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Circular Letter No.4386
16 February 2021

To: All IMO Members
Intergovernmental organizations
Non-governmental organizations in consultative status

Subject: **Communication from the Government of the United States of America**

The Government of the United States of America, on behalf of the Governments of Belgium, Bulgaria, Canada, France, Germany, Italy, Japan, the Netherlands, Portugal, the Republic of Korea and the United Kingdom of Great Britain and Northern Ireland request that the following information, dated 15 February 2021, be circulated.

This information relates to MSC.1/Circ. 1602 of 5 March 2019, Deceptive Shipping Practices Employed by the Democratic People's Republic of Korea. The Maritime Safety Committee adopted this Circular at its 100th session after receiving a report of deceptive shipping practices employed by the Democratic People's Republic of Korea (DPRK) to evade sanctions contained in relevant United Nations Security Council resolutions.¹ The Circular affirms the relevant safety requirements in chapter V of the SOLAS Convention and the Organization's recommendations on warnings for operations that endanger the safety of navigation.

Since the adoption of MSC.1/Circ. 1602, the DPRK continues to violate the relevant Security Council resolutions restricting trade to and from the DPRK. These resolutions also obligate United Nations Member States to prevent their ships and citizens from engaging in this trade and provides for the enforcement of these sanctions against ships believed to be transporting prohibited cargo to or from the DPRK. The continuing DPRK evasion practices and inadequate enforcement of these resolutions by some United Nations Member States may create significant risk for the shipping industry, including all companies that utilize the shipping industry for trade, as noted in the report to the Committee at its 100th session.

Maritime shipments to and from the DPRK did not stop amid the COVID-19 pandemic, and the country continued to import refined petroleum and export coal through illicit ship-to-ship transfers and direct deliveries. The most recent report of the UN Panel of Experts, <https://undocs.org/S/2020/840>, highlights the DPRK's continued evasion of oil import and coal export prohibitions. As of May 2020, the DPRK had imported over 500,000 barrels of oil despite the limit in Security Council resolution 2397 of 500,000 barrels annually. Also, while not part of the Panel's August report, available information reflects that vessels engaged in prohibited ship-to-ship transfers of refined petroleum, and other vessels that illicitly offloaded refined petroleum in the DPRK port of Nampo, consistently operated in the waters described as the territorial sea of the People's Republic of China.

The Panel's report highlights that, even with COVID-related limitations on vessel movements and port activities, at least 32 DPRK vessels left the country laden with coal, and at least 33 shipments had been conducted as of 7 May 2020. The vast majority of these shipments were delivered to China and offloaded in the Ningbo-Zhoushan area through ship-to-ship transfer. The Panel's report contains satellite imagery showing DPRK vessels loading coal at Nampo and Taean ports, and several of the vessels were shown at anchor in waters under China's jurisdiction with cargo hatches open with what appeared to be coal.

¹ E.g. resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), and 2397 (2017).

Again, while not part of the Panel's August report, international partners provided timely information to facilitate enforcement action against these vessels involved in the import and export of prohibited cargo in waters under Chinese jurisdiction was provided to the Navy and Coast Guard of the People's Republic of China. These imports and exports proceeded despite this information sharing.

Annex 17 of the Panel's report details the evasion tactics that persist despite MSC.1/Circ. 1602. The increasing risk to shipping from disregarding this Circular guidance and the relevant obligations referenced therein is evident.

The Panel made the following recommendations that are of interest to IMO Member States on best practices by flag registries, vessel owner and vessel operators as well as related shipping entities with regard to the activities of the Democratic People's Republic of Korea:

- On promoting transparency, the Panel recalled its recommendation that Member States endeavor to collect identifying and contact information for each individual that owns or exerts control over the foreign entity to which each vessel belongs, and to share the information, when requested, with the Panel in order to facilitate investigations into sanctions evasion networks through the use of shell companies as registered owners.
 - On automatic identification systems and long-range identification and tracking of ships, the Panel recommended that Member States encourage their shipping industry to follow best practice measures already adopted by related sectors, including vessel insurance and reinsurance businesses, commodity trading companies, banks and flag registries, that investigate signs and reports of automatic identification system and/or long-range identification and tracking system transponder manipulation before entering into new contracts or when reviewing ongoing business. The Panel also recommended that Member States encourage port State control, maritime and vessel traffic services authorities to promulgate and police the requirement to maintain automatic identification system broadcasts by tankers and bulk carriers arriving in and leaving their jurisdictions, consistent with the International Convention for the Safety of Life at Sea, and to consider investigating the validity of vessels suspected of tampering with their identifiers along with their activity to ensure that they are not in violation of sanctions resolutions.
 - On movements of cargo, the Panel reiterated its recommendation that Member States ensure that port and relevant authorities engage in higher scrutiny of lighters and floating cranes in view of their use in ship-to-ship transfers with DPRK vessels, including verification of the origin and documentation of their cargo, particularly in locations that have registered the presence of DPRK vessels; that any Member State receiving coal shipments for delivery or trans-shipment take enhanced measures to validate the documentation accompanying those shipments; and that Member States remain vigilant regarding the movement of vessels trading in restricted or banned commodities, in particular in waters where illicit ship-to-ship transfers have been known to occur.
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