

Written Statement

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Mr. Chairman, Ranking Member and Members of the Committee,

Thank you for the invitation to testify today. I've been asked to present on the UN Panel of Experts 2019 Final Report that was published last month. I believe that this document serves as a useful basis for any discussion entitled "How to make UN sanctions more effective: the case of North Korea".

Before this discussion, I would like to pay tribute to the hard-working and dedicated UN experts and UN Secretariat staff who work on the other Panels, Groups and Monitoring Teams in New York, but also those working in or from Africa, Europe and the Middle East. These colleagues deploy to, or are based in, difficult and dangerous parts of the world. These include Afghanistan, the Central African Republic, the Democratic Republic of Congo (DRC), Mali, Somalia, South Sudan, the Sudan, Libya and Yemen, as well as visits to neighboring Member States. The experts come from a variety of backgrounds: law enforcement, customs, humanitarian aid, former diplomats, former members of the armed forces, defense and intelligence services. They also include field researchers, academics, journalists and former UN staff. Their reports provide the gold standard for national and international policy-makers working on complex conflicts that include a UN sanctions regime. My colleagues investigate the groups, individuals and sometimes Member States that are responsible for violating the various Security Council resolutions. Their mandates include investigating arms embargo violations, monitoring and reporting on armed groups, transnational criminal organizations, various Al-Qaeda or ISIL affiliates, the Taliban as well as other individuals or entities that engage in the smuggling of arms and other conflict-sensitive commodities, such as diamonds. They seek to identify those to be recommended for assets freezes and travel bans to the UN Security Council. As such the UN Panels and Groups of Experts have been deliberately targeted by their adversaries in the past, and sometimes this goes beyond surveillance and threats. I dedicate this testimony to the memory of Michael Sharp and Zaida Catalán of the UN Group of Experts monitoring the sanctions in the Democratic Republic of Congo who were murdered in the Kasai region in March 2017. Michael was from the United States of America. Zaida was from Sweden and

Chile. More than two years have passed and no-one has yet been convicted for these serious crimes.¹ Their sacrifice is a reminder of the dangers my friends and colleagues face in the field and we honor their memory.

Turning to the sanctions on North Korea or the Democratic People's Republic of Korea (DPRK) as it is known in UN documents, I should stress that these sanctions are amongst the most comprehensive but also targeted measures applied as part of any UN sanctions regime. The situation is now very different to that of my last testimony before Congress in 2013.²

The UN sanctions regime has been transformed by the five UN Security Council resolutions adopted in response to the DPRK's three illegal nuclear tests in 2016 and 2017 as well as an unprecedented number of prohibited ballistic missile tests during the same period.

The UN sanctions regime underwent a fundamental step change beginning with resolution 2270 (2016) adopted by the Security Council on 2 March 2016. This was in response to the DPRK's fourth nuclear test in January 2016 and a prohibited rocket launch of February 2017 that used ballistic missile technology. Until the 2 March 2016, the UN sanctions regime on the DPRK had been a classic non-proliferation regime, prohibiting the acquisition by the DPRK of nuclear and ballistic missile technology that would enable it to further develop its illegal nuclear and ballistic weapons program. There was also an arms embargo, prohibiting the DPRK from exporting or importing conventional arms and related military equipment. The fourth nuclear test in January and the rocket launch of February led the Security Council to widen the sanctions regime to include the inspection by Member States of all cargo on their territory originating from, transiting or destined for the DPRK. Key DPRK export commodities such as coal, iron and iron ore³ were prohibited for the first time, unless these exports were determined to be solely for livelihood purposes and unrelated to generating foreign currency revenue for the DPRK's nuclear or ballistic missile programs or other activities prohibited by the resolutions. These commodities were mainly transported by ship and resolution 2270 (2016) contained other new and important maritime prohibitions, including a ban on approximately 30 North Korean ships that would preclude these vessels from entering any foreign port.⁴ North Korea ignored the Security Council's decisions regarding its ballistic missile programs and continued ballistic missile tests of various types during the remainder of 2016 as well as nuclear test in September of

¹ See "Congolese Cover Up", Colum Lynch, Foreign Policy, 19 December 2018

<https://foreignpolicy.com/2018/11/27/congolese-cover-up-un-congo-murder-zaida-catalan-michael-sharp/>

² See Committee on Foreign Affairs, House of Representatives, One Hundred and Thirteenth Congress, First Session, September 26th, 2013, Serial No. 113-79, Hugh S W Griffiths, Stockholm International Peace Research Institute (SIPRI), the case of the *Chong Chon Gang*, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg82946/pdf/CHRG-113hhrg82946.pdf>

³ Such commodity export and import restrictions and bans are sometimes referred to as "sectoral sanctions".

⁴ The Security Council determined these vessels were economic resources of the DPRK shipping company Ocean Maritime Management (OMM). The UN Panel of Experts determined that the *Chong Chon Gang* was controlled by OMM at the time of the 2013 arms interdiction by Panama. Following a recommendation by the Panel in 2014, the Security Council 1718 Committee designated Ocean Maritime Management in July 2014. See: <https://www.un.org/press/en/2014/sc11499.doc.htm>

that year. In response to these prohibited activities the Security Council adopted resolution 2321 (2016) on 30 November. This included additional or expanded maritime and commodity sanctions, including a cap on coal exports and a ban on the export by the DPRK of copper, nickel, silver and zinc, among other measures. However, during the first half of 2017 the DPRK continued its illegal ballistic missile tests. The Security Council adopted another resolution, 2356 (2017) on 2 June that designated 14 North Korean individuals and four entities for assets freezes and travel bans. But North Korea continued to disobey the Security Council by conducting its first successful test of an intercontinental ballistic missile (ICBM) on 4 July. In response the Security Council adopted resolution 2371 (2017) on 5 September which completely prohibited the export of coal, iron, iron ore, lead and lead ore and seafood. It expanded the financial sanctions on the DPRK and banned the chartering of North Korean ships by foreign companies. North Korea had already disobeyed that resolution and its predecessors by exploding its largest nuclear device to date on 3 September. In response the Security Council adopted resolution 2375 (2017). This resolution introduced an annual cap on petroleum imported to the DPRK annually of 2 million barrels. It also set a cap on crude oil. A ban was placed on condensates and natural gas imports and textiles exports from the DPRK. Joint ventures and cooperative entities with DPRK nationals and entities were also prohibited. Maritime interdiction measures on DPRK-related vessels were introduced. Further work authorizations for DPRK nationals on the territory of Member States were also prohibited, with a number of limited exemptions. On 15 September the DPRK launched another ICBM and on the 28 November the DPRK launched yet another ICBM, its largest to date, the Hwasong 15. In response to these launches the Security Council adopted resolution 2397 (2017). This resolution increased four-fold the annual cap on petroleum products, reducing to 500,000 barrels per year that might be legally imported. In that resolution the Security Council also decided that should the DPRK conduct any further nuclear or ballistic missile tests, imports would be further reduced. The resolution also explicitly acknowledged that “the proceeds of the DPRK’s trade in sectoral goods, including but not limited to coal, iron, iron ore, lead, lead ore, textiles, seafood, gold, silver, rare earth minerals, and other prohibited metals, as well as the revenue generated from DPRK workers overseas, among others, contribute to the DPRK’s nuclear weapons and ballistic missile programs”. Resolution 2397 (2017) expanded sectoral sanctions by introducing a ban on the DPRK’s export of food and agricultural products, machinery, electrical equipment, earth and stone including magnesite and magnesia, wood and vessels. The resolution also prohibited the DPRK from selling or transferring fishing rights. The resolution also introduced a ban on some very important imports, including the supply, sale or transfer to the DPRK of all industrial machinery, transportation vehicles, iron, steel and other metals with the exception of spare parts to maintain DPRK commercial civilian passenger aircraft currently in use. 2397 (2017) also strengthened the ban on providing work authorizations for DPRK nationals by requiring Member States to repatriate all DPRK nationals earning income and all DPRK government safety oversight attachés monitoring DPRK workers abroad within their jurisdiction within 24 months from 22 December 2017.

The above is a summarized version of events. However, the pattern is clear. An illegal nuclear test or serious ballistic missile launch is met with a response from the Security Council in the form of additional sanctions.

By resolution 2397 (2017) adopted on 22 December 2017 the Security Council decided that further such illegal tests or launches would result further caps on North Korea's petroleum imports.

Since 22 December 2017 there have been no further nuclear tests or serious ballistic missile launches. The Executive Summary of the Panel's Final Report provides information on sanctions evasion investigated by the Panel during 2018.

The nuclear and ballistic missile programmes of the Democratic People's Republic of Korea remain intact and the country continues to defy Security Council resolutions through a massive increase in illegal ship-to-ship transfers of petroleum products and coal. These violations render the latest United Nations sanctions ineffective by flouting the caps on the import of petroleum products and crude oil by the Democratic People's Republic of Korea as well as the coal ban, imposed in 2017 by the Security Council in response to the country's unprecedented nuclear and ballistic missile testing. In addition to information provided to the Panel by several Member States on ship-to-ship transfers, one Member State indicated, while queried by another, that the Democratic People's Republic of Korea had already procured over 500,000 barrels of refined petroleum products in 2018. Global banks and insurance companies continue to unwittingly facilitate payments and provide coverage for vessels involved in ever-larger, multi-million-dollar, illegal ship-to-ship transfers of petroleum products, as well as an increasing number of ship-to-ship coal transfers and attempted transshipments.

The Democratic People's Republic of Korea continues to violate the arms embargo and has attempted to supply small arms and light weapons and other military equipment to Houthi rebels in Yemen, as well as to Libya and the Sudan, via foreign intermediaries, including Syrian arms trafficker Hussein al-Ali in the case of the Houthi rebels. The Panel continued investigations into designated entities and individuals in Asia who clandestinely procured centrifuges for the nuclear programme of the Democratic People's Republic of Korea and attempted to sell a wide range of military equipment to armed groups and Governments in the Middle East and Africa. The Panel investigated the involvement of the Democratic People's Republic of Korea in gold mining in the Democratic Republic of the Congo, the construction of a military camp in Sierra Leone and the sale of fishing rights in the waters surrounding the Democratic People's Republic of Korea, as well as activities of designated entities and other prohibited activities around the world. The Panel also investigated the acquisition by the Democratic People's Republic of Korea of leading luxury brand goods, such as Rolls-Royce, Mercedes-Benz and Lexus vehicles. The world's largest container shipping line continued to unwittingly transport prohibited items later seized by Member States.

Financial sanctions remain some of the most poorly implemented and actively evaded measures of the sanctions regime. Individuals empowered to act as extensions of financial institutions of the Democratic People's Republic of Korea operate in at least five countries with seeming impunity. The Reconnaissance General Bureau continues its international financial operations by transferring funds from accounts closed in the European Union to those held at financial institutions in Asia. The global operations of Glacom and the

Malaysia-Korea Partners Group of Companies (MKP) continue despite the Panel's past reporting on their illicit activities and show the ongoing use of overseas companies and individuals to obfuscate income-generating activities for the regime of the Democratic People's Republic of Korea. The Panel also investigated companies acting as possible cooperative entities or joint ventures, some of which are officially registered as joint ventures and others that more actively conceal the nature of their collaboration with the Democratic People's Republic of Korea. A number of these entities have also violated other provisions of the resolutions, including by maintaining links to designated entities. The Panel also investigated the sophisticated cyberattacks carried out by the Democratic People's Republic of Korea against multiple Member States to evade financial sanctions.

Ship-to-ship transfers involve increasingly advanced evasion techniques. The disguising of vessels through ship identity theft and false Automatic Identification System (AIS) transmissions is not being taken into account by most global and regional commodity trading companies, banks and insurers, whose due diligence efforts fall extremely short. The manipulation of vessel AIS transmissions remains an overarching feature of illegal transfers, contrary to International Maritime Organization (IMO) regulations governing safety of life at sea, which require that AIS be in operation at all times. This highlights weak monitoring by flag States. In addition, insurers do not monitor the AIS of the vessels for which they provide coverage and services. Other methods of evasion include physical disguise of tankers of the Democratic People's Republic of Korea, the use of small, unregistered vessels, illegal name-changing and other forms of identity fraud, night transfers and the use of additional vessels for transshipment. In addition to evading sanctions, the Democratic People's Republic of Korea and its maritime fleet are systematically violating the United Nations Convention on the Law of the Sea, routinely engaging in double-flagging and providing safe harbour for hijacked ships. The Panel inspected seized vessels engaged in prohibited coal trades, documenting ship identity laundering, whereby the owners had deceived IMO into providing new vessel identity numbers to avoid repeat detection. The Panel found that ports and airports in the Democratic People's Republic of Korea were being used for rampant violations of the resolutions, ranging from illegal oil imports and coal exports to the smuggling of bulk cash by nationals of the Democratic People's Republic of Korea. Furthermore, the Panel found that the country was using civilian facilities, including airports, for ballistic missile assembly and testing with the goal of effectively preventing "decapitation" strikes.

Diplomats of the Democratic People's Republic of Korea continue to play a key role in sanctions evasion. While some Member States have limited the number of bank accounts of the country's embassies and diplomats as required by the resolutions, the latter are evading this provision by controlling accounts in multiple countries, including those to which they are not accredited. Diplomats and representatives of designated entities of the Democratic People's Republic of Korea also circumvent the assets freeze and the limit on the number of diplomatic bank accounts by holding accounts in the name of family members and front companies and by establishing accounts in multiple jurisdictions. Diplomats of the Democratic People's Republic of Korea continue to travel under false

accreditation in their passports and have also facilitated the country's efforts to illegally export large quantities of coal through transshipment to disguise the origin.

Member States, United Nations agencies and humanitarian organizations have expressed concern that despite the exemption provisions in the resolutions and the Committee's efforts, United Nations agencies and humanitarian organizations continue to experience difficulties in meeting critical life-saving needs of vulnerable populations in the Democratic People's Republic of Korea. The present report offers a series of recommendations for designation and other practical measures to assist Member States and the Security Council in addressing implementation challenges and shortcomings.⁵

The Panel's reports include the following selected recommendations to Member States:

Member States and relevant international organizations should ensure that the global and regional commodity trading companies and tanker fleets operating under their jurisdictions and in those at-risk segments of the free-on-board market and/or engaging in ship-to-ship transfer in the affected international waters adopt contractual language that includes effective end-use delivery verification.

Member States and relevant international organizations should ensure that the global and regional commodity trading companies and tanker fleets operating under their jurisdictions and those segments of the affected free-on-board markets assess the AIS history of all the vessels that they intend to supply with products banned under the resolutions.

Flag States should inform the Committee and the Panel of vessels that they deregister.

Flag States should monitor the AIS of their vessels to better ensure implementation of the resolutions.

Member States should consider introducing a regulatory requirement for protection and indemnity insurance and reinsurance companies to include AIS screening and an "AIS switch-off" clause in their contracts for at-risk vessels operating in the relevant regions.

Member States should consider introducing a regulatory requirement for petroleum product trading, refining and producing companies to include end-use delivery verification measures and AIS screening as well as an "AIS switch-off" clause in their contracts.

IMO member States should consider measures to improve information-sharing and maritime regulation enforcement by flag States and other interested parties.

Member States should consider introducing legislation to ensure that global and regional banks operating in their jurisdiction introduce AIS screening and vessel due diligence risk assessment clauses into letters of credit, loans and other financial instruments for global and regional commodity traders and brokers trading in oil and petroleum products in higher-risk free-on-board markets in the affected areas.

⁵ For report, see: https://www.un.org/securitycouncil/sanctions/1718/panel_experts/reports

Member States should enhance their ability to facilitate robust information exchange on the cyberattacks by the Democratic People's Republic of Korea with other Governments and with their own financial institutions, to detect and prevent attempts by the Democratic People's Republic of Korea to employ its cyber capabilities for sanctions evasion.

Information about cyberattacks conducted by the Reconnaissance General Bureau as a means to evade financial sanctions and to gain foreign currency should be added to the Reconnaissance General Bureau's entry on the 1718 sanctions list.

Given the pervasive use of accounts in the names of family members to evade sanctions, the Panel recommends that Governments provide their financial institutions with a list not only of accredited diplomats, but of their family members, to ensure that diplomats do not establish additional bank accounts in their names.

The Panel recommends that Member States issue guidance for a single bank to be identified as the only bank that may hold accounts for the embassy and diplomats of the Democratic People's Republic of Korea and that all others be advised not to hold accounts for diplomats of the Democratic People's Republic of Korea or their family members.

The Panel recommends that Member States advise their financial institutions not to open accounts for diplomats of the Democratic People's Republic of Korea who are not accredited to their country and to share information on the financial activities of diplomats of the Democratic People's Republic of Korea with other Member States where records show that there has been financial activity, to avoid cross-border circumvention of sanctions.

Member States should advise their financial institutions that only closing bank accounts (as opposed to freezing) does not meet the requirements of the resolutions, which stipulate that they must freeze all assets controlled by designated individuals or entities and those operating on their behalf, as well as of any members of the Government of the Democratic People's Republic of Korea that are engaged in violating or evading any of the provisions of the resolutions.

Member States should offer technical assistance to other Member States to help them to strengthen their legal frameworks and related mechanisms to implement the financial provisions in the resolutions, as appropriate and in line with Article 49 of the Charter of the United Nations.

As part of their implementation of paragraph 18 of resolution [2375 \(2017\)](#), Member States should request their corporate registries to extract the details of all companies with a national director or shareholders of the Democratic People's Republic of Korea, bearing in mind that the registration of such companies may de facto violate the ban.

Given that joint ventures have violated other provisions of the resolutions in addition to paragraph 18 of resolution [2375 \(2017\)](#), the names of those directors and shareholders should be shared with investigation agencies, financial intelligence units and financial institutions.

The Panel recommends that Member States clarify with their national agencies that insurance providers are financial institutions and therefore subject to all of the

relevant financial provisions in the resolutions, including the need to freeze assets under the resolutions.

These are the principal recommendations made to Member States in the Panel's 2019 report.

In conclusion, I should stress that the report also noted the DPRK's use of civilian infrastructure for ballistic missile assembly and testing. From previous Panel reports one may observe that the DPRK has made widespread use of ostensibly civilian, commercial, diplomatic and trade entities and personnel for past ballistic missile and nuclear-related procurement from other Member States. There are also many examples of the use of the DPRK's merchant fleet of vessels, DPRK diplomats, trade representatives and Embassies for arms sales, illegal financial transactions and other activities prohibited under the resolutions. I believe the Security Council imposed so many measures – at least 26, compared to the average of 3.5 for a UN sanctions regime – on the DPRK for these reasons. These comprehensive and targeted measures, particularly beginning in March 2016 were in response to the DPRK's single-minded pursuit of its nuclear weapons and ballistic missile programs for which all the resources of the State – civilian, diplomatic and military were deployed as necessary.

I would like to conclude this written testimony by recognizing the hard work and dedication of my Panel colleagues, past, present and future. I would also like to thank UN Secretariat colleagues without whom our investigations and reports would not have been possible. My former and current Panel members and UN staff colleagues have made our reporting something to be rightly proud of and I would like to thank them for their service.