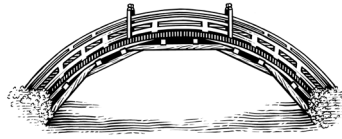


ROUNDTABLE

The Impact of Sanctions on North Korea



Jessica Keough and Alison Szalwinski

Rüdiger Frank

Sung-Yoon Lee

Catherine Jones

Justin V. Hastings

Roberta Cohen

Robert Huish

Introduction

Jessica Keough and Alison Szalwinski

As the Democratic People's Republic of Korea (DPRK) escalated its nuclear and missile testing in 2016 and 2017, the UN Security Council responded by passing an increasingly restrictive series of sanctions. In all, the sanctions include bans on the export of military equipment, transport vehicles, industrial machinery, dual-use goods, and luxury goods to North Korea, along with prohibitions on coal, metal, mineral, and textile exports from the DPRK and reductions and caps on oil and petroleum shipments. UN sanctions now target approximately 90% of North Korea's publicly reported exports. In addition, the sanctions freeze assets, ban some travel, mandate the expulsion of North Korean workers abroad, and prohibit transactions and joint ventures between North Korea and other nations. The United States has additionally re-designated the DPRK as a state sponsor of terrorism and imposed its own sanctions on financial institutions, companies, and shipping vessels that facilitate trade with the country. Japan, South Korea, and the European Union also put in place additional sanctions in 2016 and 2017.

There are some indications that the latest rounds of sanctions have been squeezing Pyongyang. Following the 2018 Winter Olympics in Pyeongchang, Kim Jong-un made unprecedented diplomatic overtures to South Korea, China, and the United States and separately met with the leaders of all three countries in the spring of 2018. A new round of negotiations between the United States and North Korea has begun, as well as renewed discussions on the future of the Korean Peninsula between the United States and South Korea, China, and Japan.

Other signs, however, suggest that sanctions may not be responsible for North Korea's change of course toward diplomacy. In 2016 the country's economy reportedly grew at its fastest rate in nearly two decades, and long-term isolation has made North Korean citizens self-reliant and experienced at coping with economic hardship. Both weak enforcement and sanctions-busting have lessened the economic blow intended to compel the DPRK to change its behavior. The regime can, in some cases, also pass

JESSICA KEOUGH is the Managing Editor of *Asia Policy*. She can be reached at <jkeough@nbr.org>.

ALISON SZALWINSKI is Director for Political and Security Affairs at the National Bureau of Asian Research. She can be reached at <aszalwinski@nbr.org>.

the brunt of the hardship on to ordinary citizens, while Kim and other elites remain comfortable at the top. North Korea is well-known for its cat-and-mouse diplomacy; Pyongyang's sudden swing toward negotiations could just be the latest tactic to achieve short-term economic relief while continuing to advance its WMD and missile programs.

While the outcome of negotiations is still uncertain, UN and other sanctions are expected to largely remain in place for at least the near term. This *Asia Policy* roundtable presents a range of different perspectives on both the impact that sanctions are having on North Korea and whether they will be successful in convincing the Kim regime to commit to the path of denuclearization.

The first essay by Rüdiger Frank provides a negative assessment of the effectiveness of sanctions by examining their impact on North Korea's political economy. After looking at economic growth, trade, and other indicators, he concludes that sanctions did not prevent North Korea from going nuclear and are unlikely to change the country's behavior. What they may do, in his view, is add fuel to the hotspot that is the Korean Peninsula in a great-power conflict between the United States and China.

By contrast, Sung-Yoon Lee argues that sanctions have not been strong enough and that the recent return to diplomacy, which South Korea has embraced, puts them at risk of being weakened or bypassed entirely. He contends that sanctions against North Korea only truly became meaningful in 2016 and have not been in effect long enough to apply the necessary pressure on the Kim regime. South Korea, in his assessment, has too often been eager to relax pressure on the North in what inevitably proves to be the false hope of cooperation and reconciliation with its peninsular neighbor.

The essay by Catherine Jones focuses on the role of a key player in the drama—China, North Korea's neighbor and most important trade partner. After discussing how sanctions are designed to signal disapproval of inappropriate behavior, constrain access to resources, or stigmatize behavior and thereby compel change, Jones assesses the effectiveness of China's enforcement. She finds that Beijing in the past primarily used sanctions to signal disapproval (to mixed effect) but since 2016 has taken measures to more seriously constrain North Korean access to resources. However, in part because of an uneven and ambivalent record of enforcement, the effectiveness of China's current actions are difficult to measure.

As much of North Korea's trade is now prohibited, Justin Hastings's essay analyzes the relationship between illicit trade and sanctions. He argues

that nearly all economic actors in North Korea engage in some form of illicit activity, not just because of sanctions but because the state's economy is so dysfunctional that even licit trade is usually more effectively conducted with some illicit component. Sanctions, he finds, have made the DPRK better at hiding its activities through a network of front and third-party companies while encouraging the regime to rely on weapons trafficking to generate income. Thus, strict enforcement of sanctions may do more harm than good. Allowing some trade could not only offer Pyongyang an alternative to illegal arms trafficking but also weaken the state's control over the populace by providing people with options beyond strict dependence on the regime.

Roberta Cohen's essay addresses the impact of sanctions on humanitarian operations in North Korea. The population there continues to suffer from chronic hunger, malnutrition, and disease. Although the UN sanctions do not prohibit humanitarian aid, they have heightened the challenge of delivering food, medicine, medical supplies, workers, and funding for aid. The biggest obstacle, though, remains the Kim government, which creates an extremely difficult environment for assistance, despite the efforts of humanitarian groups to ensure that aid reaches needy and vulnerable populations. Cohen argues that the new round of diplomacy is an opportunity to press for the protection of the human rights and the fulfillment of the basic needs of North Koreans.

Robert Huish takes an optimistic view on sanctions, arguing that the smart sanctions on maritime traffic imposed in 2017 have targeted the right actors to curtail most shipping to North Korea. He contends that these sanctions have caused both vessel owners and maritime insurance companies to clean the industry of players that might be violating prohibitions on trade with the DPRK. While the Kim regime still continues to attempt to evade sanctions on the water, doing so has become much more challenging.

As this roundtable demonstrates, assessing the effectiveness of sanctions is a complex issue, especially when the target is one of the most secretive, isolated, and repressive regimes in the world. While there may not be a consensus among the six contributors on whether sanctions have been successful in changing North Korean behavior, there is general agreement that few good alternatives exist. The essays in this roundtable hopefully will serve as a starting point to examine the areas of sanctions enforcement most in need of attention. ◆

Economic Sanctions against North Korea: The Wrong Way to Achieve the Wrong Goal?

Rüdiger Frank


The Democratic People's Republic of Korea (DPRK) has been subject to sanctions nearly continuously since its foundation in 1948. First, it was sanctioned as a part of the Soviet bloc, a situation that was amplified by the Korean War. Later, North Korea suffered from de facto sanctions as a result of its refusal to side with either of the two contenders in the Sino-Soviet struggle for leadership in the socialist camp. Since 1993, and in particular since its first nuclear test in 2006, the country has been sanctioned both by the United Nations and by individual countries such as the United States because of its nuclear weapons program. This essay will focus on events in the last decade and address the following questions: What have been the domestic political and economic impacts of the current sanctions on North Korea? What has the Kim regime done to evade or mitigate their impact? Can sanctions be effective and compelling?

The Domestic Political and Economic Impacts of the Current Sanctions on North Korea

When considering the effectiveness of sanctions against North Korea, it is important to understand the long history of such measures. The most influential study on the topic argues that sanctions have the greatest chance to achieve their goals if they are imposed quickly and decisively.¹ In the North Korean case, however, they have been imposed slowly and gradually. This is exemplified by a brief look at the sanctions passed by the UN Security Council after the first nuclear test, spanning a total of eight resolutions over eleven years: 1718 (2006), 1874 (2009), 2087 and 2094 (2013), 2270 and 2321 (2016), and 2371 and 2375 (2017).²

RÜDIGER FRANK is Professor of East Asian Economy and Society at the University of Vienna. He can be reached at <ruediger.frank@univie.ac.at>.

¹ Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy* (Washington, D.C.: Institute for International Economics, 1990).

² The UN website lists all the documents related to these sanctions. See UN Security Council, "Security Council Committee Established Pursuant to Resolution 1718 (2006)"  <https://www.un.org/sc/suborg/en/sanctions/1718/resolutions>.

In addition to limitations on the travel of certain individuals, we can identify three target areas of the sanctions imposed since 2006: (1) the import of key military hardware and technology, such as aluminum tubes, with the aim of directly curtailing the nuclear weapons program, (2) the import of luxury goods, such as French cognac, based on the questionable assumption that the North Korean leader needs to hand out expensive presents to his followers to ensure their loyalty, and (3) the export of key products of the domestic economy, such as anthracite coal, seafood, and textiles, as well as labor, to minimize the inflow of hard currency into North Korea.³

The underlying logic of Western sanctions against North Korea has changed substantially over time. While the first objective, as described above, directly targets military goods, the other two focus on influencing the mood of the people in North Korea, in the hope that this will create sufficient domestic pressure for policy change. The sanctions on the import of luxury goods try to hurt the elite, while limitations on exports attempt to minimize North Korea's access to hard currency, which leads to a number of consequences, including the reduced capacity to import food and consumer goods.

Measuring the effects of a given policy is methodologically tricky. While it is possible to show a correlation between sanctions and various social and economic developments in the target country, it is very difficult, if not impossible, to prove actual causation. The evidence presented below thus needs to be taken with a substantial grain of salt—both when it points at effects and when it suggests that they are either weak or lacking.

Sanctions and Economic Growth

One area to look for the economic effects of sanctions is in economic growth. In the case of North Korea, sanctions aim to change the behavior of the government in a field that it regards as a key priority, so to be effective, sanctions must have a noticeable impact.⁴ North Korea does not publish its GDP figures or growth rates, but the report on the state budget from

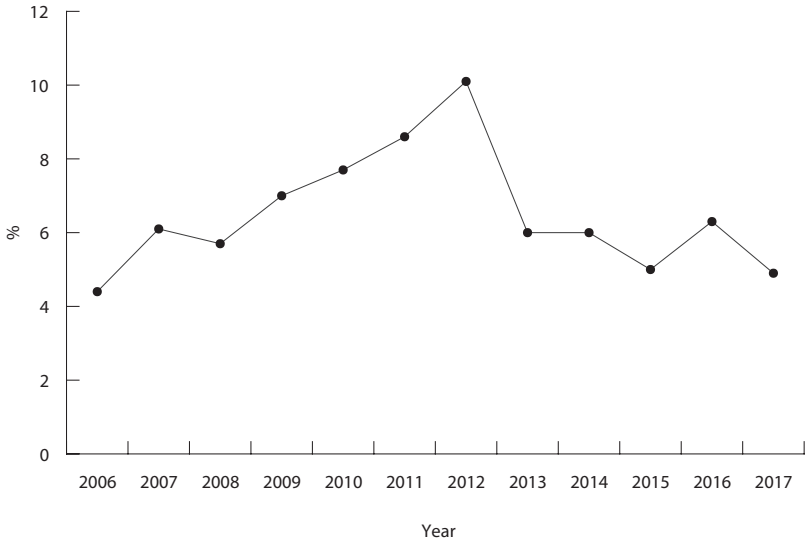
³ For further discussion, see Eleanor Albert, "What to Know about the Sanctions on North Korea," Council on Foreign Relations, Backgrounder, January 3, 2018 ≈ <https://www.cfr.org/backgrounder/what-know-about-sanctions-north-korea>.

⁴ One of the many instances when Kim Jong-un emphasized the essential nature of the nuclear weapons program was his speech at the 7th Party Congress in 2016. See Rüdiger Frank, "The 7th Party Congress in North Korea: An Analysis of Kim Jong Un's Report," *Asia Pacific Journal* 14, no. 14 (2016) ≈ <http://apjif.org/-R--diger-Frank/4927/article.pdf>.

the annual parliamentary sessions can be used as a proxy.⁵ Considering that the North Korean economy is almost completely state-owned, the budget—despite omissions for strategic reasons—reflects the conditions of the overall economy.

The growth rates of actual budgetary revenue since 2006 have hovered between 4.4% and 10.1% (see **Figure 1**). This shows some volatility but cannot be interpreted as a sign of an ever-worsening economic crisis as a consequence of repeatedly toughened sanctions. Cumulatively, using 2004 as a base year valued as 100%, North Korea’s economy in 2017 had reached a level of 245%; in other words, it grew by a factor of about one and a half in less than one and a half decades. It should be noted, however, that growth rates during the years of the Sunshine Policy at the beginning of

FIGURE 1
*Budgetary Revenue as a Proxy for
North Korean GDP Growth, 2006–17*



Source: Korean Central News Agency.

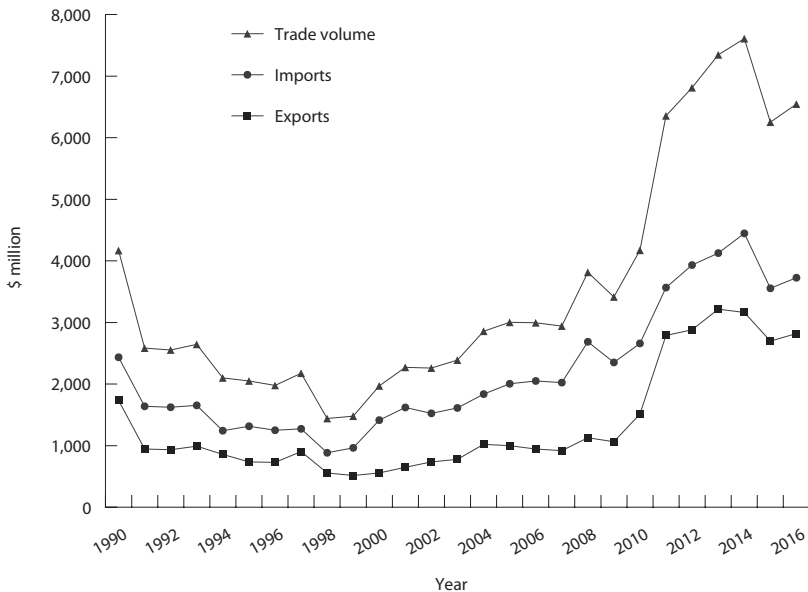
⁵ For a discussion of the problem of statistics on North Korea, see Rüdiger Frank, “A Question of Interpretation: Economic Statistics from and about North Korea,” 38 North, July 16, 2012 ~ <http://38north.org/2012/07/rfrank071612>.

the 21st century, a time when South Korea actively cooperated with the North on economic projects, reached much higher values of around 14% growth annually.

Sanctions and Trade

The other area to look for insights on the economic impact of sanctions is trade. A major source of data is the Korea Trade-Investment Promotion Agency (KOTRA), funded by the South Korean government. Though Pyongyang does not publish international trade data, KOTRA collects information on trade with North Korea from various partner countries. Through this exercise in reverse statistics, the agency is able to publish an annual estimate of North Korea's exports and imports (see **Figure 2**). Again, one needs to be aware that there is a large gray zone of trade that is unreported, but nevertheless KOTRA's figures are the best possible

FIGURE 2
North Korean Trade, 1990–2016



Source: KOTRA, *Pukhan taewoe muyök tonghyang* [Trends in North Korean Trade 2016] (Seoul: KOTRA, 2017).

Note: For a detailed discussion of the 2017 KOTRA report, see Rüdiger Frank, "Economic Sanctions and the Nuclear Issue: Lessons from North Korean Trade," 38 North, September 18, 2017 ≈ <http://www.38north.org/2017/09/rfrank091817>; and Rüdiger Frank, "Engagement, Not Sanctions, Deserves a Second Chance," 38 North, October 13, 2017 ≈ <http://www.38north.org/2017/10/rfrank101317>.

under the present conditions. This data shows that North Korean trade had reached a low point around 1998, when it dropped to less than \$1.4 billion. Trade then grew until 2014, when it reached a whopping \$7.6 billion, before falling to \$6.5 billion in 2016.⁶

Without looking too much into the details of which sectors were affected, we find that the trade data shows a mixed picture. One obvious consequence of sanctions has been China's massively strengthened role. By 2016, China was by far North Korea's biggest trade partner, accounting for 92% of trade volume. The reduction of trade after 2014 has to do with the fact that, despite skepticism, China has been increasingly willing to join international efforts to pressure the DPRK economically. However, the trade figure for 2016 is still almost five times as high as in 1998. We could therefore very roughly conclude that the sanctions have had the effect of isolating North Korea economically and making it more dependent on China, but that they have failed to reduce North Korea's foreign trade to a level that is comparable to the crisis years of the mid-1990s.

Evidence from the Ground

Despite a few notable exceptions, it would be naive to assume that spending a week or two in North Korea in the way currently possible can approximate solid, rigorous field research. Travel within the country is restricted. Westerners are accompanied by at least two North Korean officials who interfere with what foreigners see and hear. On the other hand, frequent visits to the same places do have a value that cannot be denied. They allow a comparison of North Korea to itself and the identification of changes. Such visits are, therefore, a useful supplement to other forms of research.

As a frequent visitor to North Korea since 1991, most recently in late May 2018, I have been able to check the availability of electricity, fuel, food, and consumer goods. During my last trip, I did not experience a single power blackout, running water was available constantly inside and outside the capital, and the department stores and smaller shops were filled with goods and buyers. Cars of all sizes were moving around cities and the countryside, and farm work was taking place as usual during the busy season of rice transplanting. The chimneys of power stations and factories were smoking. People appeared well-dressed, and restaurants were operating regularly.

⁶ Korea Trade-Investment Promotion Agency (KOTRA), *Pukhan taewoe muyök tonghyang* [Trends in North Korean Trade 2016] (Seoul: KOTRA, 2017), 3.

The number of electric bicycles—a sign of the affluence of the new middle class—has been growing substantially, and I would estimate that they now account for roughly 30% of all bicycles in Pyongyang. The number of mobile phones, another such indicator, has reportedly grown to over 3 million out of a population of 25 million.⁷ On the streets and in subways, people were using smartphones. A trade fair in Pyongyang had various electronic devices on sale, including a smart watch and a seven-inch tablet computer at the relatively low price of \$60. The U.S. dollar, along with the Chinese yuan, was a widely accepted means of payment.

Among other notable changes in recent years is a construction boom that resulted in new and modern apartment blocks and service facilities being built, particularly in the capital, including the Mansudae Apartments, Future Scientists Street, the Sci-Tech Complex, and most recently Ryōmyōng Street. Roads are in need of repair, but the main highways are paved and accessible. While the highway toward the south remained largely empty, north of the capital in the direction of China, traffic was intense by North Korean standards. It included, as a new feature, a large number of minibuses operating between cities. Along the road, construction of gas stations and traffic-related facilities such as rest stations and car washes was ongoing.

To summarize my impressions from this and previous trips, I would say that no immediate impact of sanctions could be observed. The country remains far behind South Korea or China in its economic development, but progress is visible and the mood among those people who were willing to talk to me was optimistic. The sanctions were often problematized as a reason for the lack of even stronger progress.

North Korean Efforts to Evade or Mitigate the Impact of Sanctions

The oldest North Korean strategy to deal with the impact of politically motivated economic pressure is known as *chuch'e* (master of one's own body). One of its components is *charip* (economic self-reliance). Although the degree to which this could be achieved is debatable, North Korea has always tried its utmost to reduce its economic dependency on outside partners. The country has paid a price for that policy and arguably could have reached a higher level of development if it had imported more capital and technology. In conversations, North Koreans argue that this price was worth paying since they would otherwise not have been able to withstand

⁷ “Nine Charts Which Tell You All You Need to Know about North Korea,” BBC, September 26, 2017
 ~ https://www.bbc.com/news/world-asia-41228181.

the trend of collapse or transformation that swept the socialist camp after 1990. Indeed, while the order of priorities—national independence over the well-being of the people—can be questioned, it is hard to deny that the strategy has so far proved to be successful. It should also be added that North Korea is in an advantageous position for such an approach, as a result of its abundant reserves of crucial minerals (except, most notably, crude oil) and its geopolitical location. Its ability to play big adversaries against each other—whether China and the Soviet Union in the 1950s, or the United States and China in the 21st century—has to a large degree contributed to the success of its independent strategy.

A second approach to deal with sanctions is evasion. North Korea has faced accusations ranging from selling military equipment and producing and trafficking narcotics to counterfeiting currencies and exporting slave labor.⁸ Some of these claims must be seen against the backdrop of ideological difference, but it cannot be denied that the DPRK has been maneuvering close to the limits of legality to acquire much-needed goods and hard currency. The North Korean response to these accusations is to deny doing anything illegal while also challenging the definition of what constitutes an illegal act.

Can Sanctions Be Effective and Compelling?

The answer to the question about the appropriateness of the West's approach to North Korea depends on the goals. If the objective is to prevent the country from developing nuclear weapons, it is obvious that the sanctions have failed. North Korea has conducted six nuclear tests, each with a higher yield, and has successfully launched intercontinental ballistic missiles. It matters little whether that was due to the ineffectiveness of sanctions as such or to the incomplete implementation of sanctions by individual countries.

If, however, the goal is to develop the Korean Peninsula into a hotspot in the upcoming (some might say ongoing) confrontation between the United States and China, and thereby to provide the justification for an expansion and upgrade of the U.S. military presence in the region, as well as a rethinking of Japan's position toward re-militarization, then the strategy is not a failure at all.

⁸ Sheena Chestnut Greitens, *Illicit: North Korea's Evolving Operations to Earn Hard Currency* (Washington, D.C.: Committee for Human Rights in North Korea, 2014).

For many observers, including myself, the evaluation of the effects of sanctions on North Korea is informed by the desire for peace on the Korean Peninsula, an improvement in the human rights situation and living conditions, and a peaceful unification of the two Koreas. Against this backdrop, sanctions have been disastrous. As discussed above, economic growth, the expansion of foreign trade, and the slow modernization and marketization of the North Korean economy have happened despite the sanctions, not because of them. Without sanctions, it is likely that the North Korean middle class would be bigger, the level of interaction with the outside world would be higher, and militarization as well as security tensions would be lower.

The pressing ethical question of deliberately starving the population of a country in the hope that it will rise up against its leadership aside, the potential effectiveness of sanctions as a means to persuade Pyongyang to follow a certain path is technically questionable. As long as North Korea has a land border with China and Russia, sanctions will always face limitations. Experience suggests that the United States will find it very difficult to persuade its two greatest rivals to comply with its goals. Assuming, however, that North Korea is just a means to an end and that the top priority in Washington is to contain China's rise, it does not seem unthinkable to argue for a reversal of policy. North Korea, or a unified Korean Peninsula, faces the problem of creating enough distance between itself and its overwhelmingly powerful neighbor China. From a neutral, ideologically and historically unbiased perspective, the United States looks like the perfect ally for North Korea. Cooperation with Pyongyang, as bizarre as the idea may sound, could turn out to be a much more effective strategy to achieve U.S. national goals than the current confrontational policy of using sanctions as a means of economic warfare against an alleged ally of China. ◆

Seoul's Supporting Role in Pyongyang's Sanctions-Busting Scheme

Sung-Yoon Lee

Sanctions sway with the political wind, and all year the political wind behind sanctions on the Democratic People's Republic of Korea (DPRK) has been gathering into a storm—one that threatens to reverse course and derail the enforcement efforts built up over the past two years. For the Republic of Korea (ROK), the Trump-Kim summit in Singapore on June 12 provided a powerful wind to further clear the way for muffling existing sanctions on Pyongyang.

Sanctions, like domestic law, are not self-executing but require constant effort to enforce. For sanctions to bear the intended results, the political will, human resources, and disincentives to subverting enforcement all must be in place, continually, until the target nation's strategic calculations are profoundly affected by the persistent pressure. If the will dissipates—for example, following a sudden change in the diplomatic environment—enforcement can weaken. When sanctions implementation comes undone and third parties return to the business-as-usual mode of nonenforcement, or in some cases even actively subsidize the target nation, the toughest sanctions on the books will be bereft of meaning.

Moreover, in the wake of premature relaxation, sanctions can hardly be reactivated instantly. The resumption of enforcement takes much more time than the re-enforcement of domestic laws, as the process is largely determined by the degree and duration of international cooperation. In short, sanctions are as much dependent on the vagaries of the political wind as the currents at sea are on the natural wind. And South Korea, by virtue of its ethnic affinity and geographic proximity to the North, is a key factor in this meteorological game.

The sanctions on North Korea are precariously close to undergoing an atmospheric shift in the aftermath of the dramatic first-ever summit meeting between the leaders of the United States and the DPRK. The Singapore Summit was an optically gripping political drama, choreographed by North Korea, from which Kim Jong-un walked away

SUNG-YOON LEE is the Kim Koo–Korea Foundation Professor of Korean Studies and Assistant Professor in the Fletcher School of Law and Diplomacy at Tufts University. He can be reached at <sung-yoon.lee@tufts.edu>.

with an overwhelming victory.¹ Having made no substantive concession of his own, he won both tangible concessions from President Donald Trump, such as the suspension of the annual combined military exercises between the United States and the ROK, and the less visible, albeit far greater, victory of buying time and money for the DPRK to perfect its own nuclear posture review. The United States' engagement in a drawn-out negotiation process that could end sanctions required considerable help in the production stage, ironically, from the nation that stands to lose the most in the event of Pyongyang's completion of its nuclear strategy—South Korea.²

This essay looks first at the history of sanctions against the DPRK and then at how South Korea has undermined its own and, by extension U.S., efforts at implementing sanctions. The essay concludes by examining the future tenacity of the current sanctions regime after the Trump-Kim summit in June 2018.

A Brief History of Sanctions on the DPRK

U.S. sanctions against North Korea only became meaningful both on paper and in practice with the passage of the North Korea Sanctions and Policy Enhancement Act of 2016. In fact, prior to this occasion, with the exception of the U.S. Treasury Department's designation of Banco Delta Asia as a primary money-laundering concern under Section 311 of the U.S. Patriot Act in September 2005, U.S. sanctions against North Korea, contrary to popular perception, had been erratic, defensive, and weak—in both degree and kind—compared with U.S. sanctions against many other states.³

Between the outbreak of the Korean War in 1950 and the U.S. designation of North Korea as a state sponsor of terrorism in 1988, the sum of U.S. economic sanctions on the country consisted of trade sanctions pursuant to the 1917 Trading with the Enemy Act. However, such sanctions are notoriously ineffective, as the targeted state is almost always able to find alternative trading partners, including U.S. allies. The designation of the DPRK as a state sponsor of terrorism after North Korean agents planted a bomb on a South Korean civilian aircraft in November 1987, which killed

¹ Nicholas Eberstadt, "Kim Wins in Singapore," *National Review*, July 9, 2018 ~ <https://www.nationalreview.com/magazine/2018/07/09/kim-jong-un-singapore-summit-north-korea-wins>.

² Choe Sang-hun, "Kim Jong-un's Image Shift: From Nuclear Madman to Skillful Leader," *New York Times*, June 6, 2018 ~ <https://www.nytimes.com/2018/06/06/world/asia/kim-korea-image.html>.

³ The U.S. treasury froze funds totaling approximately \$25 million in the small Macanese bank. See Joshua Stanton, "North Korea: The Myth of Maxed-Out Sanctions," *Fletcher Security Review* 2, no. 1 (2015): 20–31.

all 115 people on board, did increase U.S. political pressure on the regime. But in economic terms, the prohibition on U.S. defense exports and foreign aid to Pyongyang, of which there was already little to none, did not amount to much.

Further, the United Nations did not pass sanctions against North Korea until 2006, when Pyongyang undertook multiple missile tests in July, followed by the nation's first nuclear test in October. Only in 2016, when Pyongyang conducted its fourth and fifth nuclear tests in January and September, respectively, did the UN Security Council issue resolutions that were comprehensive in scope and compelling in nature, with the passage of Resolutions 2270 and 2321. Thereafter, increasingly tougher resolutions on exports and imports (e.g., fuel products, minerals, coal, steel, textiles, and seafood) and financial services (e.g., banking, joint ventures, and asset freezes) were passed in 2017 following two successive intercontinental ballistic missile (ICBM) tests in July (Resolution 2371), a thermonuclear test in September (Resolution 2375), and yet another ICBM test in November (Resolution 2375), the most powerful test by the nation to date.

South Korea's Enforcement of Sanctions

Since North Korea's nuclear program emerged as a problem in the early 1990s, South Korea has played various roles in the implementation of sanctions—from none to little to supporting to even subverting sanctions. Like U.S. sanctions on North Korea during the Cold War, the ROK's sanctions against the North from the end of the Korean War in 1953 to the early 1990s amounted to a passive, laissez faire approach of minimalist contact. However, starting in the early post-Cold War period, South Korea changed course from exercising minimal leverage vis-à-vis North Korea to decreasing leverage by increasing its virtually unconditional aid to Pyongyang. For example, during the Kim Young-sam administration (1993–98), Seoul provided Pyongyang with \$1.22 billion in aid.⁴ This trend reached a peak during the Roh Moo-hyun administration (2003–8), when nearly \$4.4 billion worth of cash and goods were siphoned to North Korea's coffers.⁵

Today, the Moon Jae-in administration, with its active outreach to North Korea and plans to resume investment there, may be viewed as a

⁴ “Tongilbu: Daebuk Songgeum-aek Roh Moo-hyundae choedae” [Unification Ministry: Cash Transfer to North Korea Largest during Roh Moo-hyun Administration], Yonhap, April 27, 2017.

⁵ Ibid.

partial partner to the Kim regime rather than a purveyor of sanctions enforcement against it.⁶ President Moon's own dramatic summit with Kim at Panmunjom, the border village between the North and the South, on April 27 did much to help the North Korean leader's makeover from a ruthless, tyrannical global pariah to a smiling global statesman. Beyond the superficial optics and bonhomous images, this meeting, unlike the Singapore meeting between Trump and Kim, did produce a joint statement that is quite telling in its implicit message. Although none of the terms agreed to were new, the reaffirmation to "promote balanced economic growth and co-prosperity of the nation" makes Seoul's agreement to stifle sanctions quite clear: South Korea, an affluent state, will subsidize North Korea, a poor state, for the sake of the "nation"—*minjok*, in the original Korean text—which means pan-Korean ethnic people.⁷

It is virtually impossible to appreciate the powerful undercurrent in inter-Korean relations without an understanding of the meaning and spirit of the term "minjok." This Korean word is invariably translated into English in a neutral tone as "Korean nation" or "Korean people," and its more loaded variation "uri minjok kkiri" (by our minjok only) is benignly translated as "inter-Korean." This phrase powerfully encapsulates the collective Korean aspiration for a united Korea that is free of U.S. influence, and was highlighted in the June 2000 joint statement between the leaders of the North and South after the first-ever inter-Korean summit. The message is clear: the people of the ethnic Korean nation, or minjok, as masters of their own destiny, must stand and forge Korea's future together, exclusive of outside powers (namely, the United States).

It is no secret that Moon lobbied hard in persuading Trump to meet with Kim, given how unprecedented and controversial a U.S.-DPRK summit would be. In fact, Kim's proposition to Trump was conveyed by South Korean envoys—the ROK's national security adviser and head of the national intelligence service—at the White House on March 8, just three days after their own meeting with Kim in Pyongyang. Moon himself paid Trump a visit at the White House on May 22 in order to reinforce the message that the summit would be a historic moment, that the opportunity for peace on the Korean Peninsula lies within reach, and that Kim means

⁶ "Two Koreas Set for Talks on Bilateral Economic Projects," Yonhap, June 25, 2018.

⁷ "Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula," April 27, 2018, available at <https://uk.reuters.com/article/uk-northkorea-southkorea-summit-statement/panmunjom-declaration-for-peace-prosperity-and-unification-of-the-korean-peninsula-idUKKBN1HY193>.

what he says with respect to “denuclearization.”⁸ Moon’s subsequent support for Trump’s settling for so little in his meeting with Kim in Singapore lends further weight to the view that Moon will take the leading role in rendering sanctions against North Korea ineffective.

The Outlook for Sanctions following the Trump-Kim Summit

South Korea has wholeheartedly welcomed the specifics-free joint statement from the Trump-Kim summit as a meaningful gain and now appears poised to return to its old subversive role of eroding sanctions against Pyongyang. South Korea already took the first step in early 2018 by granting waivers and exemptions to various designated North Korean entities who visited the South in relation to the Pyeongchang Olympics. The list includes Kim’s sister, Kim Yo-jong, who is designated by the U.S. Treasury’s Specially Designated Nationals list for her role as the head of the DPRK’s Department of Propaganda and Agitation; General Kim Yong-chol, who is designated by both South Korea and the United States for his alleged role in torpedoing the ROKS *Cheonan* in March 2010, the lethal shelling of Yeonpyeong Island later in November, and the cyberattack on Sony Pictures in the United States in 2014; Choe Hwi, the head of the National Sports Guidance Committee, who is designated by the UN Security Council; and the North Korean ship the *Mangyongbong-92*, which is banned by both the UN Security Council and the ROK from docking in the South.

The dramatic mood swing in Singapore has enabled more South Korean officials to talk openly about expanding economic, cultural, and sports projects with the North. For example, Park Won-soon, the mayor of Seoul and arguably the second most powerful man in the South Korean body politic, recently spoke publicly of his desire to build economic, sports, and infrastructure ties with the North, which all entail the transfer of funds from Seoul to Pyongyang.⁹

To put these aspirational statements in perspective, during the Roh Moo-hyun administration—when Moon, then presidential chief of staff and serving in other senior roles, was the de facto number two official—South Korea pumped into Pyongyang’s coffers nearly \$900 million

⁸ In North Korean parlance, “complete denuclearization of the Korean Peninsula” means the abrogation of the U.S.-ROK military alliance, the eviction of U.S. troops from the South, and the end of U.S. extended nuclear deterrence.

⁹ “3-Term Winning Seoul Mayor Eyes Boost in Cross-Border Exchanges,” Yonhap, June 20, 2018 ~ <http://english.yonhapnews.co.kr/news/2018/06/20/0200000000AEN20180620010800315.html>.

in cash and material incentives each year.¹⁰ This questionable practice took place just as an awareness was beginning to emerge of the need to enforce sanctions against Pyongyang, as demonstrated in the U.S. financial measures against Banco Delta Asia in 2005 and the first punitive UN Security Council resolutions (Resolutions 1695 and 1718, passed in 2006). The contradiction in these practices are obvious. As the United States and United Nations were gearing up to sanction the DPRK, South Korea was bent on subsidizing the same target.

Weighed against an even more questionable precedent—President Kim Dae-jung’s secret payment of half a billion dollars to Kim Jong-il in the days leading up to their summit in June 2000¹¹—South Korea’s pro-North administrations have not been shy about pursuing various unconditional and entirely unconventional subvention schemes, which they have couched under the rubric of “investment in peace.” The record of the conservative administrations under Lee Myung-bak and Park Geun-hye has been only marginally better. Both administrations continued to subsidize the Kim regime through the Kaesong Industrial Complex, an industrial park in the North that, until President Park abruptly shut it down in February 2016, was a funnel for approximately \$100 million a year, with \$120 million transferred in 2015.¹²

Barring another dramatic mood swing in Pyongyang, marked by more nuclear or ballistic missile tests, the South Korean government under President Moon can be expected to remain an impediment to, rather than a facilitator of, sanctions enforcement. Moreover, should the Kim regime prove noncompliant or even in blatant violation of the Singapore agreement to work toward the “complete denuclearization” of North Korea, as mistakenly understood by the Trump administration, it will be politically difficult for Trump to walk away from a deal that he himself has signed and once again apply tough sanctions pressure on Pyongyang. Therefore, resuming meaningful enforcement of sanctions on North Korea, which will entail U.S. designations of third-party enablers, will be conditional on the following: first, the unlikely belated self-realization by Trump that he was duped by Kim and correspondingly tough actions

¹⁰ “Tongilbu: Daebuk Songgeum-aek Roh Moo-hyunddae choedae.”

¹¹ Donald Kirk, “Kim Dae Jung’s Sad South Korean Legacy,” *Washington Examiner*, August 19, 2009
 ~ <https://www.washingtonexaminer.com/don-kirk-kim-dae-jungs-sad-south-korean-legacy>.

¹² Choe Sang-Hun, “South Korea to Shut Down Joint Factory Park, Kaesong, over Nuclear Test and Rocket,” *New York Times*, February 10, 2016 ~ <https://www.nytimes.com/2016/02/11/world/asia/north-south-korea-kaesong.html>.

on sanctions; and second, resolute U.S. measures that deter Moon from subsidizing Pyongyang and compel him to do his part. In other words, in the current climate, the expectation for Seoul to enforce sanctions against Pyongyang over a substantial period (e.g., three years) is as unlikely to be borne out as a forecast for three whole weeks of dry weather during the monsoon season in the Korean Peninsula. ◆

Sanctions as Tools to Signal, Constrain, and Coerce

Catherine Jones

Is China imposing UN sanctions against the Democratic People's Republic of Korea (DPRK)? What effect is this imposition having on the Kim regime and the prognosis for whether sanctions will be effective? Answering these questions is neither easy nor straightforward. This essay argues that in assessing how effective China has been in imposing sanctions, the important factor is not the extent to which sanctions are implemented but rather the type of busting or compliance behaviors that China exhibits. This approach to evaluating sanctions is important for understanding how China's behavior affects the DPRK's evasion practices.

Current sanctions literature increasingly describes economic sanctions as able to do three things: (1) signal inappropriate behavior, (2) constrain a state's or group's access to particular resources, or (3) stigmatize the target state and in so doing coerce it to change its behavior.¹ In the case of North Korea, the focus has often been on the third element: whether sanctions have been effective in coercing the country to denuclearize. Specifically, sanctions have aimed to convince the DPRK "to comply with its Security Council-imposed obligations, to return to the six-party talks, and to take significant irreversible steps to carry out its undertakings pursuant to previous six-party talk agreements."² Moreover, the resolutions all state that North Korea should denuclearize and return to the Nuclear Non-Proliferation Treaty.³

According to most sanctions literature, China's approach to implementing the UN sanctions has not been sufficiently stringent to choke off North Korea's access to goods and coerce the regime to change

CATHERINE JONES is the East Asian Post-doctoral Research Fellow in the Department of Politics and International Studies at the University of Warwick. She is the author of a forthcoming monograph with Palgrave Macmillan that explores China's challenge to liberal norms within international institutions. In 2017–18, Dr. Jones held a Korea Foundation grant for a project on China and North Korea. She can be reached at <catherine.jones@warwick.ac.uk>.

¹ See, for example, Thomas J. Biersteker, Marcos Tourinho, and Sue Eckert, "Thinking about United Nations Targeted Sanctions," in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker, Sue E. Eckert, and Marcos Tourinho, 11–13.

² UN Security Council, "Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009)," S/2010/571, May 12, 2010, 11, par. 18.

³ See UN Security Council, "Resolution 1718," S/RES/1718, October 14, 2006; UN Security Council, "Resolution 1874," S/RES/1874, June 12, 2009; UN Security Council, "Resolution 2087," S/RES/2087, January 22, 2013; and UN Security Council, "Resolution 2094," S/RES/2094, March 7, 2013.

its behavior. In the more flamboyant assessments of China's activities, any form of sanctions busting or backsliding is assumed to be responsible for sanctions being ineffective. This essay examines China's implementation of UN sanctions against the DPRK in each of the above three usages—to signal, constrain, and coerce—and concludes that China has primarily employed sanctions as a signaling device. However, its mixed track record in imposing constraints has also undermined its ability to signal effectively. In the aftermath of the summit between Donald Trump and Kim Jong-un, China's motivation to continue imposing sanctions at the same level it has demonstrated since 2017 may diminish, and there is evidence to suggest that this is already occurring in the border region between China and North Korea.⁴

Sanctions as Signals: China's Mixed Messages

On the surface, signaling can be seen as a very straightforward aspect of sanctions: states signal their disapproval of the behavior of another state or entity through the threat, authorization, and imposition of a sanctions regime. Yet the effects on the target of these signals are more difficult to measure and are therefore under-researched. This is especially problematic in the case of North Korea, where sanctions have been imposed over several rounds, and so the signals sent in the first round have a relationship to those sent in subsequent rounds.

In 2006, after North Korea's first nuclear test, China's Ministry of Foreign Affairs issued a statement condemning the test.⁵ This statement was notable for two reasons: first, this is a form of communication that China rarely employs; second, the language used in the statement strongly condemned Pyongyang's actions.⁶ Subsequently, China joined other UN Security Council members in imposing sanctions. This apparent unity in the Security Council and the combination of China's unilateral and multilateral approaches suggest that at this stage Beijing desired to send a clear and unambiguous signal to North Korea with the imposition of sanctions.

⁴ Yuan Yang, "China's Dandong Property Prices Jump on Korea Talks," *Financial Times*, May 2, 2018 ~ <https://www.ft.com/content/ffcae376-4dda-11e8-8a8e-22951a2d8493>.

⁵ "China Resolutely Opposes DPRK Nuclear Test," Xinhua, October 9, 2006 ~ http://news.xinhuanet.com/english/2006-10/09/content_5180203.htm.

⁶ Such statements from China's Foreign Ministry are rare. Between 1992 and 2013, there were only thirteen, and three of these related to the DPRK's nuclear tests. I am grateful to Joel Wuthnow for pointing this out.

However, doubts about China's implementation of sanctions have re-emerged during every incident relating to North Korea. This pattern of condemning Pyongyang's actions and imposing sanctions, followed by nonexistent or weak enforcement, undermines the credibility of the signal being sent. As a result, as sanctions are enforced and extended over a period of time, signaling can be either enhanced or undermined by the practices of nonenforcement. If credible signals are not followed by enforcement, subsequent signals are undermined.

Other tells in the way that China imposes sanctions undermine their potential as an effective signal. For example, Chinese statements to the United Nations express reservations about the use of sanctions and suggest that they are ineffective as a tool to isolate North Korea. As a result, China simultaneously signals disapproval of the behavior of the Kim regime and discomfort with the chosen approach of the other Security Council members.

This ambivalent position was even more conspicuous during the summer of 2017, when China and Russia were the only states proposing a diplomatic track alongside sanctions. These states advocated a "freeze for freeze" policy, whereby North Korea would freeze testing and the United States would freeze military exercises, and they reiterated this suggestion at subsequent Security Council meetings in August and September.⁷ This ambivalence is problematic for achieving effective signaling as it creates the perception that China will not fully implement sanctions.

Signaling, however, is not limited to the imposition of sanctions; the structure of sanctions resolutions and their specific contents are also key aspects of the signaling process. In the resolutions against North Korea, for example, sanctions on luxury goods can be seen as signaling an intention to coerce the elites within the regime. In 2006, this marked the limit of China's acceptance of sanctions against North Korea, being the strongest measure that Beijing would impose.

At that time, however, there was no UN list of luxury goods or mechanism to ensure that countries applied these sanctions consistently. As sanctions subsequently deepened, the Sanctions Committee and the Panel of Experts provided recommendations for implementing this ambiguous list and conducted investigations into whether it has been enforced. Despite these steps, luxury goods remain an area that undermines the credibility of

⁷ UN Security Council, "Meeting Record (Provisional) 8019," S/PV.8019, August 5, 2017; UN Security Council, "Meeting Record (Provisional) 8034," S/PV.8034, August 29, 2017; and UN Security Council, "Meeting Record (Provisional) 8039," S/PV.8039, September 4, 2017.

sanctions as a signal and tool for coercion. For example, in the 2017 Panel of Experts report, China responded to a question by explaining that airplanes, ski equipment, and other items deemed luxuries by other states were “not luxuries in China” and therefore not a part of the sanctions regime.⁸ Thus, in reporting on its imposition of sanctions, China signaled the limited convergence of its interpretation with that of other sanctioning states, as well as the limit of the signal that it is willing to send to Pyongyang.

This enforcement issue is exacerbated in the stages that follow the authorization of sanctions, when countries must specify their targets and contents. China has in the past “whittled down the list of North Korean companies to be sanctioned from the 40 proposed by the U.S., EU, and others, to three.”⁹ As a result, Beijing has sent mixed messages to the regime in Pyongyang, which ultimately undermines the effectiveness of sanctions as a signal.

Sanctions as a Constraint

As noted at the outset, the sanctions against North Korea have progressively deepened and broadened in scope, becoming the most extensive sanctions regime since World War II. This has been necessary because, since at least 2012, the types of material that North Korea needed to develop its nuclear program have been more prosaic and less technical. As the Panel of Experts report of 2012 stated, “Independent experts...have indicated the possibility that the DPRK could use materials of lower parameters than those specified by the lists of designations in the resolutions for its nuclear programmes.”¹⁰ Subsequent to this report, sanctions resolutions, in particular through the catch-all provision included in Resolution 2094, have increasingly placed the burden of the decisions regarding goods sanctioned on the ports and border regions. Whether the sanctions can be effective has thus become an issue of implementation rather than design. If fully implemented, they are sufficiently stringent and comprehensive to constrain North Korea’s nuclear development.

⁸ UN Security Council, “Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009),” S/2015/131, February 23, 2015, 42, par. 99; and UN Security Council, “Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009),” S/2017/150, February 27, 2017, par. 127.

⁹ Ralph A. Cossa and Brad Glosserman, “The Illogic of China’s North Korea Policy,” Pacific Forum CSIS, PacNet, no. 32, May 17, 2012.

¹⁰ UN Security Council, “Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009),” S/2012/422, June 14, 2012, par. 25.

The essential caveat is whether the sanctions are implemented as designed or as written. In investigations of sanctions violations, China either does not respond to questions from the Panel of Experts or demonstrates formal legal compliance with the language of the sanctions rather than with their intention.

One example is the much-cited “lumber trucks.” These eight-axle trucks were first seen at a 2012 parade in Pyongyang with missiles mounted on them. Photos of this event led the Panel of Experts to initiate a multiyear investigation, which found that the Hubei Sanjiang Space Wanshan Special Vehicle Company in China had exported the trucks to North Korea in 2011. China, however, does not believe this transfer of goods violates sanctions, as the supplier obtained an end-user certificate stating that the trucks were substantially different from missile transporters.¹¹ This incident demonstrates a particular problem in the evaluation of whether China fully implements sanctions on the Kim regime and suggests that China does implement sanctions, but that this implementation is not directly linked to the effect of denuclearization. A wider investigation of the period from 2006 to 2013 supports this conclusion.

Yet, since 2013, China has gradually improved enforcement of increasingly stringent sanctions. Moreover, there is evidence that China has sought to constrain North Korea even beyond the expectations of the UN resolutions. And since Resolution 2375 in September 2017, there is evidence that it has sought to crack down on joint ventures between Chinese and North Korean entities.¹² This trend suggests that China is now seeking to constrain access to goods both produced in and transiting China that are headed to the DPRK. Yet because this process is gradual, it will take time for this new approach to enforcement to have a constraining effect.

In addition, similar to signaling, China’s actions in earlier rounds of sanctions also affect whether these constraining measures will be effective and how quickly. For example, as the sanctions have gradually been extended, North Korea has likely developed networks and customers to buy and sell products that not only evade sanctions but also evade China’s patterns of enforcement. This can be seen both in the development of joint entities and

¹¹ UN Security Council, “Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009),” S/2013/337, June 11, 2013, par. 53–57.

¹² Andrea Berger et al., “The Shadow Sector: North Korea’s Information Technology Networks,” James Martin Center for Nonproliferation Studies, Occasional Paper, no. 36, May 7, 2018, 5. See also Catherine Dill, “A Note on China’s Implementation of UNSCR 2375,” Arms Control Wonk, May 18, 2018 ≈ <https://www.armscontrolwonk.com/archive/1205203/a-note-on-chinas-implementation-of-unscr-2375>.

in the use of aliases for persons listed in the sanctions resolutions. As a result, despite China's heightened enforcement, evolving patterns of evasion by North Korea will still limit the effectiveness of sanctions.

Sanctions as Coercion

Coercion is a tool that encompasses both the signaling and the enforcement of sanctions and may not be easily separated from these other elements. As a result, the examples above of techniques for constraint and evasion are all relevant to understanding whether sanctions have been effective at coercing North Korea. For example, Beijing's limited interpretation of the term "luxury goods" suggests that China has not agreed to sanctions with an intention to directly coerce the elites in North Korea. On the other hand, its increased implementation of sanctions as a constraint does indicate that since 2016 the country has sought to coerce North Korea through the use of sanctions and has been somewhat effective in doing so.

In the sanctions approved, there are clearly measures that are aimed at coercing rather than constraining. For example, the sanctions on luxury goods indicated above are aimed at making elites in Pyongyang uncomfortable and therefore more likely to change their behavior. However, the effectiveness of these measures as a coercive tool is also limited by the weaknesses in implementation. Examples cited in the Panel of Experts reports demonstrate an absence of China trying to make life for elites uncomfortable. As discussed above, Beijing has stated that airplanes, cars, and ski equipment are not seen as being "luxuries" in China and are therefore not considered to be a part of the sanctions.

Yet coercive measures in the UN sanctions are not limited to luxury goods but also include travel bans on personnel, curtailments of economic activity, and prohibitions on companies from trading. The information provided to the United Nations is vital in compiling lists of people and entities important for applying coercion. However, despite China's unique position to be able to identify the appropriate North Korean targets, its reporting patterns have not been sufficient. As a result, it is not just China's poor implementation of coercive sanctions that is the problem but also its reluctance to share information with other states to help design effective sanctions.

Ironically, this more overtly coercive use of sanctions to address the heightened tensions on the Korean Peninsula may also indicate China's lack of leverage over the Kim regime. As Beijing has lost its ability to directly

influence and engage with the regime in Pyongyang and to produce specific outcomes, it has only a few options remaining to try to compel North Korea to cease development of its nuclear weapons program and achieve stability on the peninsula.

Conclusion

In evaluating the implementation of sanctions against North Korea, China can demonstrate formal compliance with the written sanctions documents. However, its application of sanctions has not been focused on constraining access to goods or coercing the regime to change. Moreover, this pattern of enforcement, although procedurally compliant, undermines the ability of sanctions to effectively signal to the North Korean regime. Since 2016, however, China's enforcement of sanctions has begun to prioritize constraining North Korean elites' access to goods and applying greater coercive pressure on the regime.

There are a number of caveats to this argument. First, because of the nature of the goods needed by North Korea and the evolution of its evasion techniques, China's increased enforcement has not yet succeeded in choking off resources required for nuclear development. Indeed, despite its recent efforts, China may no longer be the key element to making sanctions work or not. As a result, the assumed link between its level of sanctions enforcement and their effects should be re-evaluated through further research.

Second, as sanctions do not operate in isolation, identifying whether they have been successful, and indeed whether a particular actor has had an effect on that success, is fraught with difficulties. China (in combination with other factors) may have been partially effective at encouraging the Kim regime to change its behavior.¹³ But there is reason for caution here. In particular, although the Singapore Summit was lauded by the Trump administration and some in the U.S. media as a new era of U.S.-DPRK relations, when situated in a broader narrative, Kim's approach follows the general pattern of escalation and de-escalation that we have seen since at least 2006. Hence, it is problematic to make a causal link between sanctions, China's degree of implementation, and potential changes in behavior by the regime in Pyongyang.

¹³ The opening up of dialogue with China and South Korea, as well as the June 12 summit in Singapore between Trump and Kim and the overtures of discussing denuclearization, indicates a potential shift in behavior.

Third, developing measures to assess whether states have meaningfully complied with their sanctions obligations remains a challenge. It may be possible to demonstrate that China has formally complied with its obligations under the UN resolutions, but perhaps not that it has satisfied the expectations of other members of the international community. The assessment of whether China has implemented sanctions is partly a political determination rather than solely an impartial academic activity.

At the very least, even as China does technically implement sanctions against North Korea, some of its patterns of implementation continue to fall short of the expectations for the sanctions when they were approved. China has been partially successful in constraining the flow of goods to the Kim regime under the sanctions imposed after 2016. However, it is not possible to claim that this level of implementation has produced a thaw in relations or a slowdown in the development of the DPRK's nuclear weapons and missile programs. Instead, it seems more likely that developments within North Korea, such as the damage to its mountain site for nuclear testing and its ability to test missiles from a moveable platform rather than a fixed site, have enabled the Kim regime to engage the United States and try to utilize the situation to lobby for a reduction in sanctions. ◆

The Complex Relationship between Sanctions and North Korea's Illicit Trade

Justin V. Hastings

North Korea's illicit trade and sanctions have a complex relationship.¹ In this essay, I argue that while North Korean companies do engage in illicit trade to bypass sanctions, much of such trade is actually the result of the fundamental dysfunction of the Kim regime and how the North Korean economy has evolved in the past several decades. That said, North Korea has been forced by sanctions to adapt the way it does business inside and outside the country. Because much of the illicit trade does not benefit the regime directly, it may actually behoove the international community to encourage some types of illicit trade and to provide an outlet for the regime to make money other than through dealing in weapons and illicit goods.

Sanctions and the Illicit Economy

North Koreans do indeed engage in illicit trade as a way of bypassing sanctions and sanction-enforcement mechanisms, specifically in buying or selling goods that have been declared off limits by UN Security Council resolutions. But there are two other main reasons that North Koreans engage in illicit economic activities and trade that have little to do with sanctions. First, the North Korean system at its most basic level encourages, and in many cases practically requires, economic activities to be illicit. In the years since the Arduous March killed a significant percentage of the North Korean population and citizens responded by going into business for themselves as a means of survival,² North Korea, particularly under Kim Jong-un, has developed a *modus vivendi* whereby the lines between formal

JUSTIN V. HASTINGS is an Associate Professor in International Relations and Comparative Politics in the Department of Government and International Relations at the University of Sydney. He is the author of *A Most Enterprising Country: North Korea in the Global Economy* (2016). He can be reached at <justin.hastings@sydney.edu.au>.

¹ See, for example, Sheena Chestnut Greitens, *Illicit: North Korea's Evolving Operations to Earn Hard Currency* (Washington, D.C.: Committee for Human Rights in North Korea, 2014); and Paul Rexton Kan, Bruce E. Bechtol Jr., and Robert M. Collins, *Criminal Sovereignty: Understanding North Korea's Illicit International Activities* (Carlisle: Strategic Studies Institute, 2010).

² The Arduous March refers to the North Korean famine in 1994–98. For more on the famine, see Stephan Haggard and Marcus Noland, *Famine in North Korea: Markets, Aid, and Reform* (New York: Columbia University Press, 2007).

and informal status, state and nonstate trade, and licit and illicit economic activities are blurred.

Nearly every economic actor in North Korea is involved directly or indirectly in illicit trade, or more generally the illicit economy. Central state companies defy sanctions to export proscribed goods and import sanctioned items (which have long since ceased to be merely the technology that could be used in weapons programs). Other state companies with trading licenses go abroad (usually to China) to make money via whatever means they can. Private companies masquerade as state-owned companies by paying off state officials to buy and sell both legal and illegal goods, while state officials moonlight as entrepreneurs using their public positions. Private individuals use family members and other connections in China to move consumer goods and food across the border, often outside formal checkpoints or in violation of trade regulations.³

The North Korean economy as a whole functions as what has been called a “food chain,” where every level of society and the state must pay rents to their superiors for the right to operate, and Kim Jong-un and his circle serve as the apex predators collecting rents indirectly from everyone below them.⁴ Because all private enterprise in North Korea is technically illegal, the state benefits from a system in which officials can collect bribes and fees to allow private and hybrid businesses to operate but have the legal leeway to crack down on them at any time. The state does not really care where the income to pay rents up the food chain actually comes from. This leads to a situation where the state (and officials) can indirectly benefit from what are often large-scale, institutionalized illicit economic activities without being directly involved. Drug trafficking, for example, likely has not been directly run by the North Korean government (in the sense of using central state-owned factories for production and ships for trafficking) since the mid-2000s, but the state continues to benefit indirectly from drug-trafficking profits.⁵

Second, many North Koreans engage in illicit economic activities, particularly trade, as a way of mitigating state-imposed political and

³ Justin V. Hastings, *A Most Enterprising Country: North Korea in the Global Economy* (Ithaca: Cornell University Press, 2016), 7–14, 104–17.

⁴ Hyeon Jung Park, “Commercial Engagements of the Party-State Agencies and the Expansion of Market in the 1990s in North Korea,” *Journal of Korean Unification Studies* 20, no. 1 (2011): 214–15.

⁵ Justin V. Hastings, “The Economic Geography of North Korean Drug Trafficking Networks,” *Review of International Political Economy* 22, no. 1 (2015): 162–93; and Andrei Lankov and Seok-hyang Kim, “A New Face of North Korean Drug Use: Upsurge in Methamphetamine Abuse across the Northern Areas of North Korea,” *North Korean Review* 9, no. 1 (2013): 45–60.

economic risk and moving profits out of the country (such as through smuggling gold into China).⁶ Because North Korea has few financial institutions or dispute-resolution mechanisms that encourage commerce, and because market actors must cultivate relationships with government officials (through bribes, gifts, and a cut of profits) as a way of getting any business done, regardless of the ostensible legality, the benefits of engaging in licit trade are not obviously higher. For example, while the government under Kim Jong-un has largely avoided cracking down on North Korean markets, it has increased the rate of purges and the speed with which it cycles border officials, requiring businesses to build new networks to expedite legal trade. North Korea also can change regulations and impose controls or bans on imports and exports without notice, leading to the collapse of legitimate business deals. Engaging in illicit trade, which necessarily entails bypassing border regulations and officials, allows market actors to continue trading through disruptive personnel and policy changes.⁷

The Impact of Sanctions

Outside the country, North Korea has clearly altered some of its ways of doing business in response to sanctions. The illicit trade that is the bread and butter of central state companies—the production and servicing of conventional weapons and the development of nuclear and chemical weapons—is also the trade most affected by sanctions. UN resolutions have targeted not only trade in weapons, including weapons of mass destruction, but also state-owned ships and airplanes, as well as diplomatic outposts engaged in trade. While North Korea would likely prefer to use its state assets to negotiate deals and move goods around the world, sanctions have denied it the option to do so openly. Instead, as sanctions have tightened, the country has come to rely increasingly on third parties to engage in illicit trade and bust sanctions. North Korean ships and planes rarely transport goods anymore. Rather, North Korea has built a network of individuals and companies from other countries, particularly but not exclusively China, that move goods on its behalf.⁸

The result is that North Korean illicit trade looks a lot like licit trade outside North Korea. Except for obvious contraband such as drugs,

⁶ Interviews with Chinese businessmen, June 2016.

⁷ Justin V. Hastings and Yaohui Wang, “Informal Trade along the China–North Korea Border,” *Journal of East Asian Studies* 18, no. 2 (2018) ~ <https://doi.org/10.1017/jea.2018.4>.

⁸ Hastings, *A Most Enterprising Country*, 72–78.

counterfeit cigarettes, and the like, such trade is considered unlawful only because the supply chain starts or ends in North Korea (and thus the goods are sanctioned), not because the goods are illicit per se. What this means in practice is that much of the supply chain stretching to and from North Korea consists of legitimate companies engaging in what appears to be legitimate trade with legitimate items—by and large, the farther they are from the country, the more these illicit trade networks look like regular trade networks.

North Korea is forced to transport goods through regular commercial routes, using standard business methods and contracts, while masking its involvement through front companies that are not obviously North Korean. This represents a trade-off for North Korea. Exposing its businesses to third parties who may turn on them and letting its goods go through customs inspections in hostile countries raises the risk of interdiction if the North's involvement is discovered. At the same time, using mundane commercial methods means that, as long as the country's involvement is sufficiently masked, it is difficult for sanctions enforcers to detect such illicit trade.⁹

This is particularly true inasmuch as one of the responses of the North Korean state to sanctions has been to involve itself in transactions in which it is not implicated at all as a supplier or buyer. After decades of North Korean agents using front companies and other means of subterfuge to buy, sell, and transport illicit goods, Pyongyang has built a global network of contacts and a menu of methods to evade sanctions enforcement. In one arms-related shipment in 2010, for instance, front companies arranged for the transfer of components from the United States, Japan, Denmark, and other countries to Syria through Chinese transport firms in Dalian and Chinese brokerage companies. The goods never entered North Korea.¹⁰

Inside North Korea, sanctions really only have an economic effect to the extent that China enforces them. During the 2013 crisis, and again in 2017, China cracked down on North Korean trade so as to cause pain to be felt in Pyongyang and to signal Chinese disapproval to the Kim regime. This crackdown took a number of forms. In both periods, China slowed down its rate of processing shipments at border checkpoints for a period of time, ostensibly to check for sanctions violations. In practice, all trade was appreciably slowed, causing shortages and price increases in North Korea

⁹ Hastings, *A Most Enterprising Country*, 75–78.

¹⁰ UN Security Council, "Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009)," February 24, 2016, 32–33.

(imported food prices rose in 2013, for instance).¹¹ While China had long tolerated what it termed “good” smuggling—smuggling of items that were not weapons or drugs—beginning in the first quarter of 2017, it apparently warned smugglers on the border that there would be no distinction drawn between “good” and “bad” smuggling for a while. Chinese officials who aided and abetted smuggling across the border were transferred out, thus disrupting the networks that had supported illicit cross-border trade. The result was a temporary collapse of the North Korean markets that relied on trade with China.¹² At the same time, a crackdown on this illicit trade has costs for China, including not only heightened border security and increased inspections and personnel but also the lost profits by Chinese businesses in the northeastern provinces. Because it is doubtful that China will want to maintain a crackdown against North Korea indefinitely, we should not rely solely on China’s willingness to enforce sanctions to stop illicit trade.

Cracking Down on North Korea’s Illicit Economic Activity

Given how North Korea has (or has not) responded to sanctions with illicit trade, and how sanctions have (or have not) affected North Korea, how can the country’s illicit economic activities be stopped? As with everything related to North Korea, this question has a complicated answer.

First, it is not clear that all illicit trade should in fact be stopped. Illicit trade is a double-edged sword for the Kim regime and its political stability. Much of this illicit trade is a way to get around restrictions that benefit the regime and politically connected elites, and it functions as something of a lifeline for many ordinary North Koreans. We should not assume that all smuggling into and out of North Korea is part of a larger plan by Kim Jong-un and his cronies to bypass sanctions. Some of the smuggling across the border with China, for instance, is actually North Korean businesses importing food and prescription medications because the government has limited the supply of both within the country.¹³

The illicit trade that is not conducted directly by central state companies but rather by private individuals, hybrid firms, and moonlighting officials also provides a revenue stream for citizens that is not

¹¹ Justin V. Hastings, David Ubilava, and Yaohui Wang, “The Economic Effects of Sanctions: Evidence from North Korean Markets,” University of Sydney, Working Paper, 2017.

¹² Hastings and Wang, “Informal Trade along the China–North Korea Border”; and author interviews with Chinese businessmen, October 2017.

¹³ *Ibid.*

wholly dependent on the Kim regime's munificence. Even illicit exports of sanctioned items, such as minerals and seafood, do not necessarily benefit the central state directly, as it is not unheard of for lower-level officials to export goods illegally to make money for themselves.¹⁴ Some of this illicit trade arguably should be encouraged by outsiders, as it damages the levers of state control that rely on complete economic dependence and harms the legitimacy of the Kim regime.

Second, because much of the illicit trade across the China–North Korea border is a way of dealing with the dysfunctional Kim regime, as well as terrible trade infrastructure and regulations, encouraging the two countries to streamline trade, and encouraging North Korea to develop trade infrastructure and a functional regulatory environment (complete with dispute-resolution mechanisms, clear laws, and operational credit institutions), would help reduce the need for some types of illicit trade.¹⁵ Since many traders are capable of using their networks for licit as well as illicit goods, and even switch between the two depending on the risks and benefits, any policies that make trade in licit items more profitable and hassle-free are likely to encourage a move away from illicit trade.

Third, for the illicit trade that is of greatest concern to the international community—conventional and nonconventional weapons and dual-use components traded by central state companies—continued vigilance is necessary. But it is also important to rethink who and what really needs to be sanctioned. Although the days of state-owned ships moving missiles directly to the Middle East without being interdicted are probably over, given heightened surveillance of North Korean assets, front companies operating outside North Korea could still serve as brokers or use third-country go-betweens in their transactions. Gradually denying space for North Koreans to set up front companies, including in Southeast Asia, will likely make it difficult for state-owned companies to bust sanctions, but ultimately weapons buyers, all of whom are states seeking cheap or otherwise prohibited weapons, need to be discouraged from buying from or through North Korea.

It is unlikely that North Korea has an ideological commitment to selling weapons. As with drug trafficking in the past, whether it continues

¹⁴ Interviews with Chinese businessmen, June 2016 and October 2017.

¹⁵ Stephan Haggard, Jennifer Lee, and Marcus Noland, "Integration in the Absence of Institutions: China–North Korea Cross-Border Exchange," *Journal of Asian Economics* 23, no. 2 (2012): 130–45; and Stephan Haggard and Marcus Noland, "Networks, Trust, and Trade: The Microeconomics of China–North Korea Integration," Peterson Institute for International Economics, Working Paper, May 2012.

to sell weapons is a matter of costs and benefits. How state companies make money is to a certain extent irrelevant to them. Thus, incentivizing trade in less harmful goods, even if they are traded by central state companies that are closely tied to the Kim regime or to the Korean People's Army, while continuing to crack down on trade related to WMDs, might be one way forward. Even though banning trade in seafood, minerals, and textiles, for example, may cut off revenue to the regime that could theoretically be used for WMD and missile programs, it also cuts off revenue to the North Korean military that could be earned in lieu of revenue from selling weapons technology. If the diplomatic offensive that North Korea has pursued since January this year bears any fruit in terms of substantive progress toward denuclearization, following its commitment to denuclearization of the Korean Peninsula made at the summits with South Korea in April and the United States in June, the international community may want to consider revisiting sanctions. ◆

Sanctions Hurt but Are Not the Main Impediment to Humanitarian Operations in North Korea

Roberta Cohen

For more than two decades, humanitarian agencies have tried to address the chronic hunger and malnutrition of more than 40% of North Korea's 25 million people. Since the great famine of the 1990s, when humanitarian organizations were first invited into the Democratic People's Republic of Korea (DPRK), they have come up against a series of obstacles put in their way by the government, undermining the effectiveness of aid. Although the sanctions imposed in 2006 and strengthened in 2016 and 2017 unquestionably have added to the difficulty of delivering humanitarian aid, the main impediment remains the government of North Korea itself.

This essay will examine how the DPRK, while allowing humanitarian aid agencies access to its territory, has often restricted their operations and effectively prevented them from reaching many of the most in need, as well as how international sanctions have added to those difficulties. As a result, without a change in North Korea's policies and practices, the lifting of sanctions would not alter the fundamental problems faced by humanitarian actors in the country.

The Challenge of Bringing Aid to North Korea

In 2014 the report of the UN Commission of Inquiry on Human Rights in the DPRK concluded that "20 years after humanitarian agencies began their work in the DPRK, humanitarian workers still face unacceptable constraints impeding their access to populations in dire need." The report found that the DPRK has "imposed movement and contact restrictions on humanitarian actors that unduly impede their access"; "deliberately failed to provide aid organizations with access to reliable data, which, if provided, would have greatly enhanced the effectiveness of the humanitarian response and saved many lives"; and continually obstructed effective monitoring of

ROBERTA COHEN is Co-Chair Emeritus of the Committee for Human Rights in North Korea. Her career has spanned the United Nations, the U.S. State Department, think tanks, and NGOs. She can be reached at <roberta.cohenhr@gmail.com>.

humanitarian assistance,¹ presumably to hide the diversion of some of the aid to the military, elite, or other favored groups as well as to markets.

In response, aid agencies have devised special measures to try to ensure that food reaches those for whom it is intended, including by weighing children's arms, omitting rice from donations because corn gruel and other mixed foods are not favored by the military and elite, and supplying medicines "that can only be used for their intended purpose."² At times they have developed successful random monitoring systems.³ Despite notable progress, in 2017 UN secretary-general António Guterres continued to highlight the "significant constraints" imposed by North Korea on aid agencies' access to the beneficiaries.⁴

In 2016, then UN secretary-general Ban Ki-moon called on North Korea to grant UN agencies "unconditional access" to reliable and accurate data to ensure that aid programs "can effectively target and reach the most vulnerable."⁵ Yet when the World Food Programme's executive director visited North Korea in 2018, he noted that "access has still been very limited."⁶ The UN resident coordinator in Pyongyang aptly put it: "National authorities are reluctant to share data beyond the bare minimum and agencies are normally only allowed access to limited information that is strictly related to their operations."⁷

In this tightly controlled political climate, international humanitarian staff often have to make compromises. Some point out privately that it is unrealistic to try to uphold humanitarian standards in an environment as difficult as North Korea's. They try hard to come up with ways to make their aid sustainable for the North Korean people, but their plans are not always accepted. They may propose extensive medical treatment for some diseases only to have officials curtail the aid and increase the number of people being treated. Where the aid ends up is also not always clear. Supplies brought to one hospital may end up being sent elsewhere without explanation.

¹ UN Human Rights Council, "Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the DPRK," A/HRC/25/CRP.1, February 7, 2014, par. 636, 625, and 634.

² UN Office for the Coordination of Humanitarian Affairs, "2018 DPR Korea Needs and Priorities," March 2018, 15.

³ UN General Assembly, "Situation of Human Rights in the Democratic People's Republic of Korea: Report of the Secretary-General," A/72/279, August 3, 2017, par. 69.

⁴ *Ibid.*, par. 68.

⁵ UN General Assembly, "Situation of Human Rights in the Democratic People's Republic of Korea (2016)," A/71/439, October 7, 2016, par. 72.

⁶ Simon Denyer, "UN World Food Chief Hopes 'New Spirit' Will Benefit Children in North Korea," *Washington Post*, May 12, 2018.

⁷ UN Office for the Coordination of Humanitarian Affairs, "2018 DPR Korea Needs and Priorities," 12.

According to the UN Commission of Inquiry report, humanitarian staff expressed “strong doubts that the people and children presented to them were those most in need.”⁸ Gaining access is an ongoing issue. In 2016, during Typhoon Lionrock, for example, UN agencies were told they could visit only three of the flooded areas.⁹ And they were not offered entry—nor did they request it—to a flooded labor camp where the food situation was known to be dire.

A principal challenge to effective humanitarian operations in North Korea appears to be fear of expulsion, leading to compromise and self-censorship. During the typhoon, UN agencies apparently feared that asking for access to labor camps might rankle North Korean officials and thereby undermine humanitarian operations for other flood victims.¹⁰ Although it is well known that the most acute cases of hunger and disease in North Korea can be found in these camps, UN humanitarian agencies have to date not included the up to 120,000 men, women, and children prisoners in their listing of the most vulnerable.¹¹ The UN special rapporteur on human rights in the DPRK has publicly called on UN humanitarian agencies to seek to reach all vulnerable groups, including those suffering food and medical deprivations in detention facilities.¹²

Another obstacle is the difficulty in estimating humanitarian need. Although everyone who visits North Korea reports that extensive need exists, assessments often rely on North Korean government statistics rather than on independent evaluations. Since 2012, no nationwide UN nutrition and food security surveys have been conducted in the country. The UN Children’s Fund (UNICEF) and World Food Programme will release surveys in 2018, in cooperation with the government, but the independence and comprehensiveness of their coverage remain to be seen. The UN Country Team’s “2018 Needs and Priorities” report—which required government assent—found that 41% of the population, or 10.3 million people, suffers

⁸ UN Human Rights Council, “Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the DPRK,” par. 633.

⁹ UN Resident Coordinator for DPR Korea, “Joint Review Mission to Flood-Affected Areas in North Hamgyong, 18–23 November,” November 23, 2016, 4.

¹⁰ Roberta Cohen, “UN Humanitarian Actors and North Korea’s Prison Camps,” *International Journal of Korean Studies* 21, no. 1 (2017): 6–7.

¹¹ UN Office for the Coordination of Humanitarian Affairs, “2018 DPR Korea Needs and Priorities,” 3, 11.

¹² UN General Assembly, “Report of the Special Rapporteur on the Situation of Human Rights in the DPRK,” A/72/394, September 19, 2017, par. 19.

from chronic food insecurity and undernutrition,¹³ a decline from 70% of the population, or 18 million, in 2017, while the Office for the Coordination of Humanitarian Affairs estimated that about 60% of the population, some 15 million people, was food insecure in 2017.¹⁴ Underscoring the difficulty of estimating need, the credibility of reporting from North Korea is and always has been a challenge.

The Impact of Government Policies

The UN Security Council, in imposing sanctions, has regularly expressed “deep concern” about the “great unmet needs” of North Korean citizens while their government has diverted its revenues to weaponry,¹⁵ including more than \$1 billion to nuclear weapons development. Luxury items for the elite have also taken precedence over basic needs. In 2012 the DPRK was estimated to have spent \$300 million on luxury facilities and \$644 million on luxury goods.¹⁶

In consequence of North Korea’s policies, foreign governments have reduced and in some cases terminated their humanitarian aid programs. Overall funding for UN work began to decline in 2012 with Pyongyang’s acceleration of its nuclear program and by 2017 fell to 30% of the \$114 million requested.¹⁷ As a result, that year the United Nations was able to reach only two million with food aid out of the many millions who needed it. In 2018, the United Nations requested \$111 million to help satisfy food, healthcare, water, and sanitation needs for six million people,¹⁸ a small amount compared with North Korea’s expenditures on luxury items and weaponry.

¹³ The report also estimated that 27.9% of children under five are stunted, 31.2% of pregnant women are anemic, 13.7 million North Koreans have limited access to safe water, and 23% have no access to basic sanitation. UN Office for the Coordination of Humanitarian Affairs, “2018 DPR Korea Needs and Priorities,” 5; and “UN Designates N. Korea as One of 12 Forgotten Crises Countries Needing Help,” Yonhap, February 10, 2017.

¹⁴ UN Office for the Coordination of Humanitarian Affairs, “2018 DPR Korea Needs and Priorities,” 3, 17. The report states that the discrepancy does not reflect humanitarian improvement but rather a different calculation of the most vulnerable. See also “UN Designates N. Korea as One of 12 Forgotten Crises Countries Needing Help.”

¹⁵ See, for example, UN Security Council, “Resolution 2371,” August 5, 2017, par. 18 and 26.

¹⁶ Joshua Stanton, “UN Must Confront the Political Causes of North Korea’s Food Crisis,” *One Free Korea*, July 22, 2015. This essay notes that the figures on luxury items come from the UN Panel of Experts on sanctions. See also UN Human Rights Council, “Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the DPRK,” par. 663–64.

¹⁷ Jonathan Cheng, “UN Appeals for Aid to North Korea as Donations Drop,” *Wall Street Journal*, April 13, 2018.

¹⁸ Office of the UN Resident Coordinator in the DPRK, “Humanitarian Agencies Working in DPR Korea Urgently Require \$111m for Life-Saving Aid,” April 12, 2018.

Many humanitarian aid staff argue that donors should not let “political” considerations get in the way of providing humanitarian aid to North Korea as it would punish the people for the policies of their government.¹⁹ Others counter that the reason for the reductions is that aid is serving as a kind of balance-of-payments support for the government, enabling it to free up resources for military purposes.²⁰ North Korea, moreover, distributes food, healthcare, housing, and other services on the basis of its discriminatory *songbun* policy, which favors certain political classes.²¹ Humanitarian agencies try to reach those in need and address inequalities but have to deal with a state system that overlooks different groups and discriminates against certain parts of the country.

The Impact of Sanctions

Beyond all the above, international sanctions have quite clearly added to the difficulties that humanitarian agencies face in delivering aid to North Korea’s neediest. The UN Security Council first imposed sanctions in 2006 in response to North Korea’s nuclear program. The council did not intend for these to affect humanitarian operations, but as the sanctions became stronger and were reinforced by U.S. sanctions, by 2015 they began to interfere with the work of humanitarian agencies in the following ways.²²

Disrupted banking channels. In 2017 the UN High Commissioner for Human Rights warned that controls on international banking transfers as a result of the sanctions were causing a slowdown in UN ground operations, affecting the delivery of humanitarian aid.²³ Banks were required to ban financial transfers that could contribute to North Korea’s nuclear program. Fearing the impact of transferring money through North Korea’s Foreign Trade Bank, many banks, including in China, did not want to become

¹⁹ See, for example, Eric Talmadge, “UN: Sanctions Disrupt Humanitarian Aid to North Korea,” Associated Press, March 24, 2017.

²⁰ UN Human Rights Council, “Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the DPRK,” par. 651–52. See also Marcus Noland, “An Ethical Conundrum,” *Guardian*, September 10, 2014.

²¹ UN Human Rights Council, “Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the DPRK,” par. 271–99. See also UN General Assembly, “Report of the Special Rapporteur on the Situation of Human Rights in the DPRK,” par. 36.

²² UN Office for the Coordination of Humanitarian Affairs, “2018 DPR Korea Needs and Priorities,” 8; interview with Daniel Wertz, National Committee on North Korea, June 1, 2018; interviews with anonymous aid workers, 2018; and Daniel Wertz, “How to Use Sanctions as a Lever, Not Just a Hammer: A Proposal for Phased Sanctions Relief,” 38 *North*, June 8, 2018.

²³ Human Rights Watch, “Q&A: North Korea, Sanctions, and Human Rights,” May 30, 2018 <https://www.hrw.org/news/2018/05/30/qa-north-korea-sanctions-and-human-rights#Q10>.

involved, even though the transfers were for humanitarian purposes. The Russian bank Sputnik became the one UN-approved international banking channel for transfers with North Korea, although it has faced some problems as well: the funds intended for UN agencies have at times been frozen.²⁴

More cumbersome licensing requirements. To ensure that equipment for delivery is not on the sanctions list, aid agencies have had to request approval from the UN's 1718 Sanctions Committee (set up in 2006) and seek exemptions on a case-by-case basis. The wait can be lengthy. In the United States, NGOs must also apply for a license from the Treasury Department to export goods to North Korea, including stethoscopes, medical equipment for tuberculosis (TB) patients, and greenhouses (food and medicines are exempt). Licenses are required in the United States for any partnership that NGOs develop with the North Korean government to provide humanitarian services or to conduct joint monitoring. The licensing can take months. In South Korea, too, where licenses were introduced, NGOs have faced difficulties.

Delays in delivering aid and procuring supplies. Because suppliers and shipping companies are afraid of financial and reputational costs, they have been cautious in the transport of goods. At the border between China and North Korea, customs officials can hold up shipments for months to ensure that they contain no goods that violate sanctions. Implementing UN Security Council resolutions—in particular, Resolution 2397, which bans imports of metals, transportation vehicles, and electrical equipment—has lengthened delays. For example, customs officials deliberated for an extensive period over hygiene kits for TB clinics because they contained nail clippers. U.S. groups that take the lead on TB have reported adverse effects on patients by the “significant delays in getting drugs, building supplies and medical equipment” into the country.²⁵ Concerns have also been expressed over the problems that could arise during a natural disaster when a swift emergency response is required.

Travel restrictions. A U.S. travel ban imposed in September 2017 has limited the ability of American humanitarian workers to visit North Korea. The ban's purpose was to protect Americans following the imprisonment and death of American student Otto Warmbier. Aid workers, as a result, can only apply for trips “on a one-time basis,” if justified by “compelling humanitarian

²⁴ Chad O'Carroll, “UN Authorizes €4 Million Payment to North Korean Bank for Aid Operations,” NK News, February 23, 2018.


²⁵ Jeremy Youde, “North Korea Has a Big Tuberculosis Problem. It's About to Get Worse,” *Washington Post*, Monkey Cage, April 12, 2018.

considerations,” and can stay only a limited time.²⁶ The few American aid workers resident in North Korea have had to depart the country.

Conclusion

Despite the impact of sanctions, humanitarian aid has continued to reach North Korea, and issues like the banking problem have largely been resolved. Some NGOs, nonetheless, especially U.S. organizations with smaller operations, have had to postpone or reduce their programs, and at least one NGO had to close down. Several others have prioritized life-saving programs, such as the distribution of essential medicines, vaccines, food, and nutritional supplements.

UN agencies have also experienced sanctions restrictions and reduced donations resulting from North Korea’s policies, and they too have continued to vaccinate children, improve sanitation, provide food, and monitor aid, albeit in more limited scope. But the more substantial impact on humanitarian operations comes from DPRK policy, which controls the movements of these agencies, subjects them to surveillance, limits their access, keeps them in the dark about information, restricts their engagement, and does not contribute sufficiently to making the aid sustainable. Even if most sanctions were lifted on North Korea, and foreign governments were to resume substantial aid, the fundamental problems impeding humanitarian assistance would remain unless substantial reforms were undertaken by the North Korean government.

The United Nations and donor governments, especially the United States, have an opportunity right now, given the U.S.–North Korea summit and its expected follow-up, to insist that increases in aid be accompanied by adherence to international standards. If the international community is ready to expend the resources, provide the expertise, and bring in the supplies and equipment to help the North Korean people, the DPRK should be expected to take steps to fully cooperate, provide access to the most vulnerable, work to make aid sustainable, and invest more fully in the development of its own food security and healthcare. 

²⁶ See “Passport for Travel to North Korea,” U.S. Department of State, Bureau of Consular Affairs  <https://travel.state.gov/content/travel/en/passports/requirements/passport-for-travel-to-north-korea.html>.

Making Sanctions Smart Again: Why Maritime Sanctions Have Worked against North Korea

Robert Huish

Following a period of escalating tension between the United States and the Democratic People's Republic of Korea (DPRK), in which the Kim regime conducted a series of ballistic missile and nuclear tests and the Trump administration pursued a policy of maximum pressure, Donald Trump and Kim Jong-un met for a historic summit in Singapore on June 12. What changed to bring the two leaders together?

The main reason North Korea sat down at the bargaining table was not sports diplomacy at the Winter Olympics or Trump's Twitter barrages. It was that the country is out of resources as a result of the international maritime sanctions.¹ These sanctions have worked, and worked well, by targeting the environment on which the Kim regime depended to acquire belligerent materials. The 2017 maritime sanctions against North Korea, particularly U.S. Executive Order 13810 and UN Security Resolution 2397, worked for three reasons.² First, owing to its unique geography, North Korea was almost entirely dependent on illicit maritime trade for its weapons programs, which stands in contrast to long-held claims that most military hardware came overland from China.³ Second, some argue that North Korea's already hollowed-out, authoritarian economy created an "inner isolation" among most of the country's nearly 26 million inhabitants.⁴ Sanctions are often responsible for increased suffering; however, most North Koreans survive through limited self-sufficiency or black markets that are often unaffected

ROBERT HUISH is an Associate Professor of International Development Studies at Dalhousie University in Canada. He can be reached at <huish@dal.ca>.

¹ Robert Huish, "How to Sink the Hermit Kingdom: Improving Maritime Sanctions against North Korea," *Canadian Naval Review* 13, no. 2 (2017): 5–10; and Robert Huish, "The Failure of Maritime Sanctions Enforcement against North Korea," *Asia Policy*, no. 23 (2017): 131–52.

² "Presidential Executive Order on Imposing Additional Sanctions with Respect to North Korea," White House, September 21, 2017 ~ <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-imposing-additional-sanctions-respect-north-korea>; and "Security Council Tightens Sanctions on Democratic People's Republic of Korea, Unanimously Adopting Resolution 2397," UN Security Council, Press Release, December 22, 2017 ~ <https://www.un.org/press/en/2017/sc13141.doc.htm>.

³ Eleanor Albert, "The China–North Korea Relationship," Council on Foreign Relations, Backgrounder, March 28, 2018 ~ <https://www.cfr.org/backgrounder/china-north-korea-relationship>; and Gregory J. Moore, "How North Korea Threatens China's Interests: Understanding Chinese 'Duplicity' on the North Korean Nuclear Issue," *International Relations of the Asia-Pacific* 8, no. 1 (2008): 1–29.

⁴ Joseph M. Dethomas, "Early Returns Show North Korea Sanctions Hold Promise," *Hill*, March 7, 2018.

by formal sanctions or the country's international economic environment. Third, sanctions that targeted foreign companies, in particular maritime insurance companies that may have provided protection and indemnity (P&I) insurance to North Korean vessels, provoked a swift reaction by the insurers to absolve themselves from dealings with North Korea.

The important message of the sanctions imposed in 2017 is that this focus on pressuring the maritime industry led to a noticeable behavioral change in North Korea. The remainder of this essay examines what lessons about the efficacy of smart sanctions can be drawn from the case of maritime sanctions against North Korea. The next section will describe the 2017 sanctions from a maritime standpoint and analyze why they worked. The essay concludes by considering the potential to effectively apply similar sanctions to other targets.

Have You Been to Sea?

To understand why maritime sanctions worked so well against North Korea, two issues must be discussed. First, what are effective sanctions? And second, what role does China play in enabling North Korea to outsmart sanctions? For years, the international community made two major errors in dealing with North Korea. Many experts believed, first, that any sort of sanction would be a good measure against the Kim dynasty and, second, that China is the sole provider of resources, including military resources, to North Korea. Both of these claims are problematic.

Sanctions aim to encourage a behavioral change of a target nation or its leadership. Traditional, or “dumb,” sanctions either prohibit the target from any financial dealings with the issuer's market or seize the target's assets in the issuer's territory. Such ham-fisted sanctions often do more to further the suffering of the population than apply pressure on the leadership. In the 1990s, then secretary-general of the United Nations Kofi Annan encouraged the use of “smart” sanctions in order to overcome such blunders. Speaking in hindsight of the tragedies in Iraq, the Balkans, and East Africa, Annan argued that economic policy could be crafted so that despotic leaders are pushed toward behavioral change given that their own personal assets were at risk.⁵ In the 1990s this logic made sense because many dictators had offshore assets that could be directly targeted. Even so, many tyrants, including members of the Kim dynasty, managed to acquire

⁵ Joy Gordon, “Smart Sanctions Revisited,” *Ethics and International Affairs* 25, no. 3 (2011): 315–35.

luxury goods and odious resources through shady networks involving fake currency production, narcotics trafficking, weapons smuggling, and insurance scams. Moreover, sanctions did not deter the Kims from pursuing nuclear tests or overseeing brutal human rights violations.

One of the faultiest assumptions about North Korea in the international relations literature was that North Korea and China enjoyed a comfortable, mutually beneficial relationship. In the early 2000s, trade did quite well between the two countries, even to the point of North Korea establishing a casino in Pyongyang for Chinese tourists, sending thousands of temporary contract workers to China, and overseeing the construction of the Chilbosan Hotel in Shenyang.⁶ The hotel closed in January 2018 as a result of a UN blacklist that named the Chinese shareholders of Liaoning Hongxiang Group connected to the hotel. Yet long before this happened, relations between China and North Korea had grown cold. Several reports emerged between 2012 and 2014 of the North Korean military organizing smuggling and pillaging runs into Chinese border towns, with some claiming that North Korea even used cell-phone-blocking technology to prevent a swift response from the Chinese authorities.⁷

For China, the Kim regime's belligerence was problematic. Missile launches and nuclear tests gave license for more U.S., South Korean, and Japanese surveillance and a greater maritime presence in Northeast Asia. Simply put, a hostile North Korea is not in China's interest. Thus, the idea that China would actively supply North Korea with missile hardware or nuclear devices across its land border is naive at best. But neither is an economically failing regime in China's interest. In late 2017, China turned sod in preparation for refugee camps along the 880-mile border with North Korea in the event that the regime collapsed.⁸

How, then, was North Korea getting access to military resources? North Korea is economically isolated, and the Kim regime has little capacity to produce weapons materials domestically, as satellite images show that the country is almost entirely blacked out at night from a lack of power and infrastructure. The answer lies at sea, especially in the two main ports

⁶ Lee Kil-seong, "North Korean Hotel in China Forced to Close," *Chosun Ilbo*, January 10, 2018 ~ http://english.chosun.com/site/data/html_dir/2018/01/10/20180110011157.html.

⁷ Elizabeth Shim, "North Korea Blocks Mobile Phone Signals along China Border," United Press International, September 22, 2015 ~ https://www.upi.com/Top_News/World-News/2015/09/22/North-Korea-blocks-mobile-phone-signals-along-China-border/5011442942128.

⁸ Tom Phillips, "China Building Network of Refugee Camps along Border with North Korea," *Guardian*, December 12, 2017 ~ <https://www.theguardian.com/world/2017/dec/12/china-refugee-camps-border-north-korea>.

of Sinpo and Nampo. For years North Korea relied on shipping traffic, using either its own nationally flagged ships or ships flying under flags of convenience, to acquire resources. A famous case took place in 2014 when a North Korean ship, the *Chong Chon Gang*, a vessel with a long track record of smuggling, was intercepted leaving the Panama Canal.⁹ When authorities boarded the vessel, they discovered a missile shaft buried in the hull below crates of Cuban sugar. Another vessel was seized by Australian authorities for smuggling in heroin in 2003.¹⁰ If North Korea succeeded at gaining access to markets and resources, albeit shady ones, through the seas, how could sanctions be more effective?

Between May 2016 and January 2018, I collected data to explore this question by scanning maritime traffic entering North Korean waters.¹¹ Relying on automatic identification software, a tool used in the maritime industry to monitor and identify ships over a certain length and weight, I tracked the vessels entering North Korean waters and gathered information on their previous destinations, flags, owners, managers, and insurance providers. Other North Korea watchers and various government agencies also used this method to build a sense of what was going in and out of North Korea.

Maritime traffic into North Korea revealed three important findings. First, most ships entering North Korea either were DPRK-flagged or were North Korean vessels sailing under flags of convenience that were often managed by shell companies based in Hong Kong, Singapore, or various offshore tax havens. Second, vessels entering North Korean waters would often practice deceptive tactics, such as blacking out their transmitters, setting fake destination ports, or falsifying previous destinations. Third, almost all North Korean vessels claimed to have P&I certificates from legitimate insurance companies, many operating in Europe. The first two factors are common tactics that smugglers use in the maritime industry; as a result, there is extensive expertise on how to avoid authorities. However, the use of legitimate insurance companies to certify vessels opens an important pressure point against the Kim regime.

⁹ “N. Korean Ship Seized with Cuban Weapons ‘Free to Leave’ Panama,” BBC, February 9, 2014 ~ <https://www.bbc.com/news/world-latin-america-26103467>.

¹⁰ “N Korean Heroin Ship Sunk by Jet,” BBC, March 23, 2006 ~ <http://news.bbc.co.uk/2/hi/asia-pacific/4837484.stm>.

¹¹ For more information on the research discussed in this section, see Huish, “How to Sink the Hermit Kingdom”; and Huish, “The Failure of Maritime Sanctions Enforcement against North Korea.”

Every vessel over a certain weight and length needs P&I insurance to protect against open-ended risk and catastrophic loss, and it is required by most harbors in order to load and offload materials. It is issued through what are essentially not-for-profit clubs where all members (that is, the owners and managers of vessels) contribute annual “calls,” which are large financial buy-ins each year into a community pot. If a member experiences loss, it draws from the pot, and the following year its call is often inflated if it is welcomed back. The pots can reach sums in the hundreds of millions. Because such large sums of money are at stake, most P&I clubs are located near financial hubs in Europe or Asia.

If a particular vessel management company is operating without P&I insurance, it will be blocked from entering most international ports. Likewise, because P&I clubs have communal assets, if a member violates sanctions or various laws, its assets in the P&I club could be subject to seizure, which would be incredibly complicated as the funds are held collectively. This would only occur if sanctions specifically targeted the insurance provision of vessels, which is exactly what U.S. Executive Order 13810 and UN Security Resolution 2397 do. As a result, P&I insurance companies took drastic steps in 2017 and 2018 to ensure that their clubs were not insuring North Korean vessels, even those under flags of convenience. Previously, sanctions had blacklisted particular vessels from doing business in the issuers’ territory, but the role of P&I clubs remained ambiguous. The 2017 sanctions specifically included clauses against insurers of North Korean vessels, which forced the industry to acknowledge its role and respond. Legitimate P&I firms in the United Kingdom, Norway, and the Netherlands did due diligence to ensure that they had no connections to North Korean vessels, even to the point of contacting the automatic identification software databases to verify that their records were up to date. However, many P&I insurer websites continue to post information for claimant contacts in Pyongyang, suggesting that the relationship has not entirely been severed. Local agents would be responsible for channeling funds in the event of a claim, and this raises questions about whether financial linkages persist between North Korea and some of the P&I clubs.

Targeted sanctions against insurance providers were incredibly effective. Because the sanctions denied P&I certificates to North Korean vessels, the DPRK’s commercial fleet was prohibited from almost every port in the world. The European Union employed a similar strategy against Iranian tankers in 2005, when sanctions prohibited European insurers from covering those vessels. These sanctions stopped Iranian energy exports to

Europe within hours. When the 2017 sanctions took effect, North Korea lost almost all of its capacity for international trade, aside from some small-vessel traffic into Chinese waters. The Kim regime complained that the sanctions were overbearing, and shortly thereafter talks began about a joint Team Korea delegation for the 2018 Winter Olympics.

Even with stronger sanctions against North Korea's trading environment, the regime continued attempts to evade the pressure. In one case, it managed to actually export coal to South Korea by using a midway dumping station in Russia.¹² But this was largely an exception to the increasing isolation of the Kim regime. In early 2018, U.S., French, and Canadian military surveillance revealed that to avoid scrutiny at foreign ports, North Korean vessels were loading and offloading goods through high-risk sea-to-sea transfers.¹³ This kind of operation is dangerous, as the weather conditions must be nearly calm and crane operators must be highly skilled, while the volume of cargo that can be offloaded is minimal. Whereas a vessel in dock can offload thousands of tons of goods, at sea it can only transfer hundreds of tons. Thus, while this tactic may supply some material to the regime, it is hardly sufficient to match the quantities that were previously imported.

Second Time Lucky?

Could the maritime sanctions placed on North Korea be applied to other targets? Invoking smart sanctions is tough. Despotism leaders have extensive financial networks to avoid any direct pain from sanctions, while poor and marginalized populations often suffer greatly when food and medicine imports dry up. North Korea is one of the most unique geopolitical quagmires in the world. Completely isolated on its southern border, the country was also partially ostracized on its northern border with China, leaving it dependent on maritime trade and illicit trafficking by sea and a handful of functioning DPRK ports. In addition, some argue that the authoritarian economy left many North Koreans disconnected from any imports from the outside world, meaning that tighter sanctions did not significantly worsen their already miserable state of poverty and suffering.

¹² Guy Faulconbridge, Jonathan Saul, and Polina Nikolskaya, "Exclusive: Despite Sanctions, North Korea Exported Coal to South, Japan via Russia—Intelligence Sources," Reuters, January 25, 2018 <http://www.reuters.com/article/us-northkorea-missiles-coal-russia/exclusive-despite-sanctions-north-korea-to-south-japan-via-russia-intelligence-sources-idUSKBN1FE35N>.

¹³ "Photos: North Korean Ship-to-Ship Fuel Transfer," *Maritime Executive*, February 27, 2018 <https://www.maritime-executive.com/article/photos-north-korean-ship-to-ship-fuel-transfer#gs.MSLN4oA>.

The 2017 sanctions have thus far showed potency against North Korea, with maritime sanctions choking Kim's financial networks to the point that he was forced to change his tune from bellicose isolation to engaged diplomacy. From this experience, there is a lesson for designing effective sanctions that apply pressure to the target's environment rather than the target directly. How such sanctions are designed and executed matters a great deal, although, depending on the size of the target and the regional geography, they may be difficult to enforce.

To say that maritime sanctions that target P&I clubs are the definitive solution for smart sanctions is too broad. Because of North Korea's unique dependence on maritime trade, they proved effective, but a landlocked country, or a country with open land borders or a sizeable navy, would easily be able to skirt such sanctions. Moreover, blanket pressure on P&I clubs may cause serious disruption to international maritime trade. Indeed, there are already questions about the legitimacy of some P&I clubs and how money is stored, invested, and transferred. However, given that all major vessels rely on this form of unlimited liability protection, overbearing pressure could result in less transparency, underhanded practices, or complete chaos within the industry. Furthermore, considering that the maritime industry is laden with deceptive practices—from falsifying registries and flying flags of convenience to deceptive navigation practices—the P&I insurance clubs serve as a universal medium to ensure accountability. As such, governments should be wary of direct interference with the clubs or needless scrutiny. The case of North Korea demonstrates their tremendous capacity to self-regulate against sanctioned regimes.

Sanctions outsmarted Kim Jong-un. They also gave President Trump a unique opportunity to directly engage with Kim to attempt to change the regime's behavior. Whether the U.S. president will be able to take advantage of this opportunity is yet to be seen. Can sanctions be effective against other hostile targets? Indeed they can, as long as careful attention is paid to the economic and social geography in which the target operates. There may be better opportunities within maritime sanctions to scrutinize arms and drug trafficking through P&I insurance than to actually change the behavior of undesirable heads of state. But in this case at least, sanctions led to a strong victory through clever policy. ♦