

Security Council Committee established pursuant to resolution 1718 (2006)

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Implementation Assistance Notice No. 1: Information to Assist UN Member States in Carrying out their Obligations under Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017)

1. In response to nuclear tests and launches that used ballistic missile technology conducted by the Democratic People's Republic of Korea (DPRK), the UN Security Council adopted nine resolutions imposing and/or strengthening various sanctions on that country: resolution 1718 (2006), resolution 1874 (2009), resolution 2087 (2013), resolution 2094 (2013), resolution 2270 (2016), resolution 2321 (2016), resolution 2356 (2017), resolution 2371 (2017), resolution 2375 (2017) and three Presidential Statements on “non-proliferation/DPRK”: S/PRST/2009/7, S/PRST/2012/13 and S/PRST/2017/16. UN Member States, which are obligated under the UN Charter to implement and enforce the measures contained in these resolutions, occasionally rely upon the inspection provisions contained in the resolutions and discover violations or attempted violations of these sanctions. For example, States sometimes, during their inspections, discover prohibited cargo being transported illicitly to or from the DPRK, or being brokered or facilitated by the DPRK. When violations are detected, States often initiate criminal investigations to determine if any domestic laws were broken and, if so, to take action to ensure full compliance with these resolutions.

2. The United Nations also examines reported sanctions violations and may also determine appropriate actions to take in response. The principal body mandated to examine these violations is the UN Security Council's “**1718 Committee**”. Its **Panel of Experts (POE)** assists the Committee in carrying out its mandate through gathering, examining, and analyzing information. This paper explains the respective mandates of these two bodies and how they generally interact with Member States after a Member State inspects pursuant to paragraphs 11, 12, or 13 of resolution 1874 (2009); or paragraph 16 of resolution 2094 (2013); or paragraph 18 of resolution 2270 (2016); or paragraphs 20, 21 or 38 of resolution 2321 (2016); or paragraph 19 of resolution 2371 (2017); or paragraphs 7, 8, 9, 10 or 20 of resolution 2375 (2017) or seizes and disposes of cargo pursuant to paragraph 14 of resolution 1874 (2009) or paragraph 28 of resolution 2270 (2016) or paragraphs 6 and 12 of resolution 2321 (2016); or paragraph 21 of resolution 2371 (2017); or paragraph 22 of resolution 2371 (2017).

1718 Committee: Examine and Take Appropriate Action on Alleged Violations

3. Named after the 2006 Security Council resolution that established it, the 1718 Committee has a mandate, inter alia, to monitor implementation of sanctions imposed in resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017), examine and take appropriate action regarding alleged sanctions violations and make recommendations to strengthen the effectiveness of the measures. The Security Council normally creates a sanctions

committee each time it imposes a new sanctions regime; there are currently fourteen such committees. The 1718 Committee consists of the same fifteen States that sit on the Security Council and makes decisions by consensus. The current Chair of the Committee is the Permanent Representative of Italy to the UN, Ambassador Sebastiano Cardi.

4. Sanctions violations may occur when activities or transactions proscribed by Security Council resolutions are undertaken or attempts are made to engage in Proscribed transactions, whether or not the transaction has been completed. If a State has information at its disposal regarding non-compliance with measures imposed in the resolutions, it is called upon to supply such information to the Committee. After a State carries out an inspection or seizes and disposes of proscribed items pursuant to the resolutions, it is required to submit promptly to the Committee reports containing relevant details. If a State does not receive the cooperation of a flag State to inspect a vessel on the high seas pursuant to paragraph 12 and 13 of resolution 1874 (2009) and paragraphs 7, 8, 9, 10, and 12 of resolution 2375 (2017), it is required to submit promptly to the Committee a report containing relevant details. These reports, which may be submitted confidentially, should provide relevant details, which may include the circumstances of the incident, the implicated Security Council resolution provisions, and the actions that the State may have taken to seize and dispose of any items of which the supply, sale or transfer is prohibited.

5. After receiving a report of an inspection or seizure/disposal or information regarding non-compliance with measures imposed in the resolutions, the Committee may write letters to all the States involved in the incident to request additional information. For example, the Committee may write to a State whose nationals or flag vessels are believed to have been found transferring proscribed items in violation of UNSC sanctions. These letters are strictly intended to determine or clarify the facts of an incident and to assist the Committee in the formulation of recommendations for all Member States. All States are encouraged to respond promptly to requests from the Committee for information.

6. The Committee also gets assistance from its Panel of Experts in gathering, examining, and analyzing information about the reports.

7. After having examined the available information with the assistance of its Panel of Experts, the Committee may then take action to respond to the incident. For example, the Committee could provide Member States updated guidance about newly-identified threats of sanctions violations. Every ninety days, the Committee also reports to the Security Council, whose members may also discuss the incidents and ways to tighten enforcement.

8. By resolution 2321 (2016), the Security Council decided that the Committee, if it has information that provides reasonable grounds to believe the vessels are or have been related to nuclear – or ballistic missile-related programs or activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016), may require any or all of the following measures with respect to vessels it designates: (a) the Flag State of a designated vessel shall de-flag the vessel; (b) the Flag State of a designated vessel shall direct the vessel to a port identified by the Committee, in coordination with the port State; (c) all Member States shall prohibit a designated vessel from entering their ports, unless in case of

emergency, in case of return to the vessel's port of origination, or in case of direction by the Committee; (d) a vessel designated by the Committee shall be subject to the asset freeze imposed in paragraph 8(d) of resolution 1718 (2006).

9. By resolution 2371 (2017), the Security Council decided 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 2375 (2017) 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 2375 (2017).

10. By resolution 2375 (2017), the Security Council decided that paragraph 9 above also applies to vessels transporting prohibited items from the DPRK; directed the Committee to designate these vessels, and directed the Committee to regularly update this list when it is informed of additional violations.

11. By resolution 2321 (2016), the Security Council also directed the Committee, with the assistance of its Panel of Experts, to hold special 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.

Panel of Experts (POE): Gather, Examine and Analyze Information

12. Security Council resolution 1874 (2009) established a Panel of Experts (POE) to help the 1718 Committee monitor and improve sanctions implementation. The Security Council often creates expert panels to support sanctions committees. These panels are mandated to provide neutral, fact-based assessments and analysis, as well as recommendations to improve implementation. UN sanctions expert groups currently exist for UN sanctions regimes in Central African Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Libya, Mali, Somalia/Eritrea, South Sudan, Sudan, as well as to assist the 1267/1989/2253 (ISIL (Da'esh) & Al-Qaida) and 1988 (Taliban) Committees.

13. The POE acts under the direction of the 1718 Committee. It has a mandate to gather, examine and analyze information from States, relevant United Nations bodies and other interested parties regarding the implementation of the measures imposed in resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017), in particular incidents of non-compliance. By resolutions, 2270 (2016), 2321 (2016), 2371 (2017) and 2375 (2017), the Panel's mandate has been expanded to cover the new measures imposed by these resolutions. Its offices are located in New York, although it travels regularly to exchange information with governments. The team consists of up to eight members with specialized technical backgrounds in relevant fields, such as nuclear issues, non-proliferation, procurement and trade, finance and economics, customs and export control,

missile technology, maritime and air transport, and other weapons of mass destruction and conventional arms.

14. The POE also supports other Committee efforts, including outreach to Member States on issues regarding sanctions implementation, monitoring of sanctions implementation, analysis of trends and “best practices” regarding sanctions enforcement, and in holding special meets on important thematic and regional topic 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. In addition, as mandated by the Security Council, the POE provides to the Committee, on a yearly basis, a midterm and a final report with findings and recommendations. Following a discussion of its midterm and final reports with the Committee, the POE submits them to the Security Council.

15. The Security Council has urged “all States [...] to cooperate fully with the Committee and the Panel of Experts” and called upon “all States to supply information at their disposal regarding non-compliance with the measures imposed” in resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017). States are encouraged to cooperate and to respond promptly and thoroughly to such requests for information. While Member States are not obligated to consult with the Committee *a priori*, States are encouraged to invite the POE to visit and inspect any items that may have been seized by national authorities. Prior to disposal, States are also encouraged to provide the POE with documentary evidence, other materials and information that could further its investigations into incidents of non-compliance as a means of assisting the Committee and other Member States with implementation of the resolutions.

16. Because reports received from States often involve multiple States, the POE may need to gather information from many sources to determine the full circumstances of a violation. In a final stage, the POE may submit to the Committee an “Incident Report” that will lay out the factual record of the incident, provide analysis and make recommendations for a Committee response. These reports are confidential to the Committee.

Special Considerations: Facilitating Cooperation

17. The Committee and its POE are aware that reports to the Committee often have complex – and sometimes delicate – political and legal ramifications. The Committee and its POE are therefore committed to responding to these incidents with sensitivity and, when requested, strict confidentiality. The POE may also ensure that its visits are low profile and do not bring unwanted attention to either the reporting State or other States involved in an incident. Recognizing the sensitivity of information that may be involved, the Committee and its POE further recognize that sometimes States may be unable to share information.

18. The Committee stands ready to provide information or additional guidance as may be requested by Member States. Although the responsibility for implementing resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017) rests with Member States, the Committee seeks to support and assist States in carrying out these obligations. Full implementation

of these resolutions – including, when necessary, close cooperation with the Committee and its POE – is a hallmark of responsible membership in the international community.

ANNEX I: Panel of Experts (POE) Mandate

Resolution 1874 (2009), paragraph 26: Requests the Secretary-General to create for an initial period of one year, in consultation with the Committee, a group of up to seven experts (“Panel of Experts”), acting under the direction of the Committee to carry out the following tasks: (a) assist the Committee in carrying out its mandate as specified in resolution 1718 (2006) and the functions specified in paragraph 25 of this resolution; (b) gather, examine and analyze information from States, relevant United Nations bodies and other interested parties regarding the implementation of the measures imposed in resolution 1718 (2006) and in this resolution, in particular incidents of non-compliance; (c) make recommendations on actions the Council, or the Committee or Member States, may consider to improve implementation of the measures imposed in resolution 1718 (2006) and in this resolution; and (d) provide an interim report on its work to the Council no later than 90 days after adoption of this resolution, and a final report to the Council no later than 30 days prior to termination of its mandate with its findings and recommendations.

Resolution 2094 (2013), paragraph 29: Recalls the creation, pursuant to paragraph 26 of resolution 1874 (2009), of a Panel of Experts, under the direction of the Committee, to carry out the tasks provided for by that paragraph, decides to extend until 7 April 2014 the Panel’s mandate, as renewed by resolution 2050 (2012), decides further that this mandate shall apply with respect to the measures imposed in this resolution, expresses its intent to review the mandate and take appropriate action regarding further extension no later than twelve months from the adoption of this resolution, requests the Secretary-General to create a group of up to eight experts and to take the necessary administrative measures to this effect, and requests the Committee, in consultation with the Panel, to adjust the Panel’s schedule of reporting.

Resolution 2270 (2016), paragraph 40: Requests the Panel of Experts established pursuant to resolution 1874 (2009), in cooperation with other UN sanctions monitoring groups, to continue its efforts to assist States in preparing and submitting national implementation reports in a timely manner.

Resolution 2276 (2016), paragraph 1: *Decides* to extend until 24 April 2017 the mandate of the Panel of Experts, as specified in paragraph 26 of resolution 1874 (2009) and modified in paragraph 29 of resolution 2094 (2013), *decides* that this mandate shall apply also with respect to the measures imposed in resolution 2270 (2016), *expresses* its intent to review the mandate and take appropriate action regarding further extension no later than 24 March 2017, and *requests* the Secretary-General to take the necessary administrative measures to this effect.

Resolution 2321 (2016), paragraph 36: Requests the Panel of Experts established pursuant to resolution 1874 (2009), in cooperation with other UN sanctions monitoring groups, to continue its efforts to assist Member States in preparing and submitting such reports in a timely manner.

Resolution 2321 (2016), paragraphs 39 and 43: Decides that the mandate of the Panel of Experts, as specified in paragraph 26 of resolution 1874 (2009) and modified in paragraph 1 of resolution 2276 (2016), shall also apply with respect to the measures imposed in resolution 2321 (2016); and requests the Panel of Experts to include findings and recommendations in its midterm reports, beginning with the midterm report due to be submitted to the committee by no later than 5 August 2017.

Resolution 2371 (2017), paragraph 20: Decides that the mandate of the Panel of Experts, as specified in paragraph 26 of resolution 1874 (2009) and modified in paragraph 1 of resolution 2345 (2017), shall also apply with respect to the measures imposed in resolution 2371 (2017).

Resolution 2375 (2017), paragraphs 14, 19 and 21: Directs the Panel of Experts to closely monitor the implementation efforts of all Member States of the ban on all refined petroleum products pursuant to paragraph 14 of resolution 2375 and to provide assistance and ensure full and global compliance, and requests the Secretary-General to make the necessary arrangements to this effect and provide additional resources in this regard; requests the Panel of Experts, in cooperation with other UN sanctions monitoring groups, to continue its efforts to assist Member States in preparing and submitting national implementation reports in a timely manner; and decides that the mandate of the Panel of Experts, as specified in paragraph 26 of resolution 1874 (2009) and modified in paragraph 1 of resolution 2345 (2017), shall also apply with respect to the measures imposed in resolution 2375 (2017).