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E.O. 12958: DECL: 02/24/2020
TAGS: PREL PHUM ETC MCAP KN UNSC
SUBJECT: DPRK: IMPROVING THE UN'S RESPONSE TO DPRK
SANCTIONS VIOLATIONS

Classified By: Amb. Alejandro Wolff for Reasons 1.4 (B), (D)

¶1. (C) SUMMARY: U.S., UK, French and Japanese missions have urged the UN Security Council's North Korea Sanctions Committee ("1718 Committee") to streamline and improve its response to reported sanctions violations. Missions have urged the chair (Turkey) to encourage vigorous Committee investigation and follow-up to each incident. These delegations have also developed with the chair a non-paper (para 8) to help standardize the Committee's response to violations, thereby making the process more predictable and user-friendly. USUN has also discussed with the chair the need to brainstorm specific actions the Committee can take after these incidents to tighten sanctions enforcement, as well as the need to develop supplemental guidance that the Committee can release on its website to help Member States enforce sanctions. END SUMMARY.

¶2. (C) On February 19, the Turkish Perm Rep Apakan, chair of the Security Council's North Korea Sanctions Committee ("1718 Committee") asked his staff to convene a meeting with Committee representatives from the U.S., UK, French and Japanese missions to discuss ways to improve the Committee's response to reported sanctions violations. Apakan had noted that during Council consultations the previous week, a number of delegations had encouraged the Committee to respond more effectively to these violations. The Turkish mission noted that the recent sanctions violation reported February 18 by South Africa (tank parts aboard the vessel 'Westerhever') marked the fifth such violation reported to the Committee since UNSCR 1874 was adopted in June 2009. Other violations have been reported by the UAE (arms-related materiel aboard the vessel 'ANL Australia), South Korea (chemical protective suits aboard the vessel 'MS Rachele'), Thailand (DPRK arms seized aboard an aircraft), and Austria (luxury yachts being transferred to the DPRK). On most of these cases the Committee has engaged in some correspondence with involved states, but has not yet taken additional actions in response.

¶3. (C) The U.S., UK, French and Japanese representatives unanimously urged the Turks to encourage a vigorous Committee response to all of these cases. Such responses could include corresponding with the involved states (including alleged violators), investigating the facts of each violation, reporting regularly to the Security Council about the incidents and, in a final stage, taking effective action to help deter and detect future violations. All agreed that the chair should also encourage the Panel of Experts (POE), a team mandated in UNSCR 1874 to monitor and improve sanctions

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implementation, to investigate these cases aggressively. On this latter point, the Japanese representative noted that the POE -- whose mandate expires in June 2010 -- may wish to tread carefully on these incidents so as to avoid politically sensitive findings that could jeopardize chances of renewing the POE's mandate for another year.

¶4. (C) USUN suggested that the Committee standardize its procedures to respond to these reported violations. USUN explained that a number of states, in particular Thailand, were confused about the Committee's exact procedures and had complained that the Committee took so long to respond to correspondence. A degree of standardization, USUN argued, would reassure Member States that the Committee will deal predictably with each reported violation and also accelerate Committee response time -- as a result, Member States might be more willing to report violations.

¶5. (C) Working with the Turkish chair, the U.S., UK, French and Japanese missions developed a short non-paper (para 8) to illustrate the steps the Committee should follow after receiving a report of a sanctions violation. This informal paper was intended to spell out the current practice that has developed via precedents established in both the Committee and the Iran sanctions context. The Turks agreed that this paper could serve as a rough guide for responding to future violations.

¶6. (C) USUN has also encouraged the Turks to help the Committee brainstorm options for effective actions the Committee can take to improve sanctions implementation in the wake of a reported violation. For example, the Committee could determine ways to "name and shame" companies that repeatedly facilitate sanctions violations or post Implementation Assistance Notices on the Committee's website to share lessons learned and urge enhanced vigilance in certain circumstances. U.S., UK, French and Japanese missions agreed to seek further ideas from capitals for effective responses.

¶7. (C) To further assuage Member State concerns about reporting incidents, USUN also volunteered to work with the Turkish chair to develop publicly-releasable fact sheets describing in clear language the role of the Committee and the Panel of Experts (POE). Similarly, USUN suggested the Committee help resolve confusion among some states about how they should "dispose" of seized contraband, as is required in UNSCR 1874. For example, the Committee could draft releasable guidance on this issue to help states understand the range of permissible disposal options. The Turkish chair reacted favorably to these suggestions.

¶8. //BEGIN NON-PAPER//

1718 COMMITTEE: THE LIFE CYCLE OF A SANCTIONS VIOLATION

(1) INITIAL REPORT: A Member State reports a sanctions violation to the 1718 Committee.

(2) POE OUTREACH: Panel of Experts (POE) reaches out to the UN mission of the reporting state to ask follow-up questions and discuss possibility of a site visit to inspect seized cargo.

(3) COMMITTEE OUTREACH: 1718 Committee writes first round of letters to involved states:

-- Response letter to reporting state (includes references to POE and suggest that cargo be retained for inspection)

-- Request for an explanation from alleged violators within thirty days.

-- Request for further information from all other states (e.g., vessel's flag state, state of incorporation of shipping company, etc.) within thirty days.

(4) POE INVESTIGATION: POE researches the case thoroughly, including through:

-- Analyzing information supplied by Member States to the Committee in response to the first round of letters.

-- Gathering information from other sources (e.g., press

accounts, personal interviews, independent research).

-- Consulting with Member States.

-- Site inspections / travel.

(5) INCIDENT REPORT: POE submits to the Committee a confidential "Incident Report" that includes:

-- Summary of the facts of the incident.

-- Analysis of trends/patterns involved in the violation.

-- Recommendations for Committee action to respond effectively to incident.

(6) COMMITTEE REVIEW/RESPONSE: Committee reviews Incident Report and takes appropriate action in response.

(7) END OF INITIAL INVESTIGATION: Committee writes back to the reporting state to explain that the Committee has completed its initial investigation and that the reporting state may dispose of cargo pursuant to UNSCR 1874.

(8) ONGOING CONSIDERATION: The Committee may at any time review "lessons learned" and study patterns of sanctions violations (e.g., identify companies or states linked to multiple violations). The Committee may decide to issue additional advisory notices / guidance to Member State or engage in outreach/assistance where appropriate.

// END TEXT OF NON-PAPER //
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