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Security Council Committee established pursuant to resolution [1718 \(2006\)](#)

Note verbale dated 18 March 2020 from the Permanent Mission of Canada to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Canada to the United Nations has the honour to transmit to the Security Council Committee established pursuant to resolution [1718 \(2006\)](#) the report of Canada on the repatriation of nationals of the Democratic People's Republic of Korea holding work authorization within Canada's jurisdiction (see annex).

The report is submitted pursuant to paragraph 8 of Security Council resolution [2397 \(2017\)](#), in which the Council decided that all Member States should provide such reports 15 and 27 months from the date of adoption of that resolution.



Annex to the note verbale dated 18 March 2020 from the Permanent Mission of Canada to the United Nations addressed to the Chair of the Committee

Report of Canada on the implementation of Security Council resolution 2397 (2017)

Introduction

Canada fully supports the implementation of Security Council sanctions to constrain the proliferation efforts of the Democratic People's Republic of Korea. Sanctions related to the Democratic People's Republic of Korea have been enacted under the United Nations Act¹ and the Special Economic Measures Act.² The Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea,³ as amended, implement relevant Security Council decisions in domestic law. The Special Economic Measures (Democratic People's Republic of Korea) Regulations⁴ enact autonomous sanctions in relation to the Democratic People's Republic of Korea. In Canada, travel restrictions on individuals and entities of the Democratic People's Republic of Korea designated under relevant Security Council resolutions are implemented pursuant to the application of the Immigration and Refugee Protection Act⁵ and its Regulations.⁶

In paragraph 8 of its resolution 2397 (2017), the Security Council decided that all Member States should repatriate to the Democratic People's Republic of Korea all nationals of that country earning income in their jurisdictions and all government safety oversight attachés from the Democratic People's Republic of Korea monitoring workers abroad from that country within 24 months from the date of adoption of the resolution, 22 December 2017. Member States were required to submit to the Committee a midterm report, within 15 months of 22 December 2017, and a final report, within 27 months of that date, on all nationals of the Democratic People's Republic of Korea who were repatriated based on that provision. Canada's midterm report was submitted to the Committee on 8 March 2019 (see S/AC.49/2019/4).

According to paragraph 8 of resolution 2397 (2017), certain nationals of the Democratic People's Republic of Korea are exempted from the repatriation requirement, including a national of that country who is also a national of the Member State or a national of the Democratic People's Republic of Korea whose repatriation is prohibited, subject to applicable national and international law, including refugee law and international human rights law.

As at 31 January 2020, no nationals of the Democratic People's Republic of Korea held a valid work permit in Canada for the primary purpose of work or study.

Legislative framework

Overview of applicable national legislative authority

Among other immigration objectives, Canada's Immigration and Refugee Protection Act is aimed at maintaining the security of Canadian society and promoting international justice and security by fostering respect for human rights and denying access to Canadian territory to persons who are criminal or security risks.

¹ Available at <https://laws-lois.justice.gc.ca/eng/acts/U-2/FullText.html>.

² Available at <https://laws-lois.justice.gc.ca/eng/acts/S-14.5/FullText.html>.

³ Available at <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2006-287/FullText.html>.

⁴ Available at <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2011-167/FullText.html>.

⁵ Available at <http://laws-lois.justice.gc.ca/eng/acts/i-2.5/FullText.html>.

⁶ Available at <https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/FullText.html>.

Pursuant to division 4, Inadmissibility, of the Immigration and Refugee Protection Act, in particular sections 33, Rules of interpretation, and 34, Security, foreign nationals seeking entry into Canada must demonstrate that they do not pose a threat to the security of Canada and are not otherwise inadmissible under Canadian immigration law. As with other temporary residents, all applications by nationals of the Democratic People's Republic of Korea seeking to enter, work or study temporarily in Canada are assessed on a case-by-case basis to determine admissibility. Where a foreign national has been deemed inadmissible, he or she can be refused entry into the country or, if already in Canada, referred for enforcement action, including removal.

The Royal Canadian Mounted Police and the Canada Border Services Agency enforce the relevant statutes and regulations. Evidence of suspected violations of sanctions legislation is referred to the Mounted Police. The Agency facilitates and oversees international travel and trade across Canada's border. The Agency's legislative, regulatory and partnership responsibilities include interdicting illegal goods entering or leaving the country. Canada's cargo inspection regime is also overseen by the Agency. In particular, Agency officers may exercise their authority under the Customs Act⁷ to question outbound travellers and to examine, detain and interdict exports of goods in the possession of outbound travellers, in order to enforce export controls under various acts of Parliament, including those under Canadian sanctions that implement autonomous measures and Security Council resolutions.

With regard to reporting, Canada's Privacy Act⁸ governs the handling of all personal information by federal departments and agencies, namely, the collection, use and disclosure of personal information. Without the consent of the individuals to whom it relates, no personal information under the control of a Canadian government institution may be shared (subject to exclusions set out under section 3 and exemptions set out under section 8 of the Act).

Work authorization

Under part 11 of Canada's Immigration and Refugee Protection Regulations, the Government of Canada may issue work permits for a range of reasons, including primarily for work purposes, to supplement a course of study, to support in-Canada permanent residence transitions or on humanitarian and compassionate grounds.

During the assessment of work permit applications, officers consider a broader set of eligibility and admissibility factors beyond a work/employment lens. That is, the need for a foreign national to work in Canada does not override the requirement for them to comply with other legislative or regulatory requirements, including, for example, security concerns.

Data on nationals of the Democratic People's Republic of Korea

Immigration, Refugees and Citizenship Canada analysed work permit data for nationals of the Democratic People's Republic of Korea, focusing on those holding a valid work permit as at 31 January 2020.⁹ Of the work permits that continued to be valid on that date, the department then performed a manual review to check for errors and examine reasons for their issuance. In doing so, the following was confirmed:

(a) In 2018 and 2019, no work permits had been issued for work or study purposes to nationals of the Democratic People's Republic of Korea; furthermore, as at 31 January 2020, no work permits for the above-stated reasons continued to be valid;

⁷ Available at <https://laws-lois.justice.gc.ca/eng/acts/c-52.6/FullText.html>.

⁸ Available at <http://laws-lois.justice.gc.ca/eng/acts/p-21/FullText.html>.

⁹ Data more recent than 31 January 2020 has not been publicly released.

(b) As at 31 January 2020, there were approximately 35 nationals of the Democratic People's Republic of Korea with a valid work permit for purposes other than work or study (see table).¹⁰

Work permits valid as at 31 January 2020 issued to applicants with the Democratic People's Republic of Korea as country of citizenship, by the regulatory authority under which the permits were issued

<i>Regulatory authority (relevant sections of the Immigration and Refugee Protection Regulations)</i>	<i>Approximate number of applicants^a</i>
Section 206, on applicants with no other means of support	
This includes refugee claimants and persons subject to an unenforceable removal order	10
Section 207, on applicants in Canada	
This category includes spousal or common-law class applicants applying for permanent residence, protected persons, persons subject to public policy or humanitarian and compassionate considerations and family members of any of the above	25
Approximate total	35

Source: Immigration, Refugees and Citizenship Canada Cognos report; data extracted on 3 March 2020.

^a For privacy and/or confidentiality reasons, approximate values are used instead of exact values, with rounding occurring in increments of 5.

Under section 209 of the Immigration and Refugee Protection Regulations, a work permit only becomes invalid when it expires or when a removal order that is made against the permit holder becomes enforceable. Therefore, by virtue of the continued validity of the above-referenced work permits, Immigration, Refugees and Citizenship Canada surmises that no repatriation actions have been taken against those individuals.

Conclusion

Based on the above methodology, it was determined that, as at 31 January 2020, no nationals of the Democratic People's Republic of Korea held a valid work permit in Canada for the purpose of work or study. In other words, no nationals of the Democratic People's Republic of Korea held a valid work permit for the primary purpose of generating foreign export earnings that the Government of the Democratic People's Republic of Korea uses to support its prohibited nuclear and ballistic missile programmes.

The Government of Canada will continue to implement and enforce Security Council resolutions and carry out sanctions advocacy and capacity-building programs to maintain the integrity of Security Council sanctions related to the Democratic People's Republic of Korea. The Government of Canada will also continue to refer applicable sanctions exemption applications to the Committee, as part of its efforts to mitigate the unintended consequences of sanctions and maintain the credibility of the international sanctions regime.

¹⁰ Data are preliminary estimates and are subject to change.