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The Permanent Mission of the Republic of Korea to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honor to transmit herewith the response of the Government of the Republic of Korea to the Joint Communication from Special Procedures (AL KOR 7/2020).

The Permanent Mission of the Republic of Korea to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

Geneva, 15 January 2021

Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais des Nations, CH-1211 Geneva 10, Switzerland



## The Government of the Republic of Korea's Response to the Joint Communication from Special Procedures (November 17, 2020)

### **1. Reasons why information on the findings of the investigation into the capture, interrogation and killing of Mr. Lee Dae-jun in the sea and information on where his remains are have not been shared with the family members.**

In its efforts to protect the family's right to know, the Korea Coast Guard (KCG), the investigative agency in this matter, met with the victim's brother and provided important information regarding the findings of its search and investigation operations.

The KCG also responded to the family's various inquiries through its interim finding announcement and shared the progress of the investigation at press briefings within the boundaries set by the *Regulations on Media Relations Concerning Cases Under Investigation*.

It should be noted that, according to Article 9.1.4 of the Official Information Disclosure Act, investigative authorities may not disclose information concerning ongoing investigations.

**OFFICIAL INFORMATION DISCLOSURE ACT Article 9(Information Subject to Non-disclosure) ①** All information kept and managed by public institutions, with the exception of the

following, shall be subject to disclosure to the public.

4. Information pertaining to an ongoing trial, the prevention, and investigation of crimes, indictment, and maintenance of public prosecution, the execution and correction of a sentence, and security disposition, which, if disclosed, has considerable grounds for significantly obstructing the performance of duties or infringing upon the right of a criminal defendant to face a fair trial.

To accurately find out what happened and advance the incident investigation, it is critical to secure further information, including through a joint inter-Korean investigation, given that the incident occurred in North Korean waters.

## **2. Information on the measures taken by the ROK government to rescue Mr. Lee Dae-jun after learning that he was seized by the DPRK.**

The Government of the Republic of Korea (ROK) took action from the earliest phase of the incident, by sharing information among the relevant authorities and establishing and implementing response measures.

- Immediately after it received the report of the missing victim, the government conducted a joint police-administration-military search operation (from 1:50 PM September 21, 2020 to 12:00 AM November 1, 2020) and worked with nearby private ships (fishing boats). The government is continuing its search operations along with its regular maritime patrol.

However, the ROK government was faced with a fundamental challenge in following and responding to the developments of the incident in real-time, because it occurred in North Korean waters.

- Unable to observe what was happening in remote waters directly, the ROK military had to reconstruct what occurred ex post facto by piecing together various intelligence.

Based on the reconstructed facts, the ROK government made an official request on September 24 2020 to North Korea for an investigation, apology, punishment of those responsible, and prevention of recurrences of such incidents.

Furthermore, noting the discrepancies between North Korea's explanation on September 25, 2020 and the ROK government's understanding of what occurred, the ROK government made requests to North Korea for a joint investigation into the incident as well as restoration and reopening of the bilateral military communication line.

## **3. Information on the measures taken or to be taken to prevent the recurrence of such an incident.**

Following the incident, the ROK government made requests to North Korea for a joint investigation and restoration and reopening of the bilateral military communication

line for fact-finding. To prevent the recurrence of such incidents, the ROK government will continue its efforts to re-establish a mutual communication channel, including the restoration of the inter-Korean military communication line.

The ROK government is also revising its manuals to enable a faster response to similar contingencies, focusing on inter-agency information sharing and requests for cooperation from North Korea via available communication networks.

- Given that the Northern Limit Line divides the waters of the two Koreas, the revised manuals will set grounds for (a) prompt information sharing between the relevant agencies in the event of a distress situation involving private vessels or their crew in ROK-side border waters (b) requesting North Korea to cooperate in search and rescue operations via communication channels connected to North Korea in the event of a possible crossing or drifting of a ROK vessel into North Korean waters.
- In handling a more recent case of a missing naval officer, which occurred in the West Sea near Baengnyeong Island on January 8 2021, the government sent out a broadcast via international communication lines to request North Korea's cooperation in a search and rescue operation.

In addition, the ROK government is reinforcing the safety management of the crew.

- For a faster response to an accident, safety facilities on the government's fishery inspection boats, including closed-circuit television to remove blind spots, have been augmented.
- To enable a prompt rescue operation in case of a contingency, such as a crew member falling into the sea, automatic satellite-based positioning data transmission devices<sup>1</sup> will be provided to each member of the crew. A cabin monitoring system will also be developed to keep track of the crew during the nighttime.
- Customized training programs will be implemented to promote the crew's safety onboard, preventing the loosening of their safety alertness due to repeated routines over a long period.

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<sup>1</sup> Global Positioning System information of an individual will be transmitted on a real-time basis.

#### **4. Additional information and comments on the allegations in the joint communication.**

##### **① Comments on the inaccurate information contained in the joint communication.**

##### **In relation to the police (KCG) investigation (page 3 of the communication):**

- *(On the statement that defection to North Korea is a crime according to ROK law)* Defection to North Korea does not constitute a crime per se. ROK's National Security Law stipulates punishment for those who defected with the knowledge that their defection will endanger the national existence or security, or the basic free and democratic order.
- *(On the allegation that the police called the victim's family members to record their statements)* It is not true that the KCG called the family to record their statements. The KCG does not record statements of victims' families without their consent.
- *(On the allegation that the investigation is focused on finding information to prove that the victim intended to defect to North Korea)* When it comes to cases involving missing persons or death, finding out the truth by identifying "why" and "how" is an important part of an investigation. The KCG has been conducting its investigation while considering all possible causes of the victim's missing, including what the family has been claiming to be the cause.

##### **In relation to the meeting between the Minister of National Defense and the family member of the victim on November 6, 2020 (page 4 of the communication):**

- *(On the reason why the government did not disclose the coordinates where the victim was found and the content of communications)* The decision was made based on Article 4.3 of the Official Information Disclosure Act.

##### **OFFICIAL INFORMATION DISCLOSURE ACT Article 4 (Scope of Application)**

- ③ This Act shall not apply to any information collected or prepared by agencies that take charge of information related to national security and security work for the purpose of analyzing information related to national security.

- *(On the Minister of National Defense stating that a rescue request was not made to North Korea because there is no rescue response manual)* During the meeting, the Minister did not state that a rescue request was not made to North Korea because there is no rescue response manual. Responding to an inquiry about why a joint counterintelligence team has not been operated, the Minister stated that such a team is not operated for this type of incident according to a pertinent manual.
- *(On the Minister of National Defense stating that a rescue request was not made by transmitting an international distress signal because the North Korean waters are not part of ROK territory)* The Minister did not state that a rescue request was not made by transmitting an international distress signal because the North Korean waters are not part of ROK territory. The KCG sent out 12 rescue broadcasts via international communication lines, which can be accessed in North Korean waters, after it received the report of the missing victim. The Minister explained such facts to the family.

## **② Government assistance to the family of the victim**

The Ministry of Oceans and Fisheries set up a family assistance team immediately after the incident and has since been communicating with the victim's spouse to listen to the family's concerns. The Ministry also assisted the family in boarding the search ship and observing the search operation.

The Minister of Oceans and Fisheries delivered a letter of condolence to the family and had a meeting and telephone conversation with them to listen to their demands. The Minister of Foreign Affairs and the Minister of National Defense also met with the victim's family.

In addition, the ROK government will provide the family with psychotherapy at specialized clinics if requested by the family. The family will also be eligible for a survivor pension and other benefits guaranteed by ROK law. End.