

Compliance with United Nations Security Council
Resolutions 1718 (2006) and 1874 (2009)
Banning Arms Trade with
the Democratic People's Republic of Korea (DPRK)

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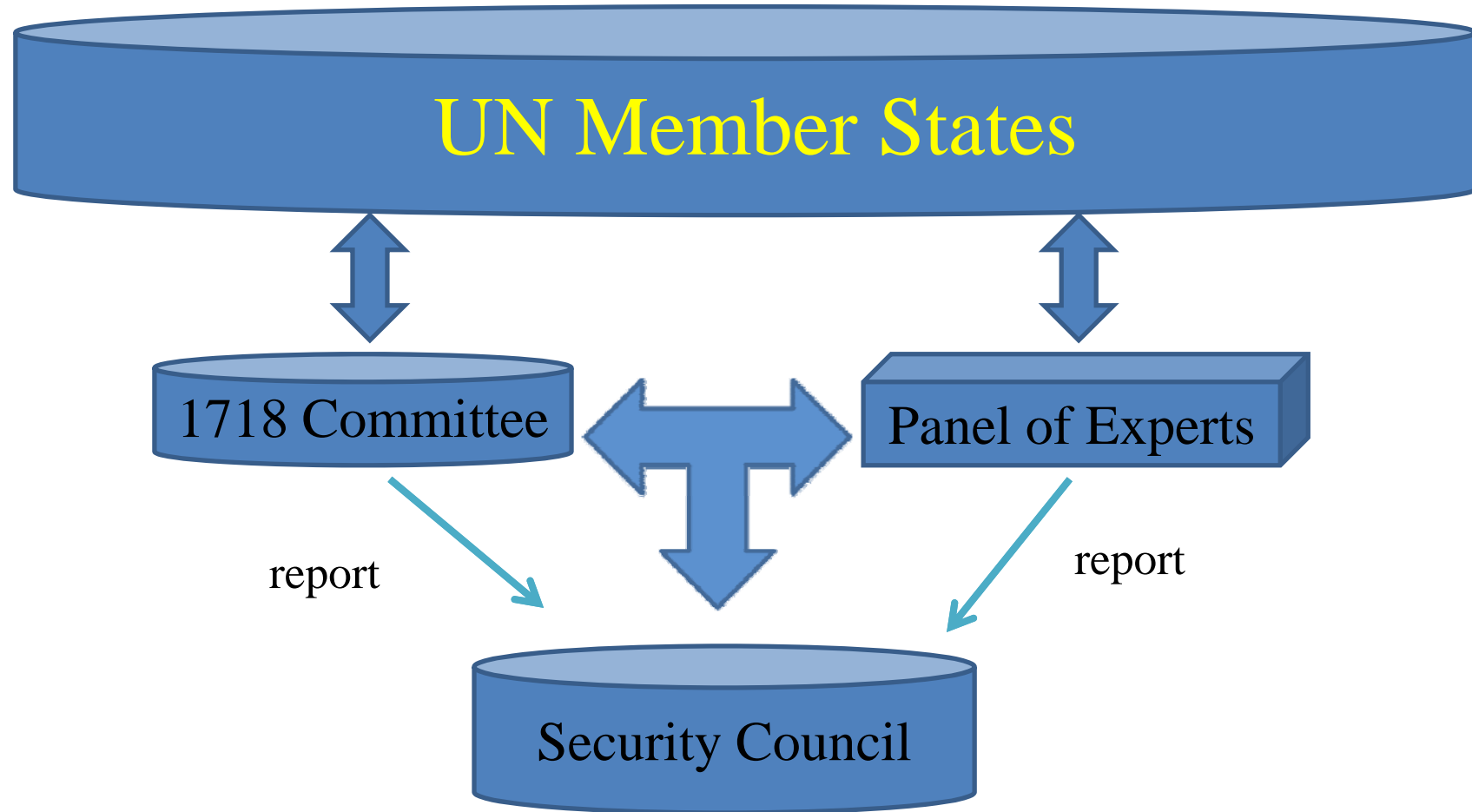
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Sanctions Under
the United Nations Security Council
Resolutions 1718 (2006)
and 1874 (2009)

United Nations Sanctions Ban (Amongst Other Things)

- Buying any **arms** from DPRK, or selling any to DPRK, except Small Arms and Light Weapons
- **Trade in nuclear or missile items**
- Supply of **luxury goods** to the DPRK
- **Travel by designated persons**
- **Financial services** that might contribute to DPRK's nuclear, ballistic missile or other WMD-related programmes
- **Training** of DPRK nationals that could contribute to DPRK's proliferations sensitive nuclear activities etc
- **New grants or concessional loans** to the DPRK

Implementation Framework



General Patterns of Sanction Evasion by the DPRK

Source: United Nations Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009)*, November 5, 2010.

General Patterns of Sanction Evasions by the DPRK

- The DPRK employs a broad range of techniques to mask its transactions, including the extensive use of false labelling, the use of overseas entities, shell companies, informal transfer mechanisms, cash couriers and barter arrangements.

Extensive Use of False Labelling of Cargos

- In some cases, closed crates or containers were **falsely described and mislabelled** by the exporters in the DPRK and **shipped under DPRK Customs seal to ports in other countries**, where they would then be **packed with extraneous items and/or repacked into standard size maritime shipping containers**.
- The content of the containers would then be marked and documented to reflect the added extraneous cargo or otherwise be **falsely described and labelled**.
- The manifests covering the shipments would also likely be falsified to reflect this cargo description.
- Information concerning the **original consignor and ultimate consignee** would also likely be obscured, altered or falsified.

Laundering Documentations

- In several cases, the consignors even took further steps to hide the real contents by **further laundering the documentation as the container passed through key trans-shipment points in East Asia.**
- **Multiple layers of intermediaries, shell companies and financial institutions** would also be used to hide the true originators and recipients.
- While this process of packing and repacking is carried out by the freight forwarder, **in most cases** it is acting on instructions received from the original consignor and has **no knowledge of the actual content of the containers.**

Use of Air Cargo

- The DPRK is also believed to **use air cargo to handle high valued and sensitive arms exports.**
- Such cargo can be sent by direct air cargo from the DPRK to the destination country.

“Knock-Down Kits”

- A technique being used by the DPRK to conceal its arms exports is to **ship components for the assembly of arms overseas** in the form of “**knock-down kits**” that can be delivered to foreign assembly plants.
- In some cases, this is a turnkey operation with the participation of the DPRK scientists, technicians and specialists.
- In other cases, assembly is carried out only by local staff.

Luxury Goods

Source: United Nations Security Council 1718 Committee, *Implementation Assistance Notice No. 3: Guidelines for the implementation of measures regarding "Luxury Goods" contained in Security Council resolutions 1718 (2006) and 1874 (2009)*, 5 December 2011.

Guidance on Luxury Goods

- UN Security Council 1718 Committee issued “Implementation Assistance Notice No. 3: Guidelines for the implementation of measures regarding "Luxury Goods" contained in Security Council resolutions 1718 (2006) and 1874 (2009)” on 5 December 2011.
- **Any definition of luxury goods** as may be necessary for Member States to implement this provision of the resolution would be the **national responsibility of individual Member States.**

Definition of “Luxury”

- Merriam-Webster Dictionary:
 - a habitually sumptuous environment or way of life;
 - an elegant appointment or material aid to the achievement of luxury;
 - a non essential item or service that contributes to luxurious living:
 - an indulgence in ornament or convenience beyond the indispensable minimum;
 - a means or source of pleasurable experience or personal satisfaction.
- Luxury goods are considered to be superior to the comparable substitutes in terms of design, quality, durability or performance.
- Luxury goods are often associated with **certain brands** whose names are preferred by those consumers with strong purchasing power.

Considerations

- Care should be taken **not to restrict the supply of ordinary civilian use goods to the wider population of the DPRK** nor have a negative humanitarian impact on the country.
- It should remain in the sovereign discretion and national responsibility of each Member State to determine for itself how best to reflect these objectives in its domestic legislation and regulation.
- With a view to implementing controls on “luxury goods” in a coherent and harmonized manner, Member States are encouraged to take into account their own national characteristics as well as practices of other Member States.

Examples of the Core Elements of “Proposed Basic Principles”

Important factors to be considered in defining and/or designating "luxury goods":

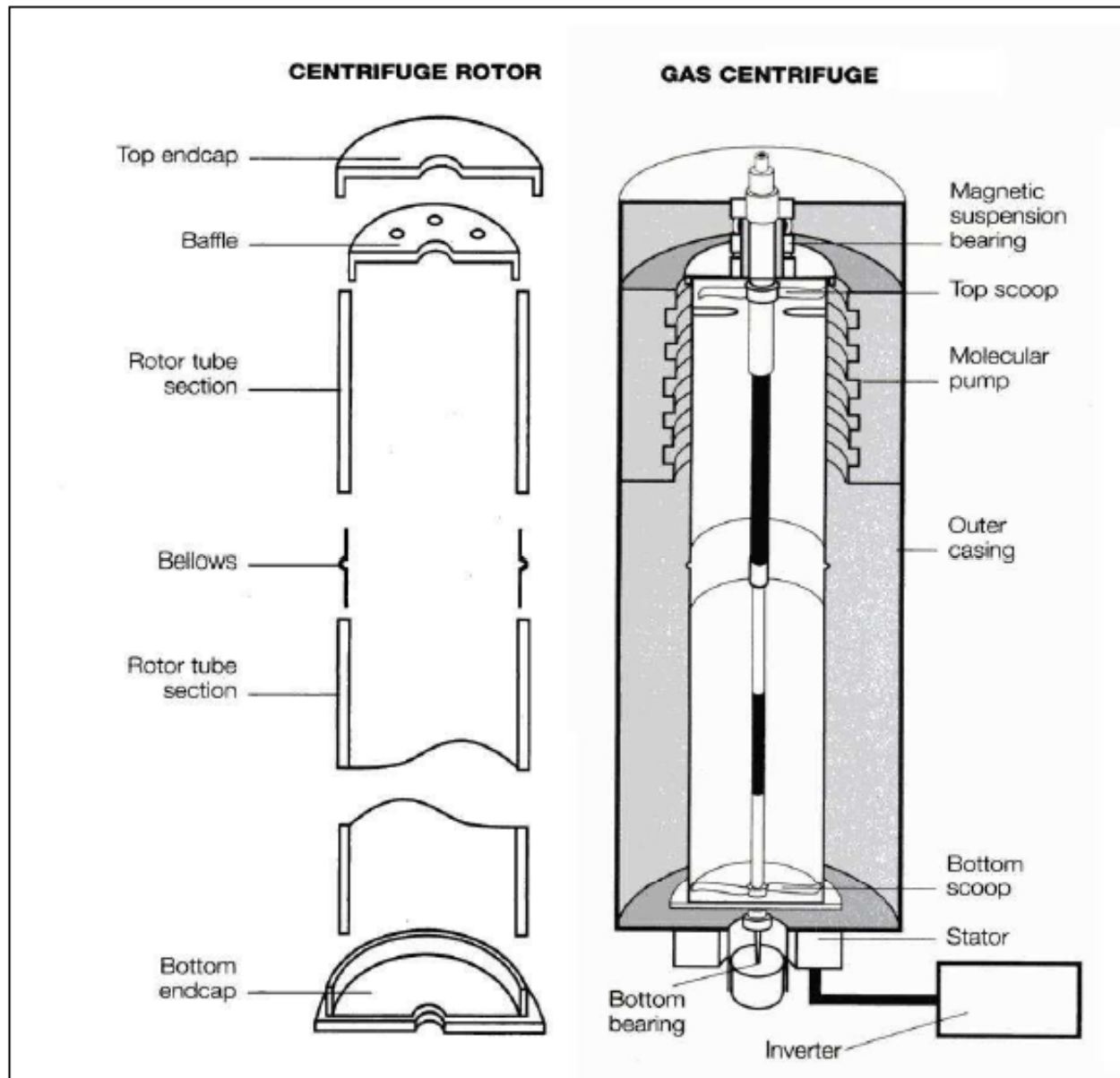
- Whether the goods are affordable by, and intended for the use of, the general population of the DPRK, taking into consideration that the UN Statistics Division has estimated that [the DPRK's per capita income was US\\$499 in 2009](#).
- Whether the goods are specially designed, manufactured, or otherwise associated with brands whose names are known for premium goods for a select group of the population.
- Whether the goods have [special features, durability, or functionality beyond those for which a given category of items are normally made](#) and thus considered as high end in that category.
- [Whether the goods are essential for the general population's basic needs, health and well being](#) with due consideration given to the possible humanitarian impact of the prohibition of such items might have on the general population of the DPRK.

Challenges of Implementing Resolutions

Identifying Choke Point Items

- What are the “choke point” items for uranium enrichment programme, for example? Examples proposed by various experts in relevant fields include:
 - Flow-forming machines
 - Maraging steel
 - High-strength aluminium alloy
 - Frequency changers (converters or inverters)
 - Bellows-sealed valves
 - Fibrous or filamentary materials, and prepregs
 - Filament winding machines and related equipment
 - Perfluorinated lubricants
 - Ring magnets
 - Semi-hard magnetic alloys in thin strip form

Generic drawing of an early URENCO-type centrifuge



Source: David Albright and Paul Brannan, "Taking stock: North Korea's Uranium Enrichment Program", Institute for Science and International Security, 8 October 2010. 18

Inspection of Trans-Shipment Cargoes

- The use of **container handling trans-shipment hubs**, particularly in East Asia and South-East Asia, has also increased dramatically in recent years.
- **Trans-shipment** has become an extremely important and competitive business for these ports. Business is attracted by simplifying trans-shipment procedures, reducing land holding and trans-shipment times, and holding down the costs shipping lines may incur for these services.
- **Inspection of trans-shipment cargoes slows this process down**, and, in their efforts to become more important hubs of maritime transportation, **ports are reluctant to undertake such cargo inspections unless they are presented with very strong evidence that important contraband cargo is involved.**

Inspection of Trans-Shipment Cargoes

- Taken together with the loose documentation requirements, these factors provide significant opportunities to mask the nature, origin and ultimate destination of certain cargoes for the purpose of circumventing sanctions and other control measures.
- Trans-shipment ports often are not provided with information beyond the previous and next port of call.
- The Panel of Experts recommends that further study be undertaken to determine what steps might be taken, without overburdening international maritime commerce, to assure that onward trans-shipment ports are aware of the cargo's DPRK origin so that they can also apply extra vigilance.

Air Cargos

- Air cargo poses other issues and vulnerabilities. Modern aircraft have increased distance and payload capabilities, and can link the DPRK directly with countries in most of the regions in the world.
- Aircraft operators are able to vary flight plans and pick and choose between refuelling alternatives.
- Such air traffic may not be susceptible to inspection at airports on route, and in certain cases, where relevant information provides reasonable grounds that suspect cargoes are on board, may call for the dangerous practice of forced landings for inspection purposes.
- The Panel of Experts recommends that consideration be given by countries over whose territory such aircraft may fly, stop or transit, that efforts be undertaken in those cases to closely monitor air traffic to and from Sunan International Airport and other DPRK airports, and that cargoes to and from the DPRK be declared before overflight clearance is provided.

Disposal of Seized Goods/Cargos

- Several Governments have requested guidelines or information on the disposal of proscribed items after seizure. It was frequently mentioned that the lack of relevant guidelines was causing enormous inconvenience to Member States and the parties concerned. It was also mentioned that **disposal can entail great financial and other burdens for the Member State seizing items.** Appropriate remedies should be developed to lessen such burdens.
- The Panel of Experts recommends that guidelines be prepared by the UN Security Council 1718 Committee with the assistance of the Panel of Experts and disseminated to interested Member States.
- In any event, **the Panel should be given an opportunity to inspect and establish documentary evidence, including a photographic record of the items and documentations, before the disposal occurs.**

ISSUES OF FURTHER COOPERATION

Please Help by Reminding Your Government...

- To submit a report on steps taken to implement sanctions;
- That it must inspect all suspect cargo to and from the DPRK, both on its territory and (with the consent of the flag state) on the high seas, seize banned items, and report to the Committee; and
- To remind companies that trading with the DPRK in arms or nuclear, ballistic missile or WMD goods, or dual use items, is illegal.

Functions of the Panel of Experts

UN Security Council Resolution 1874 (2009), paragraph 26. states:

- Requests the Secretary-General to create...”Panel of Experts”...to carry out the following tasks:...gather, examine and analyze information from States, relevant United Nations bodies and other interested parties regarding the implementation of measures imposed in resolution 1718 (2006) and in this (1874) resolution, in particular incidents of non-compliance;...

Appendix I

Functions of the Committee

- a) Seeks from all States... information regarding the actions taken by them to implement effectively the measures imposed ... and whatever further information it may consider useful in this regard
- b) Examines and takes appropriate action on information regarding alleged violations...
- c) Considers and decides upon requests for exemptions on financial and travel measures
- d) Determines additional items, materials, equipment, goods and technology to be specified
- e) Designates additional individuals and entities
- f) Promulgates guidelines to facilitate implementation
- g) Reports to Security Council at least every 90 days

Functions of the Panel

- a) Assists the Committee in carrying out its mandate
- b) Gathers, examines and analyses information from States, relevant UN bodies and other interested parties regarding implementation, in particular incidents of non-compliance
- c) Recommends actions that Council, Committee or Member States may consider to improve implementation
- d) Submits one midterm and one final report to the Security Council

Security Council Resolution 1695

Acting under its special responsibility for the maintenance of international peace and security,

- (1) Demands DPRK: **suspend** all BM-related activities and re-establish moratorium
- (2) Requires all Member States: prevent missile and related items **transfer** to DPRK
- (3) Requires all Member States: prevent **procurement** of missiles or related items from DPRK

Security Council Resolutions 1718/1874 (1): Prohibitions

Acting under Chapter VII of the UN Charter, and taking measures under its Article 41,

- (1) Demands DPRK: **not conduct** further nuclear test or launch using BM technology
- (2) Decides DPRK: **suspend** all **BM**-related activities and re-establish moratorium
- (3) Demands DPRK: retract withdrawal from NPT and **return to NPT**
- (4) Decides DPRK: abandon **all nuclear weapons and existing nuclear programs** in CVI, and act in accordance with NPT and CSA

Security Council Resolutions 1718/1874 (2): Trade-related Measures

(1) Decides all Member States: prevent **transfer** to DPRK:

- (a) **All arms and related materiel**, as well as related financial transactions etc.
- (b) Listed items that could contribute to DPRK's **nuclear-, BM-, and other WMD-related programmes**
- (c) **Luxury goods**

(2) Decides all Member States: prohibit **procurement** from DPRK of (1)(a) and (b)

* (1)(a): except for SALW and related materiel.

Security Council Resolutions 1718/1874 (3): Financial Measures

- (1) Decides all Member States: **freeze funds** owned by **persons and entities** designated as supporting DPRK's nuclear, other WMD, and BM-related programmes
- (2) Calls upon Member States: prevent provision of **financial services** that could contribute to DPRK's nuclear-related, BM-related or other WMD-related programs, including **freezing financial assets**
- (3) Calls upon all Member States: not provide **public financial support for trade** with DPRK (export credits, etc.) that could contribute to DPRK's nuclear-related ... programs
- (4) Calls upon all Member States and int'l financial institutions: not enter into **new commitments for financial assistance** to DPRK, except for humanitarian and developmental purposes

Security Council Resolutions 1718/1874 (4): Inspection Regime

- (1) Calls upon all States: **inspect all cargo to and from DPRK** believed to contain prohibited items (all arms and related materiel, WMD-related items, luxury goods)
- (2) Calls upon all Member States: **inspect vessels** believed to contain prohibited items **on the high seas** with consent of flag State;
(if consent not given) Decides flag State direct it to proceed to a convenient port for inspection
- (3) Authorizes and obligates all Member States: **seize and dispose of** the prohibited items identified in inspections
- (4) Requires inspecting Member State: **report** the inspection, seizure and disposal, as well as non-cooperation of flag State
- (5) Decides Member States: prohibit provision of **bunkering services** to DPRK vessels believed to be carrying prohibited items

Appendix II:
Examples of the Reported Cases of the
DPRK's Activities in Contravention of
the UN Security Council Resolutions
1718 (2006) and 1874 (2009)

Source: United Nations Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009)*, November 5, 2010.

Reported Incident: ANL Australia

- In August 2009, the [United Arab Emirates](#) reported to the Committee that it had seized on [22 July 2009](#) [military shipment aboard ANL Australia](#).
- *ANL Australia* is owned by ANL Container Line Pty Ltd, an Australian-registered company. The ship was registered on the Commonwealth of the Bahamas Ship Registry. The shipper of the cargo was the Pyongyang representative office of OTIM SPA, an Italian shipping company.
- The cargo was falsely described on the shipping documents as [oil boring machine \(spare parts\)](#). The cargo was custom sealed and loaded on a DPRK ship in the port of Nampo, DPRK, and trans-shipped multiple times on its way to the declared destination, Bandar Abbass, Islamic Republic of Iran.

Reported Incident: MSC Rachele

- The Government of the [Republic of Korea \(ROK\)](#) informed the Committee on [13 October 2009](#) that the relevant ROK authorities inspected at the port of Busan a container ship flying the Panama flag with the name of *MSC Rachele*, owned by Mediterranean Shipping Company, a Swiss firm, and found that four containers were filled with [working protective garments that were deemed to have military utility for chemical protection](#).
- The ROK authorities further indicated that their investigation had revealed that the shipment of the four containers in question had [originated in the port of Nampo, DPRK](#), and were shipped on or about 11 September 2009 an important hub for trans-shipment in North-East Asia, where the containers were placed on board the *MSC Rachele*.

Reported Incident: MSC Rachele

- The intended recipient of the goods was declared as the Environmental Study Centre in the Syrian Arab Republic. The Government of the Syrian Arab Republic disavowed the shipment.
- Based on the information provided and expertise of the Panel, it concluded that these goods would primarily have military application in the protection against certain chemical agents.

Reported Incident: Westerhever

- In **February 2010**, the Panel of Experts was apprised of the discovery and seizure of **a shipment of spare parts destined to refurbish T-54/T-55 military tanks and other military goods located in the Republic of Congo**. The shipment was interdicted by the South African Government in the Port of Durban on route to Pointe Noire, Republic of Congo.
- The cargo had its origin in the DPRK and was forwarded to an important hub for trans-shipment in North-East Asia, where it was loaded aboard the United Kingdom-flagged vessel *CGM Musca*, owned by the French company CMA CGM, on 20 October 2009.

Reported Incident: Westerhever

- The shipper was subsequently identified as **Machinery Exp. and Imp. Corp. in the DPRK.**
- After leaving an important hub for trans-shipment in North-East Asia, the cargo was **offloaded in Port Klang, Malaysia, and transferred to the *Westerhever***, a ship flying the Liberia flag chartered by Delmas Shipping, a subsidiary of CMA CGM.
- The shipping documents listed the contents of the containers only as **“spare parts of bulldozer”**.

Reported Incident: Ilyushin-76

- On 11 December 2009, Government of Thailand authorities interdicted an Ilyushin-76 aircraft carrying **35 tons of arms and related materiel**.
- The interdicted cargo was discovered aboard a chartered aircraft operated by Air West Company, which departed from Sunan International Airport in Pyongyang, DPRK, and landed at Don Mueang Airport in Bangkok to refuel.
- The airway bill covering the shipment had been issued by **Air Koryo**, the national carrier of the DPRK. It indicated the cargo as **145 crates of “mechanical parts”**.
- However, the Thai inspection of the cargo revealed that the content consisted of **some 35 tons of conventional arms and munitions, including 240 mm rockets, rocket-propelled grenades-7s, thermobaric grenade-7s and man-portable air-defence systems (MANPADS) surface-to-air missiles**.

Reported Incident: Ilyushin-76

- The shipper was [Korea Mechanical Industry Co. Ltd](#), a DPRK entity, and that the consignee was [Top Energy Institute](#) located in the [Islamic Republic of Iran](#).
- A puzzling factor in this case is the [numerous flight plans filed for the outbound and projected return route of the aircraft](#). This has raised suspicions concerning the nature of the transaction and ultimate destination of the cargo and should entail further inquiry.
- The aircraft used in this illicit trade is owned by a company in the United Arab Emirates and registered in the Republic of Georgia as 4L-AWA. It was leased to [SP Trading Limited](#), a shell company registered in [New Zealand](#), and then chartered to [Union Top Management Ltd](#), another shell company registered in [Hong Kong](#).
- This routing may have been an attempt to mask the aircraft's true destination.