

KLC's White Paper on UN "Resolutions on Sanctions" against the DPRK

Pyongyang, March 16 (KCNA) -- The Korean Lawyers Committee released a white paper on Thursday:

The following is its full text:

In recent years, the United States and its followers continue to manipulate "resolutions on sanctions" against the DPRK at the UN Security Council, abusing the self-defensive measures of strengthening national defense power of the DPRK as a threat to world peace and security.

In this regard, the Permanent Representative of the DPRK to the UN sent letters twice to the UN Secretary General in May and December 2016 requesting him to explain the legal ground that the UN Security Council stipulated our nuclear test and satellite and ballistic missile launches as a "threat to international peace and security." The UN Under-Secretary General for political affairs sent us a reply letter on December 22, 2016, stating that the legal ground was article 39 of the UN Charter.

The Korean Lawyers Committee publishes this white paper with a view to disclosing the background of those illegal "sanctions resolution" passed by the UN Security Council against sovereign states without any justification and the absurdity of the legal ground claimed by the UN Secretariat.

The History of Sanctions of the UN Is a History of Crimes Tainted with High-handedness and Arbitrariness

The rights to self-defense and self-determination cannot be violated by anyone as they are sacred rights officially recognized by international laws including the UN Charter.

However, the UN Security Council began to manipulate "sanctions resolutions" beyond its power from the 1960s.

The first sanctions resolution in the UN history was the "resolution 232" that the UN Security Council adopted on December 16, 1966 under the instigation of the United States, taking issue with the declaration of independence of the former Rhodesia (today's Zimbabwe) as a threat to international peace and security.

As the UN Security Council passed the sanctions resolution against Rhodesia without justifiable legal ground, many international lawyers claimed that the declaration of independence could not be considered to be a threat to international peace and security as it belonged to the right to self-determination. They argued in particular that the sanctions resolution violated Paragraph 7 of Article 2 of the UN Charter which stipulated that the UN cannot interfere in the issues pertinent to domestic jurisdiction and that the UN Security Council exceeded its authority. (pp. 65, "1. The Ultra Vires Debating" in "Debating the Law of Sanctions" published in 2002)

In response to the backlash from the international legal circles, the United States protected the act of arrogation of the UN Security Council, alleging that the unilateral declaration of independence itself by Rhodesia corresponded to aggression as an act of illegal occupation of the region concerned and that it had no obligation to abide by Paragraph 7 of Article 2 of the

UN Charter because it did not recognize Rhodesia as a sovereign state. (pp. 66, "1. The Ultra Vires Debating" in "Debating the Law of Sanctions" published in 2002)

Even the drafters of the UN Charter refuted the preposterous argument of the United States. They claimed that not a word called "sanction" itself was in the UN Charter and that their stipulation of the Article 41 (non-military measures) of the UN Charter was made in anticipation of any case where a country invaded another country by armed forces, rather than authorizing economic sanctions against a peaceful state. (pp. 100, "International Law and Rhodesia" of "World Today" magazine published in 1967)

In June 1967 when intense debates went on at its height on the sanctions resolution against Rhodesia, Israel suddenly invaded Egypt, Syria and Jordan to provoke the 3rd Middle East war.

As it clearly constituted an act of extra large war crime destroying world peace and security, the United Arab Republic immediately submitted the draft resolution "threatening international peace and security in the Middle East" to the UN Security Council. However, the Syria-sponsored resolution was not even tabled at the UN Security Council because of the opposition of the United States.

This act of the United States ignited strong reaction from the international community. Driven into the corner, the United States with an aim at diverting the public opinion rallied and instigated some Commonwealth member states to submit a resolution to the Security Council's 1481st meeting on June 24, 1969, affirming that the sanctions resolution against Rhodesia was a legitimate resolution consistent with the UN Charter. The resolution, however, was put to the vote but failed to obtain the necessary number of affirmative votes.

There continued criticism of the excessive use of authority of the UN Security Council that began with adoption of the sanctions resolution against Rhodesia. This notwithstanding, the United States with a view to overthrowing those unfavorable countries mobilized the UN Security Council to manipulate the sanctions resolutions one after another on Iraq in 1990, Yugoslavia in 1991 and Libya, Cambodia, Somalia, Liberia, Rwanda in 1992.

Take one example of the sanctions resolution on Iraq. Due to this resolution designed by the United States to overthrow the Saddam Hussein regime by disseminating the rumor of non-existent weapons of mass destruction, in Iraq over 560,000 children under age of five have died, 30% of the children still suffer from permanent undergrowth and 70% of the population are afflicted with malnutrition. (pp. 246, collection of papers of the Asian-African Legal Consultative Organization "Unilateral and Secondary Sanctions" published in 2013)

In this connection, the Union of Arab Jurists, Afro-Asian Peoples' Solidarity Organization and others on August 20, 1996 submitted to the UN Committee of Human Rights a report claiming that the UN economic sanctions clearly violated international law and at the same time corresponded to the crime against humanity defined by the Nurnberg War Crime Tribunal. The report also denounced that the sanctions themselves as a weapon of mass destruction constituted a kind of war committed openly in the name of safeguarding world peace and security. (pp. 246-247, collection of papers of the Asian-African Legal Consultative

Organization "Unilateral and Secondary Sanctions" published in 2013)

All facts plainly show that the "sanctions resolutions" of the UN Security Council are criminal documents stained with high-handedness and arbitrariness of the United States.

The "Sanctions Resolutions" of the United Nations against the DPRK Are Criminal Documents Devoid of Legality, Morality and Impartiality

The UN Security Council started its scandalous path taking side with the United States hostile policy toward the DPRK by fabricating its "Resolution 82", "Resolution 83", and "Resolution 84" that "legalized" the aggression war of the United States against the DPRK and the participation of the "UN forces" therein.

The rackets of the UN Security Council adopting "sanctions resolutions" against the DPRK are reaching an extreme today with a starting point of the "Resolution 825" railroad to withhold our decision to withdraw from the Nuclear Non-proliferation Treaty (NPT) in May 1993 and force us to return to cooperation with the International Atomic Energy Agency (IAEA).

Last year also the UN Security Council under instigation of the United States again committed the acts of arrogation and violation of our sovereign rights by manipulating the "sanctions resolutions" 2270 and 2321 while reviling our H-bomb test and explosion test of nuclear warhead to safeguard our sovereignty as a "threat" to international peace and security.

In this regard, the Permanent Representative of the DPRK to the UN sent letters twice to the UN Secretary General in May and December 2016 requesting him to explain the legal ground that the UN Security Council stipulated our nuclear test and satellite and ballistic missile launches as a "threat to international peace and security."

In response, the UN Under-Secretary General for political affairs sent us a reply letter on December 22, 2016, stating that the UN Security Council in accordance with Article 39 of the UN Charter could rule whether any particular act or situation and conflict constituted a threat or encroachment to peace or act of aggression.

In other words, the legal ground of the "sanctions resolution" of the UN Security Council against the DPRK is the Article 39 of the UN Charter.

The Article 39 of the UN Charter quoted by the UN Secretariat as a legal ground of the "sanctions resolution" against the DPRK is a provision on general authority of the UN Security Council. Its content stipulates that the UN Security Council determine the existence of any threat to peace, breach of peace or act of aggression and make recommendation to maintain or restore international peace and security.

If the interpretation of the UN Secretariat is followed, it means that the UN Security Council can decide not by the norms of any international law but by its own discretion whether nuclear test or satellite launch and ballistic missile launch constitute a threat to international peace and security and pass "sanctions resolution."

Then one cannot but ask why the UN Security Council judges that only the nuclear test and satellite and ballistic missile launches of the DPRK posed a threat to international peace and security, and adopted "sanctions resolutions" while many countries conduct nuclear test and

satellite and ballistic missile launches?

The UN Security Council is not a legislative organ creating new laws. Neither has it the authority to do so.

Not a single provision of any international laws including the UN Charter, UNGA resolutions, CTBT, NPT, Outer Space Treaty stipulates that nuclear test or satellite and ballistic missile launches themselves constitute a threat to international peace and security.

Mexican lawyer Monica stated to the following effects; The UN Security Council can never enact a new law. Because the UN Charter does not give the Security Council expressly this legislative authority. The UN Security Council should not allow discrimination in the interpretation of the Article 39 of the UN Charter and adopt resolution applied selectively to a particular country. In the past, however, the UN Security Council did not apply equally to all those resolutions adopted on the basis of Article 39 of the Charter. Rather, it selectively applied them to a particular country under particular situation. Consequently these resolutions are not obligatory. (pp. 155, "Interpretation of Article 39 of the UN Charter. Is the Security Council a legislator for the Entire International Community?" from the Mexican yearbook on legislation published in 2011)

If the nuclear test or satellite and ballistic missile launches themselves constitute threat to international peace and security, the permanent member states of the UN Security Council should become the targets of sanctions one after another and corresponding sanctions resolutions adopted as they conducted nuclear tests more than 2,000 times, launched over 7,000 satellites and still undertake intercontinental ballistic missile launch tests almost every day.

But the UN Security Council manipulated the "sanctions resolutions" without any legal ground, alleging that only the nuclear test and satellite and ballistic missile launches of the DPRK constituted threat to international peace and security. In the meantime, the United States put political and economic pressure on other countries to take side with its hostile policy toward the DPRK to implement the anti-DPRK "sanctions resolutions."

If the "resolutions" of the UN Security Council are "fair" and "reasonable" they will be implemented naturally without the coercion and pressure of the United States on other countries.

However, the United States mobilizes all its vassal forces to put political, economic and military pressure on other countries in order to force them to implement the illegally-manipulated "sanctions resolutions" against the DPRK.

In September last year, the U.S. administration gave a directive to all its missions overseas to make other countries cut off all relations with the DPRK and minimize travel. ("Joongang Ilbo" of south Korea September 30, 2016)

And on March 6 and 10 this year, the United States ambassador to Uganda took the lead in going to the Ministry of Foreign Affairs of Uganda with ambassadors of UK, France, Germany, Japan and south Korea to force implementation of the anti-DPRK "sanctions resolutions" and openly threatened that if Uganda did not sever political, economic, military and cultural relations with the DPRK, it would also face sanctions similar to those against the

DPRK including the freeze of assets of the Ugandan officials, their travel ban and prohibition of Ugandan exports to the United States and EU. (Ugandan Newspaper "Sunday Vision" March 12, 2017)

The mean and vulgar appeasement and deception, pressure and blackmail of the United States applied to not only Uganda but also to all developing countries amply show that the "sanctions resolutions" against the DPRK were manipulated illegally as a product of the U.S. hostile policy toward the DPRK.

The root-cause of the nuclear issue on the Korean peninsula lies in the United States and it is none other than the United States that pushed the DPRK to become a nuclear weapons state.

Our nuclear tests and ballistic missile launches are just and righteous self-defensive measures to safeguard the sovereignty and right to existence to cope with the nuclear threat of the United States persisting for more than half a century and they do not run counter to any international law including Article 51 (right to self-defense) of the UN Charter.

In this regard, American political commentator Steven Gowanz wrote in Internet Homepage in April 2016 in his article titled "Why are the UN 'sanctions' against the DPRK unfair: what the United States wants is not denuclearization but Americanization of the Korean peninsula" to the following effect; "The U.S. is constantly threatening North Korea with nuclear weapons. The U.S. hostile policy toward North Korea and the constant nuclear threat that continued for more than half a century caused this country situated in Northeast Asia to decide to develop nuclear weapons for its self defense."

And Canadian Institute of Globalization introduced in an article titled "Why did the DPRK possess the nuclear weapons? The war crime committed by the United States in Korea" in its website "GLOBALRESEARCH.CA" on January 11, 2016 detailing that the DPRK's measure of increasing the national defense power including nuclear tests and ballistic rocket launches are the self-defensive measures to cope with war crime of the United States.

As is generally known, the UN "sanctions resolutions" against the DPRK have neither legal ground nor justification, to say nothing of their morality.

The United Nations adopted the illegal and immoral "sanctions resolutions" against the DPRK and applied blockade-type sanctions. Moreover, it clings to mean and crude way of including the recreational sports equipment and even pocket watches and tableware of porcelain in the list of sanctions.

It seriously threatens our people's right to existence and destroys modern civilization. It is no more than an act against humanity and civilization aimed at turning the world back to the world of medieval darkness.

Therefore, the 17th Summit of the Non-Aligned Countries held in Venezuela in September 2016 and the declaration of the Ministerial Meeting of the Group of 77 and China held during the period of the 71st session of the UNGA strongly demanded withdrawal of the sanctions, noting that the sanction measures taken by the UN Security Council draw serious concern in view of their reasonable legal ground, impartiality and justice.

The DPRK's self-defensive measures of strengthening the national defense power are not

an issue to be quarreled or debated by others.

The Korean Lawyers Committee once again resolutely denounces and rejects as criminal document the "sanctions resolutions" of the United Nations devoid of the legality, impartiality and morality.

Forum of International Legal Experts to Clarify Legal Ground of the UN "Sanctions Resolutions" against the DPRK Should Be Organized Immediately

The unusual phenomena in which justice and truth are trampled down and rights of sovereign states violated in the international arena including the United Nations should no longer be connived or tolerated.

The UN "sanctions resolutions" against the DPRK are not the issue confined to the DPRK alone.

As the UN history spanning more than 70 years shows, if the DPRK became the target of UN "sanctions" today, another state will become their target tomorrow.

In order to put an end to the illegal and inhumane evil conduct continuing like a traditional practice in the UN Security Council, the permanent mission of the DPRK to the UN made a proposal in January 2017 to the UN Secretariat on holding a forum of international legal experts in either New York or Geneva to clarify the legal ground of "sanctions resolutions."

But after our proposal on organizing the forum of legal experts the United States employed government patronized broadcast financed by the Administration to spin out preposterous sophistries about the legal ground of "sanctions resolutions" against the DPRK quoting the non-expert opinions of the people who are even unaware of international laws.

On January 18, Joseph De Thomas, professor of state university of Pennsylvania in the United States, said as the ballistic missile was capable of carrying nuclear weapons it posed a threat to the world peace and security, and that because of the similarity of launching technologies of satellites and ballistic missiles the UN Security Council had an authority to prohibit even the satellite launch of the DPRK. ("Voice of America" on January 18, 2017)

Gordon Chang, self-styled lawyer to be an expert in Korean affairs, used sophistries that the UN Security Council could apply sanctions to the nuclear tests of the DPRK on the basis of the NPT because other states did not recognize the DPRK's insistence of successful withdrawal from the NPT. ("Voice of America" on January 18, 2017)

We would like to ask the American non-experts in legal affairs who are spinning out sophistries that the UN Security Council had an authority to prohibit the satellite launch of the DPRK and the DPRK's withdrawal from the NPT was not recognized by other states.

Where did in the UN Charter stipulate that the UN Security Council has an authority to deprive individual UN member state of the right to satellite launch stated in the Outer Space Treaty?

Are they aware of the fact that the UN member states never entrusted such an authority to the UN Security Council?

As for our withdrawal from the NPT, we had withdrawn from the treaty according to its paragraph 1 of article 10 that clearly stipulated that "Each Party shall in exercising its national

sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance."

As our withdrawal from the NPT followed the legitimate procedure, it is not the issue to be approved or disapproved by anyone.

If the United States has anything to say they should come out and speak out at a forum of international legal experts, instead of disseminating unreasonable words by using those who do not even know international laws.

The prevailing reality fully shows that organizing the forum of international legal experts to investigate the legal ground of "sanctions resolutions" is all the more pressing.

The forum of international legal experts is the place where the legality of "sanctions resolutions" can be clarified fairly from the international law perspective.

On March 13, 2017, the permanent mission of the DPRK to the UN proposed to the UN Secretariat that governmental and non-governmental experts from all states and international legal organizations attend the forum as they wish and the agenda of the forum be agreed upon reasonably in full reflection of the wishes and opinions of the attendants.

The UN Secretariat should, in accordance with its main mission of maintaining international peace and security fulfill its responsibility before the international community by positively responding to our proposal on organizing the forum of international legal experts to clarify the legal ground of the "sanctions resolutions" against the DPRK.