



JANUARY 11, 2019

CIRCULAR NO. 03/19

TO MEMBERS OF THE ASSOCIATION

Dear Member:

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK) (NORTH KOREA) – ENFORCEMENT OF UN, US AND EU SANCTIONS

This Circular follows up on [Circulars 01/18](#) of January 3, 2018 and [11/18](#) of March 9, 2018 regarding economic sanctions against the Democratic People's Republic of Korea (DPRK). It reminds Members of the significant risks entailed in evading US sanctions against the DPRK, and the comprehensive international sanctions regime against the DPRK which the United Nations Security Council introduced in 2017.

Enforcement of sanctions generally, and against the maritime industry specifically, has intensified since 2017. This document draws attention to some of the measures which governments are taking to enforce sanctions, and warns of the serious consequences of trading with the DPRK and DPRK-related interests.

In addition, it should always be remembered that, in compliance with US sanctions prohibitions, and in accordance with its rules, the American Club does not provide cover for any DPRK vessels or for any trade involving the DPRK.

Enforcement

Since 2017, the United Nations Security Council has combined with some of its prominent members to step up surveillance of any maritime activity that arouses a suspicion of sanctions evasion. Concomitantly, there are now even more restrictive measures on the DPRK and DPRK-related activities.

As a result of the heightened surveillance of shipping activities in the Yellow Sea, East China Sea and Sea of Japan, surveillance agencies will continue to detect and identify ships which engage in trading activities with the DPRK and foreign-flagged vessels and their owners linked to the DPRK that have been sanctioned for a global port entry bans and assets freezes. Surveillance photographs of foreign-flagged vessels and the people connected with them have resulted in their inclusion on the US Department of the Treasury's OFAC SDN List and listing by the United Nations Security Council 1718 Committee as designated entities and individuals, subject to a UN asset freeze and travel ban.

Photographs reveal the extent to which some shipowners involved in both DPRK sanctions evasions and related transnational organised crime syndicates are prepared to go, including attempts to conceal the ship's identity by covering or overwriting its legitimate IMO number and name while also turning off the AIS transmitter to hide its track from view on AIS system trackers.

Such ships invariably conceal their identity to hide the unlawful transfer of coal and liquid cargoes in STS operations with DPRK vessels and foreign-flagged or stateless vessels that have been designated by the United States and the UN for earlier violations. The UN Panel of Experts on DPRK sanctions has documented these ships' activities and the people associated with them. The UN reports are publicly accessible,¹ and they have been disclosed to or read by maritime authorities. In some cases, this has resulted in the withdrawal of registration services to ships engaging in such activities, and some of these ships were detained at their next port of call under the auspices of a global port entry ban on such ships.

The United States Treasury Department has so far designated individuals and entities along with 28 ships involved in DPRK sanctions evasion. Any shipowner, charterer or manager involved in these activities will find it very difficult to trade such ships or to raise finance because of the US designation resulting in asset freezing and exclusion from transactions in US Dollars. A ship which is linked to such activities by the UN, US or other state agencies inevitably attracts further scrutiny from the banking sector which may freeze or cancel accounts or freeze transactions.

Actions taken by governments

Many states individually, or under the umbrella of supranational bodies such as the European Union, have introduced measures to implement the United Nations Security Council Resolutions in their domestic law.

These measures include, but are not limited to:

- Bans on the sale and supply of aviation and rocket fuels;
- Extensive lists of banned luxury goods which cannot be supplied to North Korea;
- Bans on all leasing and chartering of vessels and the provision of crew services;
- Bans on owning and operating of or providing classification or similar services to DPRK-flagged vessels;
- Extensive arms embargoes;
- Bans on vessels entering EU ports which are owned, operated or crewed by parties from the DPRK;
- Bans on investing in the DPRK mining, refining and chemical industries.

UN Security Council Resolutions in 2017

Members should be aware that the scope of UN sanctions against the DPRK was intensified during 2017 pursuant to the Resolutions highlighted below.

¹ https://www.un.org/sc/suborg/en/sanctions/1718/panel_experts/reports

UN Security Council Resolution No. 2371 of 5 August 2017:

- Bans all exportation of coal, iron, iron ore, lead and lead ore from the DPRK and prohibits the transport of DPRK origin commodities by the vessels of any Member State of the United Nations;
- Bans all exportation of seafood from the DPRK, and prohibits the transport of DPRK origin seafood by the vessels of any Member State of the United Nations;
- Authorises the UN Committee monitoring the sanctions against the DPRK to designate any vessels engaged in activities prohibited by various UN Resolutions relating to the DPRK, and calls upon UN Member States to ban said vessels from entry to their ports;
- Prohibits new joint ventures or cooperative entities with DPRK entities or individuals.

UN Security Council Resolution No. 2375 of 11 September 2017:

- Bans the supply, sale or transfer of all condensates or natural gas liquids to the DPRK;
- Imposes a cap of 2 million barrels per year of all refined petroleum products imported to the DPRK (since reduced to 500,000 barrels) and imposes strict controls on such trade, requiring the Member State to advise the Security Council every thirty days of the amounts supplied and the parties to the transaction);
- Restricts the supply, sale or transfer of crude oil to the DPRK in any 2-month period after the Resolution was passed to the amount which any UN Member State supplied, sold or transferred to the DPRK in the 12 months before the Resolution was passed;
- Bans the exports of textiles from the DPRK;
- Bans UN Member States from providing work authorisations for DPRK nationals, after the date of the Resolution;
- Prohibits all joint ventures or the expansion of current joint ventures with DPRK entities or individuals;
- Calls upon Member States to inspect vessels, with the consent of the Flag State, if there are reasonable grounds to believe that such vessels are carrying cargoes whose supply, sale or export is prohibited under various UN Security Council Resolutions.

UN Security Council Resolution No. 2397 of 22 December 2017:

- Prohibits, nationals and persons of a UN Member State, and entities incorporated in its territory or subject to its jurisdiction, from providing insurance or re-insurance services to ships it has reasonable grounds to believe were involved in activities, or the transport of items, prohibited by various UN Security Council Resolutions;

- Requires that Flag States shall deregister any ship it has reasonable grounds to believe was involved in activities, or the transport of items, prohibited by UN Security Council Resolutions and prohibits re-registration without UN Committee approval;
- Prohibits the provision of classification services to such ships unless it is approved by a UN committee in advance on a case-by-case basis;

These Resolutions have been implemented by individual states and supranational bodies in their own laws or sanctions programmes, including provisions to apply administrative or criminal penalties for breach of the relevant law.

Automatic Identification Systems (AIS)

An indicator of potential evasion activity of ships arises when a ship inexplicably diverts course or ceases to transmit its AIS signal. The interest of surveillance agencies will be heightened where it is judged that loss of the AIS signal is the result of a master or other crew member deliberately turning off the transmitter signal in order to conceal the ship's voyage pattern and navigational activities.

Such action, save where necessary to preserve the safety or security of the ship, constitutes a serious breach of the Safety of Life at Sea Convention, putting the ship in breach of Flag State requirements, and heightening the risk of collision, damage to other ships, pollution damage and loss of seafarers' lives at sea.

Where a ship is not in compliance with Flag State requirements the owner risks prejudicing cover under P&I club rules. There will also be grounds to deny P&I cover on the basis of imprudent or unlawful trading where an owner trades his vessel in breach of sanctions, disguising its location by manipulating or withholding the transmission of AIS data.

Great caution is required

The sanctions agreed to by the United Nations Security Council form one of the most comprehensive multilateral sanctions regimes imposed against a country and there is a well-resourced and determined effort at the international level, focused on the shipping industry, to prevent prohibited trade with the DPRK.

Members should therefore be in no doubt that any trade with the DPRK will be subject to surveillance and scrutiny. The relevant authorities are monitoring vessel movements with satellites and other resources, and vessels may be subject to search and detention at ports while suspicious activity is investigated. Any activity established to be in breach of sanctions will result in insurance coverage being withdrawn, and risks possible vessel confiscation and other severe penalties imposed on companies and individuals concerned - which at best may affect the future trading of a vessel and at worst could prove fatal to the future viability of a Member's whole enterprise.

Even if it were possible to undertake legitimate trade with the DPRK, Members should bear in mind that the American Club does not support vessels trading to DPRK ports, and that it will not pay claims and fees and provide security. Any vessel doing so will also be automatically banned from US waters for the following 180 days. No vessel in which a foreign person has an interest that has called at a port in the DPRK within the previous 180 days, and no vessel in which a foreign person



has an interest that has engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, may call at a port in the United States.

All Members are therefore strongly urged to re-assess the risks of undertaking any business with the DPRK including STS operations and should also exercise the fullest possible due diligence to ensure that they are not unwittingly entering into prohibited activities with DPRK entities. The prohibitions of the sanctions against the DPRK apply to Members as well as the American Club and all the other members of the International Group.

Yours faithfully,

Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

All clubs in the International Group have issued a similarly worded circular.