of the measures it took pursuant to the requirements of paragraph 3 & 8 of UNSC resolution 2397 (2017)⁴⁹.

Pakistan

Government of Islamic Republic of Pakistan in its first report in February 2007 informed the DPRK Committee of the measures it took to give effect to UNSC resolution 1718 (2006) under Section 2 of United Nations (Security Council) Act 1948, through a Statutory Notification (S.R.O.) 1063(I)/2006 dated 16 October 2006⁵⁰. The notification was circulated to

all concerned entities. Following the first report Pakistan submitted three reports in 2009, one each in 2013 and 2016, four in 2017 and one each in 2018 and 2020. In 2009 Government of Pakistan issued additional gazette notifications under United Nations Security Council) Act 1948 to give effect to UNSC resolution 1874 (2009) and the list of entities, goods and individuals designated by DPRK Committee on 16 July 2009. Gazette notifications were also issued in 2013, 2016, 2017, 2018 and 2020 to give effect to UNSC resolution 2094 (2013), 2270(2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017)⁵¹.

Sri Lanka

In the first report Democratic Socialist Republic of Sri Lanka sought extension in the deadline of 13 November 2006 for submission of first report and requested for the list of persons and entities designated by the DPRK Committee. Sri Lanka then submitted its detailed report in 2016. In this report Sri Lanka reaffirmed its support for non-proliferation of weapons of mass destruction. Sri Lanka also underscored its commitment for implementing UNSC resolution 2321 (2016) and all previous resolutions since 2006 on DPRK. Sri Lanka thanked DPRK Committee's panel of Expert for their assistance in drafting relevant regulations required for implementing DPRK resolutions under Sri Lankan United Nations Act No. 45 of 1968. While the regulations were being finalized the Sri Lankan Government disseminated the provisions of all UNSC resolutions since 2006 and instructed all relevant entities to ensure their implementation. In the second detailed report in 2018 The DPRK Committee was informed regarding promulgation of domestic regulation titled "United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017", giving effect to UNSC resolution 1718 (2006) and the follow up resolutions. It was highlighted that Secretary Ministry of Defence was appointed as the competent authority to oversee and ensure the implementation of regulations. The report further highlights certain specific measures taken for the implementation of UNSC resolutions on DPRK. The third report of 2019 highlights steps taken for repatriation of DPRK nationals from Sri Lanka⁵².

Conclusion

Out of 14 ongoing sanction regimes, DPRK sanction regime is likely to stay long unless DPRK abides by the basic provisions of UNSC resolution 1718 (2006) and agrees to forego its nuclear and missile program. The Panel of Experts supporting the DPRK Committee has done remarkable work in highlighting areas that need further attention of the member states. While some of the member states did not submit their national reports the others on their part reported upon the legislative and administrative measures put in place for the implementation of DPRK sanction regime. However, it is viewed that in some cases enforcement and monitoring was not as effective.

India for instance in its first report highlighted issuance of Order No. S.O. 131(E) under its United Nations (Security Council) Act 1947 (43 of 1947) to give effect to Paragraph 8 of UNSC resolution 1718 (2006) and also listed the Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act 2005 for the purpose of implementing the Indian obligations under UNSC resolution 1718 (2006). Still at least 12 DPRK experts from various government entities attended post graduate training from 2008 to 2016⁵³, at the Center for Space Science and Technology Education in Asia Pacific, India. According to experts' analysis three courses in this training contained modules quite relevant to ballistic missile related activity. Paragraph 8 c of UNSC resolution 1718 prohibits any such training. Also, besides other provisions of India's Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act 2005, provision of Section 13 (2) to (4)⁵⁴ categorical disallowed facilitating training to 12 experts from DPRK after issuance of Indian Government Order No. S.O. 131(E) giving effect to Paragraph 8 of UNSC resolution 1718 (2006). It may also be noted that India was at the United Nations Security Council in 2011 and 2012⁵⁵, and was also member of DPRK Committee for this period.

During the period from 2016 – 2021 India carried out a number of imports and export activities/transactions as mentioned above. Import transactions valued around \$ 9.133 million and export transactions valued around \$ 19.955. These transactions violated provisions of various paragraphs of corresponding resolutions. In one case the export transaction of \$ 16.513 million, if not violated the provision in terms of

value but surely it did not comply with the reporting requirements required therein. Indian response to the inquiries made by the Panel of Experts for various transactions was not supported by original documents of pertinent details.

Pakistan too during the period from 2017 to 2021 imported certain commodities from DPRK, valuing \$ 8.947 million, which may be purported violation of various provisions contained in relevant resolutions. However, Pakistan's response to some of the inquiries made by the Panel of Experts was supported by original documents concluding that no violation has been made, while the other responses are still awaited. It may also be noted that though Pakistan has not highlighted in any of its report, but has established a Coordination, Review and Monitoring (CRM) Committee⁵⁶ for effective implementation and monitoring of UNSC resolutions and decisions on countering the proliferation of weapons of mass destruction.

It is pertinent to suggest that all member states must timely respond to the reporting requirements of various United Nations Security Council resolutions as they are legally binding especially under Chapter 7 of the United Nations Charter.

Endnotes

¹ See preamble and Article 1 of the United Nations Charter at, <https://www.un.org/en/about-us/un-charter/full-text>.

² See Article 7 of the United Nations Charter

³ See Article 24 of the United Nations Charter

⁴ See Article 25 of the United Nations Charter

⁵ See United Nations Security Council, Sanctions, at <https://www.un.org/securitycouncil/sanctions/information>

⁶ See, 'Chronology of US-North Korean Nuclear and Missile Diplomacy', 'Arms Control Today, at <https://www.armscontrol.org/factsheets/dprkchron>, as on 29 July 2022

⁷ See, United Nations Security Council, Resolutions at <https://www.un.org/securitycouncil/sanctions/1718/resolutions>

⁸ The information in the table is extracted from details given at <https://www.un.org/securitycouncil/sanctions/1718/resolutions>

⁹ See ‘Work and mandate of the Committee’, at <https://www.un.org/securitycouncil/sanctions/1718#work%20and%20mandate>

¹⁰ See ‘United Nations Security Council Resolution 2397 (2017) Operating Paragraph 4 & 5’, at [https://www.undocs.org/S/RES/2397%20\(2017\)](https://www.undocs.org/S/RES/2397%20(2017))

¹¹ See ‘United Nations Security Council Resolution 2321 (2016), Operating Paragraph 44’, at [https://www.undocs.org/S/RES/2321\(2016\)](https://www.undocs.org/S/RES/2321(2016))

¹² See, Para 82 and footnote 40 of S/2010/571 at <https://www.undocs.org/S/2010/571>, p33

¹³ See, Para 75-79 and Annex XIII Sec G of S/2013/337 at <https://www.undocs.org/S/2013/337>, pp33,34 & 96

¹⁴ See, Para 47 – 50 and relevant Annexes of S/2016/157, <https://www.undocs.org/S/2016/157> P23 & 24

¹⁵ See, para 126 of S/2016/157, P46

¹⁶ See, Annex 3 to S/2016/157, P81

¹⁷ See, Para 175-177 of S/2016/157, P61 & 62

¹⁸ See, Para 71-73 and table 2 & 3 of S/2017/742, P29\$30

¹⁹ See, Para 83 & 85 and Table 7 & 9 of S/2017/742, P34 & 35

²⁰ See, Para 88 and Table 12 of S/2017/742, P36

²¹ See, Annex 2 & 3 of S/2017/742, P42 & 42

²² See, para 125, 243 & 244 of S/2017/150, P47 & 79

²³ See, Para 131 & 132 of S/2017/150, P49

²⁴ See, Para 264 and Table 16 of S/2017/150, P86

²⁵ See, Para 103 of S/2017/150, P40

²⁶ See, Annex 2-1 of S/2017/150, P100

²⁷ See, Para 34 & 35 and Table 2 & 3 of S/2018/171, P16 & 17

²⁸ See, Para 38 & 40 and Table 6 & 8 of S/2018/171, P 19 & 20

²⁹ See, Para 149 & 150 of S/2018/171, P58

³⁰ See, Para 203 & 210 of S/2018/171, P75 & 77

³¹ See, Para 1 & 2 and Table 1 & 2 of Annex 21 of S/2019/171, P146

³² See, para 3 and Table 3 of Annex 21 of S/2019/171, P147

³³ See, Para 5 and Table 5 of Annex 21 of S/2019/171, P148

³⁴ See, Para 10 and Table 10 of Annex 21 of S/2019/171, P150

³⁵ See, Table 12 of Annex 21 of S/2019/171, P151, and Para 14 5 of resolution 2375 (2017) and 2397 (2017) respectively

³⁶ See, Annex 88 of S/2019/171, P374

³⁷ See, Para 125 of S/2017/150 and Para 101 of S/2019/171, P46

³⁸ See, Annex 23 of S/2019/691, P114

³⁹ See, Paragraph 128 – 140 of S/2020/151, P53-56

⁴⁰ See, Paragraph 31 of S/2020/151, P18

⁴¹ See, paragraph 119 of S/2020/151, P51

⁴² See, Paragraph 117 of S/2020/840, P35

⁴³ See, Figure IX of S/2020/840, P38

⁴⁴ See, Annex 19 of S/2020/151, P138-139

⁴⁵ See, Annex 41, Para 4, India of S/2021/211, P251

⁴⁶ See, Annex 41, para 4, Pakistan of S/2021/211, P254-256

⁴⁷ See “Implementation Reports”, “India” at <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>

⁴⁸ See, “Implementation Reports”, “Maldives” at <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>

⁴⁹ See, “Implementation Reports”, “Nepal” at <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>

⁵⁰ See Annex of S/AC.49/2007/15 at https://www.un.org/ga/search/view_doc.asp?symbol=S/AC.49/2007/15

⁵¹ See, “Implementation Reports”, “Pakistan” at <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>

⁵² See, “Implementation Reports”, “Sri Lanka” at <https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>

⁵³ See, Annex 18 of S/2016/157 at <https://www.undocs.org/S/2016/157> P101-102

⁵⁴ See, Section 13, “Weapons of Mass Destruction and Their Delivery Means (Prohibition of Unlawful Activities) Act 2005”, at https://www.mea.gov.in/Uploads/PublicationDocs/148_The-Weapons-Mass-destruction-And-Delivery-Systems-Act-2005.pdf, P7

⁵⁵ See, https://www.un.org/securitycouncil/search/country?field_member_state_value=IND

⁵⁶ See, Statutory Notifications Order (S.R.O.), at <http://secdiv.gov.pk/uploads/SRO-3efd.pdf>