



SPECIAL REPORT

Understanding U.S. and International Sanctions on
North Korea

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Introduction

Economic sanctions are a central component of U.S. and international efforts to address North Korea's weapons of mass destruction programs and influence nearly every aspect of how North Korea engages with the world. However, the details of the North Korea sanctions regime are complex and often poorly-understand, and global implementation of these sanctions has been uneven. The policy efficacy of these sanctions, and their humanitarian impact on the health and livelihoods of ordinary North Koreans, have also been topics of fierce debate.

This Special Report intends to provide a comprehensive look at the sanctions regime targeted against North Korea and its implications, covering both how it functions on paper and how it has operated in practice. After reviewing the history and evolution of the U.S. and international sanctions regimes targeting North Korea, it will examine the current scope and framework of these sanctions, and look at the ways in which they are enforced or evaded. The report will also survey the debates surrounding the efficacy of sanctions against North Korea as a policy tool and assess the ways sanctions have affected North Korea's economy and the lives of the North Korean people. Finally, the report will look at how North Korea's self-imposed national quarantine to guard against Covid-19 has raised new questions about the country's ability to withstand foreign economic pressure.

The Evolution of U.S. and UN Sanctions on North Korea

The history of international sanctions targeting North Korea is marked by three general phases. The first phase overlapped with the Cold War, as the U.S. (and some allied countries such as South Korea) imposed unilateral trade embargoes against North Korea; these sanctions were gradually relaxed beginning in the late 1980s. The second phase started after North Korea began its nuclear breakout in the 2000s, as the U.S. and the UN Security Council responded with targeted sanctions measures aimed at stopping its proliferation activities and cutting off its illicit sources of revenue. The sanctions regime moved into its third (and current) phase as Pyongyang raced toward "completion" of a more sophisticated arsenal of nuclear weapons and long-range ballistic missiles in 2016-2017. Amidst a series of nuclear and long-range missile tests by North Korea, the UN Security Council adopted a near-comprehensive set of measures targeting the country's foreign trade and financial activities, while the U.S. began implementing secondary sanctions targeted at Pyongyang's foreign enablers.

UNILATERAL TRADE EMBARGOES, 1950-2000

Soon after the outbreak of the Korean War in 1950, the U.S. imposed an embargo on exports to North Korea, followed shortly by bans on financial transactions and travel as well as a freeze on North Korean assets under U.S. jurisdiction. This embargo, imposed under the Trading with the Enemy Act, remained in place until restrictions on travel and exports of food and medicine were slightly eased in 1988.¹

However, during this period not all capitalist countries barred trade with North Korea. Japan became a major trading partner for North Korea beginning in the 1960s, due in large part to Pyongyang's ties to Chongryon, the pro-DPRK association of ethnic Koreans in Japan.² In the 1970s, North Korea also expanded economic ties with Western Europe in order to acquire advanced technology and industrial equipment; this initiative proved short-lived, however, as Pyongyang missed many foreign debt payments and eventually went into default.³

During the 1993-94 crisis over North Korea's burgeoning nuclear program, the U.S. threatened to introduce sanctions resolutions at the UN Security Council.⁴ However, the crisis was instead resolved (for a time) through the 1994 Agreed Framework between the U.S. and North Korea, which charted a path for Pyongyang to roll back its nuclear program and for the two countries to normalize economic and diplomatic relations.

The U.S. subsequently loosened some restrictions on trade, travel, and communications with North Korea in 1995 and further relaxed trade restrictions in 2000, although sanctions related to nonproliferation and to North Korea's designation as a state sponsor of terrorism remained in place.⁵ However, the U.S. and North Korea did not establish normal trade relations during this period, and bilateral trade between the two countries remained minimal despite the easing of sanctions.⁶

TARGETED SANCTIONS, 2005-2015

Following the 2002 collapse of the Agreed Framework and a renewed crisis over North Korea's nuclear program, Washington did not immediately re-impose the sanctions it had recently lifted. Instead, the U.S. formed an "illicit activities initiative" designed to apply economic pressure on North Korea by cutting off its income from activities such as drug smuggling and currency counterfeiting – activities that the U.S. government believed provided a major portion of the country's foreign revenue.⁷

The most prominent result of this initiative was the 2005 designation of Banco Delta Asia, a Macau-based bank, as a primary money laundering concern due to its alleged facilitation of such illicit North Korean activities. In response to the designation, the Macau Money Authority

froze approximately \$25 million in North Korean funds at the bank, and other global financial institutions began shutting down North Korean accounts for fear of suffering a similar penalty. The designation displayed the power of U.S. financial sanctions in a globalized economy and became a point of dispute in the ongoing Six Party Talks on North Korea's nuclear program.

After North Korea conducted its first nuclear test in 2006, the UN Security Council responded by adopting UN Security Council Resolution (UNSCR) 1718, which applied targeted sanctions against Pyongyang. The resolution imposed restrictions on trade with North Korea related to military goods and dual-use items with WMD applicability, and established protocols for the inspection of suspect North Korean shipping. The resolution also prohibited the export of "luxury goods" to Pyongyang, a measure intended to raise discontent among the country's elite.

In 2007, in conjunction with denuclearization talks with Pyongyang, the U.S. facilitated the return of frozen funds from Banco Delta Asia to North Korea, while simultaneously taking action to keep the bank cut off from the U.S. financial system. The next year, the U.S. also removed North Korea's designation as a State Sponsor of Terrorism and formally ended the imposition of sanctions under the Trading with the Enemy Act.⁸

After the collapse of the Six Party Talks in 2009, the incoming Obama administration did not move immediately to re-impose the recently lifted sanctions. Instead, it continued efforts to discourage international financial institutions from doing business with North Korea because of its illicit activities and lack of financial transparency, and gradually ramped up pressure on Pyongyang's international money laundering and proliferation finance activities. In response to North Korea's 2013 nuclear test, for example, the U.S. unilaterally sanctioned the DPRK's Foreign Trade Bank, the country's key institution for foreign exchange; the move was intended to impede North Korea from conducting international dollar-based transactions, as well as to warn foreign financial institutions away from doing business with North Korea.⁹

Similarly, the resolutions adopted by the UN Security Council in the wake of North Korea's 2009 and 2013 nuclear tests operated within the targeted sanctions framework established by UNSCR 1718. These subsequent resolutions expanded the scope of sanctions on arms and WMD-related activities and put greater restrictions on Pyongyang's financial institutions, while generally refraining from extending sanctions to sectors of the North Korean economy not directly connected to its WMD programs.

COMPREHENSIVE SANCTIONS, 2016-PRESENT

The targeted sanctions regimes imposed by the U.S. and the UN Security Council impeded some of North Korea's foreign arms sales and complicated the country's access to the

international financial system. However, they did not stifle a period of modest economic growth in North Korea, driven both by greater tolerance for market activities within the DPRK and by deepening economic engagement with China. These growing cross-border ties, in turn, facilitated more sophisticated North Korean efforts to evade financial sanctions and procure key items for its nuclear and ballistic missile programs.¹⁰

UNSCR 2270, adopted in the wake of North Korea's fourth nuclear test in March 2016, marked a turning point toward a more comprehensive UN sanctions regime by banning North Korean exports of coal and other minerals – commodities that accounted for nearly half of the country's reported exports. A vaguely worded "livelihoods" exemption took the immediate impact out of this ban: Chinese imports of North Korean coal actually increased in 2016.¹¹ However, the precedent set by this resolution proved important. As the UN adopted a series of additional resolutions in the wake of further North Korean nuclear and long-range missile tests over the course of 2016 and 2017, the scope of prohibitions on North Korean trade and other hard currency-generating activities grew dramatically.

North Korea's fourth nuclear test also proved to be a turning point in U.S. sanctions policy. With the passage of the North Korea Sanctions and Policy Enhancement Act (NKSPEA) in 2016, as well as the enactment of a subsequent executive order, the scope of the U.S. sanctions regime expanded to target a much broader range of North Korean activities. The new sanctions authorities also included a new focus on secondary sanctions targeting foreign enablers of North Korean proliferation activities. Subsequent legislation, executive orders, and Treasury Department regulations further broadened the scope of the U.S. sanctions regime.¹²

Additionally, the pace of U.S. sanctions designations, both of North Korean entities and third-country entities or nationals accused of violating the sanctions regime, increased dramatically in 2016, and continued at a steady pace through the next two years. However, the tempo of new U.S. sanctions designations against North Korean targets slowed significantly after the failed February 2019 Hanoi summit meeting between Donald Trump and Kim Jong Un, and Trump's tweet the next month ordering the cancellation of new sanctions designations.¹³

The Scope of Current UN Sanctions on North Korea

The UN Security Council Resolutions on North Korea's nuclear program have imposed a series of increasingly punitive sanctions measures in accordance with Chapter VII of the UN Charter.¹⁴ These resolutions demand that North Korea "immediately abandon all nuclear weapons and existing nuclear programs... [and] any other existing weapons of mass destruction and ballistic missile programs in a complete, verifiable and irreversible manner." They also express support for a "peaceful, diplomatic, and political solution to the situation" and provide that the Security

Council may “strengthen, modify, suspend or lift the measures as may be needed in light of the DPRK’s compliance” with the resolutions.¹⁵

The resolutions established a Security Council Committee (the “1718 Committee”) to oversee implementation of the sanctions, as well as an independent Panel of Experts to investigate potential violations. The 1718 Committee has the authority to designate individuals and entities subject to punitive measures as well as to approve exemptions to sanctions and to issue guidelines for their implementation. However, both the 1718 Committee and (to a lesser extent) the Panel of Experts have been subject to political pressures reflecting the divisions among the Member States of the UN Security Council, hampering the overall effectiveness of the sanctions regime.¹⁶

Furthermore, individual UN Member States are largely responsible for the interpretation and implementation of UN sanctions resolutions, and these states vary considerably in terms of their political will to enforce sanctions against North Korea, their awareness of sanctions requirements, and their technical capacity to implement them.¹⁷ These factors have led to the uneven enforcement of UN sanctions at a global level.

TRADE RESTRICTIONS

In an effort to cut off the North Korean government’s access to hard currency, the UN sanctions adopted in 2017 prohibit Member States from importing virtually any of North Korea’s major merchandise exports (coal, textiles, and seafood) and most of its minor ones. North Korea’s foreign trade partners reported only \$254 million in merchandise imports from the DPRK in 2018, compared to over \$3 billion in such imports two years earlier.¹⁸

Goods prohibited for *import from* North Korea

- | | | | |
|----------------------|-----------------------|-----------------------|--------------------|
| • Coal ¹⁹ | • Zinc | • Statues | • Electrical |
| • Textiles | • Gold | • Arms and related | equipment |
| • Seafood | • Silver | materiel | • Earth & stone, |
| • Iron & iron ore | • Titanium Ore | • Food & agricultural | including magnesia |
| • Lead & lead ore | • Rare earth minerals | products | and magnesite |
| • Copper | • Vanadium ore | • Machinery | • Wood |
| • Nickel | | | • Vessels |

UN restrictions on what Member States may export to North Korea are less comprehensive, but still substantial, primarily targeting the country's energy imports and goods necessary for military and industrial development.²⁰ UNSCR 2397 prohibits the export of metals, machinery, and transportation vehicles to North Korea, a broad swath of goods that includes everything from steel to cell phones. Reported North Korean imports of goods from these categories totaled \$1.15 billion in 2016, or roughly 30% of total imports by value. Additionally, the UN Security Council has banned exports of luxury goods to North Korea since 2006. UNSCR 1718, which introduced this ban, did not define the term "luxury goods," but subsequent resolutions enumerate several examples of luxury goods including jewelry, yachts, and recreational sporting equipment.²¹

Goods prohibited for *export to* North Korea

- | | |
|--|----------------------------------|
| • Refined petroleum (beyond 500,000 barrels/year) | • Industrial machinery |
| • Crude oil (beyond 4,000,000 barrels/year) | • Transportation vehicles |
| • Aviation fuel (except for round-trip flights to North Korea) | • Metals |
| • Rocket fuel | • Arms and related materiel |
| • Condensates and natural gas liquids | • WMD-related and dual-use goods |
| | • Luxury Goods |

The sanctions targeting North Korea's energy sector, if fully implemented, would cut the country's energy imports to roughly half of their pre-sanctions level.²² UNSCR 2397 caps North Korea's annual imports of crude oil at 4 million barrels or 525,000 tons per year – the same amount that analysts estimate China sends to North Korea annually via pipeline.²³ The resolution also mandates that Member States may not collectively export more than 500,000 barrels of refined petroleum to North Korea annually, a cap that would reduce these imports to roughly one-ninth of their level in 2016.²⁴ In order to prevent North Korea from importing substitutes to refined fuel, UNSCR 2375 bans the export of natural gas liquids or condensates to North Korea.²⁵ Additionally, UNSCR 2270 bans the export of aviation fuel to North Korea, other than for the provision of North Korean civilian passenger aircraft with enough fuel to make a round-trip flight from foreign territory to the DPRK and back.

Finally, UN sanctions prohibit both North Korean imports and exports of arms, WMD-related or dual-use items, related materiel, and related services. The Security Council has published multiple lists enumerating such prohibited goods, while UNSCR 2270 also incorporates a catch-

all provision enjoining Member States to prohibit trade in any items they determine could contribute to North Korea's WMD programs, sanctions evasion, or other prohibited activities.²⁶

DESIGNATIONS

Designations of individuals and entities that support North Korea's proliferation activities or that facilitate sanctions evasion are at the core of the "targeted" component of the UN sanctions regime. A UN designation comes with several penalties, both for the person designated and for those affiliated with them.²⁷

Member States are required to freeze the assets of designated persons, as well as the assets of any person owned or controlled by them or acting on their behalf; to prohibit designated entities from operating in their territories; and to ensure that their nationals do not provide designated persons with any financial assets or economic resources. Additionally, Member States must deny entry to (or expel from their territory) any designated persons, their families, and those working on their behalf.

FINANCIAL RESTRICTIONS

UN sanctions essentially bar North Korean financial institutions from conducting international transactions. UN Member States are required to prohibit North Korean banks from maintaining correspondent accounts with financial institutions under their jurisdiction, and North Korean financial institutions are barred from operating branches, subsidiaries, or representative offices overseas. Member States are further obliged to bar representatives of North Korean financial institutions (including DPRK government officials and diplomats operating on these institutions' behalf) from their territory.²⁸ Similarly, UN Member States are required to prohibit financial institutions subject to their jurisdiction from maintaining representative offices, subsidiaries, or banking accounts in North Korea.²⁹ Additionally, eleven North Korean financial institutions (as well as a handful of related front companies and a few dozen of these banks' representatives) are subject to individual UN designations, making it incumbent upon Member States to freeze any of these institutions' assets that come under their jurisdiction.

The resolutions also contain a broad provision requiring Member States to prohibit the transfer of any resources that could contribute to North Korea's WMD program or sanctions evasion activities and to apply "enhanced monitoring" to prevent such transactions. The resolutions identify the use of bulk cash couriers as a means by which North Korea evades sanctions, and while they do not outright prohibit the transfer of bulk cash to or from North Korea, they require Member States to prevent such transfers when they could contribute to prohibited North Korean activities.³⁰

Additionally, the resolutions require Member States to prohibit public or private financial support (such as granting export credits or insurance guarantees) to persons subject to their jurisdiction for trade with North Korea.³¹

The UN resolutions make no direct reference to North Korea's use of cryptocurrencies to generate revenue, launder funds, or conduct international transactions.

INSPECTION MEASURES AND RESTRICTIONS ON SHIPPING

The UN sanctions regime contains several measures designed to combat North Korean sanctions evasion and illicit shipping. UN Member States are required to inspect cargo (including personal luggage) transiting through their territory to or from North Korea, as well as any other cargo linked to North Korea or its nationals, and to seize and dispose of any prohibited items found in their territory.³² Member States must also deny permission to aircraft to take off from, land in, or overfly their territory if they have reasonable grounds to believe that the aircraft contains prohibited goods.³³ The provisions focused on North Korean maritime sanctions evasion are more extensive, imposing interlocking mechanisms that make it more difficult for North Korean ships to obscure their ownership and that enable the interdiction of suspect vessels.

The UN sanctions require that ships owned, operated, or controlled by North Korea fly only under the North Korean flag and be crewed only by North Korean nationals. Conversely, ships with third-country owners are prohibited from registering their vessels under the North Korean flag or from using North Korean crews on these vessels. UN Member States are required to de-register any vessels linked to North Korea, thereby denying these vessels the use of foreign flags of convenience and the relative anonymity that comes with them.³⁴ To prevent "flag hopping," Member States are further prohibited from registering any vessels that have previously been de-registered by a different Member State due to that vessel's links to North Korea.³⁵

Several restrictions specifically apply to vessels flagged or otherwise controlled by North Korea. Member States are required to prohibit persons subject to their jurisdiction (including vessels flying their flag) from engaging in ship-to-ship transfers with DPRK-flagged vessels. Member States must also prohibit the provision of insurance, reinsurance, or classification services to vessels owned, controlled, or operated by North Korea, thus making it harder for North Korean vessels to conduct business or enter foreign ports.³⁶

Additional restrictions apply to vessels designated by the 1718 Committee or that are otherwise suspected of links to designated entities or to sanctions evasion activities. According to the circumstances, UN-designated vessels may be de-flagged; prohibited from visiting foreign ports; directed to a designated port for inspection; and/or impounded.³⁷ Member States are

further directed to seize, inspect, and impound any vessel (regardless of UN designation status) in their ports or territorial waters if that Member State has reasonable grounds to believe the vessel was involved in sanctions evasion activities.³⁸ Member States are required to de-register such suspect vessels, and to prohibit the provision of insurance or classification services to them.

Furthermore, the resolutions create a mechanism for the interdiction of suspect vessels on the high seas, calling on Member States to inspect them with the consent of the vessel's flag state and requiring flag states to either cooperate with an inspection on the high seas or to direct the vessel to an appropriate port for inspection.³⁹ However, the resolutions do not permit the use of force to conduct such an inspection; if either the flag state or the ship's crew refuse to consent to one, then the matter is simply referred to the 1718 Committee, which may consider the imposition of a sanctions designation against the vessel.

PROHIBITION OF NORTH KOREAN OVERSEAS WORKERS

In 2017, the U.S. government estimated that there were nearly 100,000 North Korean workers overseas, earning over \$500 million each year for the regime.⁴⁰ Successive UN resolutions adopted that year prohibited Member States from granting new work authorizations to DPRK nationals and instructed them to repatriate all "all DPRK nationals earning income" in their jurisdiction as well as "all DPRK government safety oversight attachés monitoring DPRK workers abroad" by December 2019.⁴¹

RESTRICTIONS ON INVESTMENT

UNSCR 2375 requires that Member States prohibit persons under their jurisdiction from opening, maintaining, or operating joint ventures or cooperative entities with North Korean partners.⁴² The prohibition applies to joint ventures both in North Korea and abroad. (Most of the past foreign investment in North Korea has taken the form of joint ventures, although North Korean law does permit the establishment of wholly foreign-owned enterprises within some of the country's special economic zones.)⁴³

RESTRICTIONS ON SPECIALIZED TRAINING AND COOPERATION

The UN sanctions regime requires Member States to ban the provision of specialized training of DPRK nationals in disciplines that could contribute to the country's nuclear programs, such as in advanced physics or engineering fields.⁴⁴ Member States are also required to suspend scientific and technical cooperation in proliferation-sensitive fields with persons representing the DPRK.⁴⁵

RESTRICTIONS ON NORTH KOREAN DIPLOMATIC STAFF AND OFFICIAL TRAVEL

The UN sanctions contain several measures to limit the financial and commercial activities of North Korean diplomats, who have been repeatedly linked to the country's sanctions evasion and revenue-generating activities. UNSCR 2321 calls on Member States to reduce the number of staff at DPRK missions in their territory, and requires them to impose a limit of only one bank account per each DPRK mission, consular post, and diplomat in their territory. The resolution also prohibits North Korea from using real estate it owns or leases overseas from being used for anything other than diplomatic or consular purposes. Additionally, Member States are required to prohibit any North Korean government or military officials from entry into their territory if those officials are affiliated with the country's proliferation or sanctions evasion activities.⁴⁶

Current U.S. Sanctions against North Korea

The U.S. sanctions regime targeting North Korea is multi-layered and comprehensive. In contrast to UN sanctions, which focus solely on North Korea's WMD programs, U.S. sanctions encompass multiple rationales, including North Korea's human rights violations and malicious cyber activities as well as the country's proliferation activities. The central role of the U.S. dollar in international trade and finance, combined with the size of the U.S. economy and Washington's willingness to implement secondary sanctions, means that U.S. sanctions have played a major role in putting economic pressure on North Korea despite the lack of direct economic ties between the U.S. and North Korea.

The Treasury Department's North Korea Sanctions Regulations (NKSr) operate primarily under the general legal framework established by the International Emergency Economic Powers Act (IEEPA), which grants the executive branch broad authority in imposing economic sanctions.⁴⁷ Congress has also shaped the evolution of the U.S. sanctions regime through passage of several pieces of legislation, most importantly the North Korea Sanctions and Policy Enhancement Act of 2016, which outline how U.S. sanctions against North Korea are to be implemented and the general conditions under which they can be removed or suspended.

SANCTIONS ON TRADE AND INVESTMENT

The NKSr ban nearly all economic transactions between persons subject to U.S. jurisdiction and North Korea. Exports of goods, services, and technology from the U.S. (or by U.S. persons) to North Korea, other than exports of food and medicine, are prohibited. U.S. export control laws also prohibit the export of foreign-made products to North Korea if they contain more than 10% U.S.-origin commodities.⁴⁸ Imports into the U.S. of any North Korean goods, services, or technology are also prohibited, as are imports of any goods produced by North Korean

nationals regardless of those goods' country of origin (a provision intended to prevent the goods produced by North Korean overseas laborers from entry into the United States).⁴⁹ Additionally, the NKSR prohibit U.S. persons from entering into new investments in North Korea as well as from facilitating transactions by nationals of third countries.⁵⁰

A handful of exemptions apply to these restrictions. In addition to the exemption for exports of food or medicine to North Korea, NGOs are authorized to export various services related to humanitarian relief or democracy building to North Korea, and to engage in certain transactions with the North Korean government (such as payments of taxes or fees) necessary for such activities. The NKSR also allow for noncommercial personal remittances of up to \$5,000 annually to individuals in North Korea, and exempt activities incidental to efforts to recover the remains of U.S. service members killed or captured in the Korean War. Additionally, statutory exemptions found in IEEPA permit personal communications, the import or export of informational materials, and transactions normally incident to travel.⁵¹

However, these exemptions have not always proven robust enough to operate in practice. The NKSR prohibit U.S. NGOs from forming "partnerships or partnership agreements" (a term left undefined) with the North Korean government or Workers' Party of Korea. This provision has effectively meant that U.S. NGOs must apply to the Treasury Department for a specific license granting permission to operate in North Korea. Exemptions related to the provision of informational materials are narrow, which has led platforms such as YouTube to remove certain North Korean videos.⁵² Additionally, while transactions incidental to travel are exempt under IEEPA, the State Department prohibits the use of U.S. passports to travel to North Korea.⁵³

FINANCIAL SANCTIONS

The NKSR blocks any assets controlled by the North Korean government, the Workers' Party of Korea, or any Specially Designated National (SDN) that come under U.S. jurisdiction. This restriction essentially bars these parties from access to the U.S. financial system and thus to any international dollar-based transactions. Non-U.S. entities owned or controlled by U.S. financial institutions are also prohibited from knowingly conducting any transactions involving the North Korean government or SDNs.⁵⁴

Additionally, North Korea is designated as a jurisdiction of primary money laundering concern under Section 311 of the Patriot Act. This designation prohibits financial institutions under U.S. jurisdiction from processing transactions which directly or indirectly involve North Korean financial institutions, and requires that banks apply enhanced due diligence to guard against North Korea's use of deceptive practices to access the U.S. financial system.

SANCTIONS DESIGNATIONS

Individuals or entities listed as Specially Designated Nationals are subject to a freeze of any assets under U.S. jurisdiction (including funds passing through the U.S. financial system), and U.S. persons are prohibited from transacting with them. Both North Korean persons and persons from third countries may be subject to sanctions designations.

Under the legal framework established by NKSPEA, the Treasury Department is mandated to issue a sanctions designation when it finds that a person has engaged in certain proscribed activities; in other cases, the Treasury Department retains discretion to issue designations against persons that engage in a far broader set of activities.⁵⁵ In general, any person that Treasury determines to have violated UN sanctions is subject to a mandatory sanctions designation. Mandatory sanctions designations also apply to persons determined to have facilitated human rights abuses or censorship by the North Korean government; to have engaged in money laundering, currency counterfeiting, or narcotics trafficking on behalf of the North Korean government; or to have engaged in malicious cyber activities on behalf of the North Korean government.⁵⁶

The discretionary sanctions criteria are more wide-reaching. Under Executive Order 13810, the Treasury Department may issue a sanctions designation against any North Korean person, regardless of demonstrable links to any specific malicious activities or violations of international law.⁵⁷ The Treasury Department may also issue a sanctions designation against any person determined “to have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology,” or against financial institutions that facilitate any significant transaction connected to trade with North Korea.⁵⁸ Additionally, any persons who transact with or provide support to an SDN are themselves subject to a potential U.S. sanctions designation.

OTHER SECONDARY SANCTIONS

Several additional elements of the U.S. sanctions regime target persons in third countries (or the governments of third countries) that do business with North Korea.

Beyond the threat of using sanctions designations against foreign financial institutions, the NKSR allow the Treasury Department to issue a range of lesser penalties against foreign banks for their North Korea-related transactions, penalizing those banks without necessarily cutting them off from the U.S. financial system entirely. These penalties broadly mirror the anti-money laundering (AML) measures described in Section 311 of the Patriot Act, which Treasury has also used against third-country banks connected to North Korea.⁵⁹

Title III of the Countering America's Adversaries through Sanctions Act of 2017 contains potentially far-reaching sanctions against foreign ports that do not sufficiently inspect cargo going to or coming from North Korea, or that otherwise facilitate sanctions evasion. Any cargo that transits through ports or jurisdictions deemed to be noncompliant with UN sanctions may be subjected to enhanced screening procedures upon entry to the United States. The U.S. government may also block from entry into U.S. territorial waters all vessels that are owned, operated, or registered in a country where a noncompliant port is located. However, this authority has not been invoked regarding any foreign port or country other than North Korea itself.⁶⁰

Additionally, NKSPEA requires the U.S. government to withhold foreign aid (other than aid related to humanitarian need or democracy promotion) to any government that buys from or sells to North Korea any defense-related goods or services. This restriction may be waived, however, if the U.S. government determines that it is in the national interest to do so.⁶¹

RESTRICTIONS ON U.S. ASSISTANCE TO NORTH KOREA

Under the Glenn Amendment to the Arms Export Control Act, the U.S. is prohibited from providing most forms of non-humanitarian aid to any country (other than the four other nuclear weapons states acknowledged by the Nonproliferation Treaty) that has detonated a nuclear explosive device. These restrictions have applied to North Korea since its first nuclear test in 2006. Although the President may waive the imposition of these sanctions, Congress has the authority to block the waiver through a joint resolution.⁶²

Additionally, Congressional appropriations bills routinely include provisions restricting or prohibiting the provision of U.S. government funds to the government of North Korea.⁶³

ADDITIONAL U.S. SANCTIONS

Several additional U.S. sanctions penalties apply to North Korea because of its status as a State Sponsor of Terrorism.⁶⁴ Under U.S. law, the DPRK is not entitled to sovereign immunity for acts of torture, extrajudicial killing, or hostage taking. Private litigants representing Americans who were detained in North Korea, or who died as a result of North Korean actions, have filed multiple lawsuits against DPRK in U.S. courts, resulting in default judgments of over \$1.4 billion against the country.⁶⁵ Forfeited North Korean assets in U.S. custody could be used to pay a portion of these claims.⁶⁶

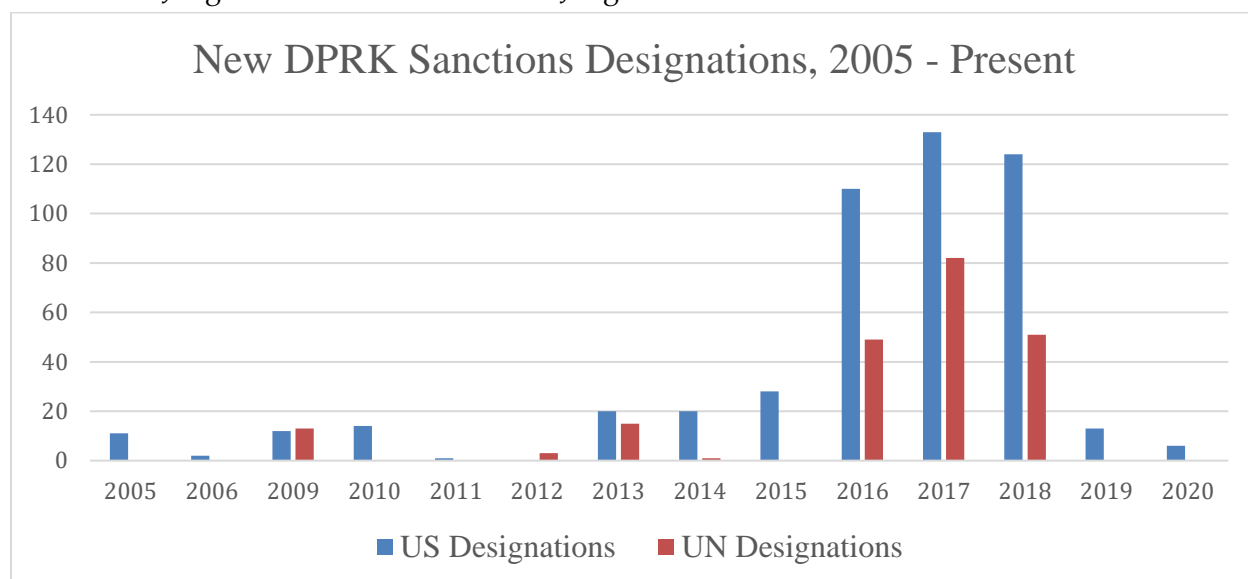
North Korea's status as a State Sponsor of Terrorism also means that the U.S. government is obliged to oppose DPRK membership in international financial institutions such as the

International Monetary Fund or World Bank, as well as to oppose any financial assistance from those institutions to North Korea.

U.S. SANCTIONS ENFORCEMENT

As of November 2020, the U.S. has issued nearly 500 designations related to violations of its North Korea sanctions. About 35% of these designations target individuals, 40% target corporate entities, and 25% target vessels and aircraft. Roughly 80% of these designations are against North Korean targets, with the remainder aimed against foreign facilitators.⁶⁷

Designated North Korean entities include institutions of systemic importance to the North Korean economy, including many of the country's banks and foreign trade companies as well as its national airline. Several agencies within North Korea's security apparatus have been designated for human rights violations, as have top regime officials including North Korean leader Kim Jong Un and his sister Kim Yo Jong.



Sources: OFAC Specially Designated Nationals List; UNSC Consolidated List

Some Members of the U.S. Congress have called for tougher enforcement of U.S. sanctions against North Korea's foreign facilitators, particularly against major Chinese banks accused of processing transactions for North Korean front companies and intermediaries.⁶⁸ Due in part to concerns over destabilizing the international financial system and relations with Beijing, the U.S. has so far refrained from taking such action. Since 2017, however, the U.S. has sanctioned several smaller financial institutions, both in China and in other countries, for facilitating North Korean sanctions evasion. Nonetheless, these actions have been considerably less impactful than the 2005 designation of Banco Delta Asia.⁶⁹ For example, China's Bank of Dandong was barred from access to the U.S. financial system in 2017 due to its dealings with North Korea, but actually saw revenue and assets increase the following year.⁷⁰

In addition to the use of sanctions designations and AML measures against foreign persons accused of violating U.S. sanctions, the Treasury and Justice Department have increasingly engaged in civil enforcement actions and criminal prosecutions against alleged sanctions violators.⁷¹ Some of these actions have been against U.S. persons accused of violating sanctions against North Korea. In January 2019, the Treasury Department fined a U.S. cosmetics company \$1 million for importing DPRK-origin false eyelash kits from China.⁷² Later that year, the FBI arrested a U.S. citizen in connection with his participation in a cryptocurrency conference in Pyongyang.⁷³

However, the largest U.S. law enforcement actions have targeted foreign nationals and enterprises, whose alleged use of dollar-based transactions in connection with sanctions violations has allowed the Justice Department to claim jurisdiction. While many of the foreign nationals charged in these cases are unlikely to ever stand trial in the U.S., these criminal cases open the possibility of forfeiture of frozen assets tied to North Korea. In 2016, for example, the U.S. filed criminal charges against Dandong Hongxiang, a major Chinese trading partner with North Korea accused of facilitating the country's WMD procurement and money laundering.⁷⁴ More recently, the Justice Department indicted two Chinese nationals accused of laundering cryptocurrency stolen by North Korean actors, and two months later indicted a network of 28 DPRK and five Chinese nationals accused of covertly working on behalf of North Korea's Foreign Trade Bank to conduct dollar-based transactions.⁷⁵ Additionally, three large Chinese banks are currently involved in an ongoing U.S. court battle over subpoenas for their records of transactions with a North Korean front company; release of those records, depending on their content, might put these banks into further legal jeopardy.⁷⁶

PROSPECTIVE SANCTIONS REMOVAL

Unwinding the U.S. sanctions regime against North Korea in conjunction with a prospective nuclear deal (or a broader change in U.S. policy of some sort) would be a complex endeavor, giving the overlapping rationales and varied sources of statutory authority for sanctions. Additionally, many of the actions necessary to suspend or terminate sanctions would not be left to the sole discretion of the executive branch.

The executive branch has considerable flexibility in waiving individual sanctions designations, or in choosing how to enforce sanctions. However, suspending or terminating the wide-ranging sanctions Congress mandated through passage of NKSPEA and subsequent legislation would require a process with multiple steps. The bar is set relatively low for the executive branch to suspend the mandatory implementation of sanctions targeted against North Korea's trade in commodities such as coal, textile, seafood, or petroleum, requiring at minimum a certification that doing so would be vital to U.S. national security interests.⁷⁷ Suspension of other sanctions

imposed under NKSPEA would require the President to certify that North Korea has made progress toward objectives related to denuclearization, human rights, and the cessation of illicit activities. For the executive branch to terminate these sanctions, the President must submit a determination that North Korea has crossed an even higher statutory threshold related to these objectives.⁷⁸ (In the absence of such determinations, Congress could pass new legislation to modify or terminate sanctions against North Korea.)

Congress also has the prerogative to block executive branch action to terminate sanctions imposed under the Glenn Amendment, or action to remove North Korea's designation as a State Sponsor of Terrorism.⁷⁹

Additional Autonomous Sanctions Regimes

In addition to the United States, several countries have imposed their own unilateral sanctions against North Korea that go beyond the measures required by UN Security Council resolutions.

SOUTH KOREA

The Republic of Korea has historically prohibited trade with North Korea and used its National Security Law to restrict travel to North Korea, contact with North Koreans, and publication or dissemination of North Korean media. After democratization in 1987, South Korea began to allow certain inter-Korean trade. Under the 1998-2008 "Sunshine Policy," Presidents Kim Dae-jung and Roh Moo-hyun eased more restrictions on commerce and contact with North Korea. During this period, the two Koreas also opened a resort for South Korean tourists at Mt. Kumgang in North Korea, as well as the inter-Korean Kaesong Industrial Zone just north of the DMZ.⁸⁰

Inter-Korean economic engagement gradually unwound after the Sunshine Policy ended. South Korea suspended tourism at Mt. Kumgang indefinitely following the fatal shooting of a South Korean visitor in 2009. In response to the March 2010 sinking of a South Korean warship, the ROK government issued the "May 24 Measures," which generally prohibited inter-Korean travel, trade, aid, and new investment.⁸¹ Operations at the Kaesong Industrial Zone were exempt from these sanctions, but nonetheless ended in 2016 following North Korea's fourth nuclear test.

South Korean President Moon Jae-in, elected in 2017, has strongly supported the resumption of economic engagement with North Korea. In summit meetings with North Korean leader Kim Jong Un, the two leaders resolved to resume and expand inter-Korean economic projects as well as to work toward the denuclearization of the Peninsula. However, UN sanctions have effectively prohibited any major inter-Korean projects from resuming. The Moon administration

has floated proposals to engage with the North in ways that would not necessarily violate UN sanctions and his administration has indicated its willingness to allow exemptions to the May 24 Measures as necessary.⁸² However, North Korea has largely rejected the Moon administration's offers for economic engagement within the framework allowed by UN sanctions.

Owing to the terms of the Armistice Agreement, the U.S.-led United Nations Command also has a unique role in facilitating the movement of people and goods between South and North Korea, as it controls the southern half of the Demilitarized Zone dividing the Peninsula. The UN Command is therefore potentially responsible for ensuring that any goods transiting the DMZ are compliant with UN sanctions. In recent years, the UN Command has caused a number of delays or impediments to attempted inter-Korean engagement projects, owing in part to differing U.S. and South Korean interpretations of UN sanctions.⁸³

CHINA

Beijing has taken a strong stance against any autonomous sanctions that go beyond the requirements of UN Security Council resolutions. Nonetheless, the tightening and relaxation of Chinese economic pressure against North Korea during any given period has often reflected Beijing's relations and policy goals toward Pyongyang rather than the requirements mandated by the UN.

By some accounts, Beijing shut down the pipeline carrying crude oil into North Korea for three days in February 2003 to put pressure on Pyongyang as it began to restart operations at its Yongbyon nuclear facility.⁸⁴ However, China did little to proactively enforce the UN's initial rounds of targeted sanctions against North Korea in subsequent years and interpreted a "livelihoods" exception in UNSCR 2270's ban on the import of North Korean coal so broadly as to render it nearly meaningless. Beijing began to toughen its enforcement of sanctions in 2017, beginning with the suspension of coal imports from North Korea that February. Later that year, Chinese authorities ordered the closure of North Korean businesses in the country, instructed financial institutions to enforce UN sanctions strictly, and began to crack down on smuggling along the border.⁸⁵ Yet as relations warmed through 2018 and 2019, China's commitment to upholding these measures appeared to recede significantly.

JAPAN

Owing in part to its ethnic Korean minority population, Japan was among North Korea's largest trade partners for much of the Cold War and through the 1990s. However, Japan imposed a series of sanctions measures in the 2000s, eventually leading to a total ban on trade. The Japanese government took these actions in response to developments in North Korea's nuclear

program as well as in light of revelations of North Korean abductions of Japanese citizens in the 1970s and 80s. In recent years, Japan has also cracked down on Chongryon, the pro-DPRK association of Koreans in Japan, for sanctions violations and other illicit activities related to North Korea.⁸⁶

EUROPEAN UNION

In addition to adopting the sanctions measures required by the UN Security Council, the EU has imposed autonomous measures against 57 North Korean individuals and 10 entities not designated by the UN. Other EU autonomous sanctions measures include a prohibition on North Korean vessels and aircraft entering EU ports or airports; a ban on the purchase of North Korean public bonds; and a €5,000 cap on personal remittances to North Korea.⁸⁷

UNITED KINGDOM

In addition to imposing UN sanctions and following EU designations, the UK has imposed sanctions designations against branches of the DPRK Ministry of State Security and Ministry of Peoples' Security for human rights violations.⁸⁸

SINGAPORE

Singapore has historically been something of a hub for North Korean overseas commercial activities, given its business-friendly climate. However, Singapore banned all trade with North Korea in 2017 and subsequently prosecuted several individuals for sanctions violations.⁸⁹

TAIWAN

As Taiwan is not a UN Member State, it is not legally obligated to impose sanctions against North Korea. However, Taiwan has stated its intent to comply with these sanctions and, in 2017, announced a ban on all trade with North Korea. Nonetheless, several Taiwanese business networks have been linked to North Korean sanctions evasion activities in recent years.⁹⁰

International Enforcement and North Korean Sanctions Evasion

The reality of North Korea sanctions implementation is quite different from what appears on paper. North Korea's overseas business networks appear to remain capable of procuring goods necessary for its WMD programs, and maintain indirect access to the international financial system using front companies and third-country brokers. North Korean has also engaged in various sanctions evasion schemes to continue trade in banned commodities such as coal and refined petroleum. Sanctions enforcement efforts have increased the costs and risks of these activities, but they have not stopped them.

Pyongyang has proven adept at obscuring its sanctions-busting activities, adapting its tactics to changing circumstances, and finding new means of earning hard currency from abroad. North Korea's foreign trade networks have also taken advantage of weak or business-friendly jurisdictions abroad that lack the political will, awareness, or technical capacity to enforce sanctions and detect attempts at evasion. China and Russia have been important bases for these networks, but they have also relied on "offshore" jurisdictions such as the British Virgin Islands; financial hubs including Hong Kong and Singapore; and countries with weak governments and regulatory systems such as Libya or the Democratic Republic of Congo.⁹¹ North Korea's overseas networks often rely on foreign business partners and collaborators who help to conceal their activities, while using deceptive tactics to do business with unwitting participants in their sanctions evasion schemes.

The enforcement of international sanctions against North Korea appeared to hit an apex in late 2017 and early 2018, in the wake of North Korea's nuclear and long-range missile testing spree and the concurrent U.S. "maximum pressure" campaign. However, by 2019 North Korea's key foreign trade partners – particularly China –increasingly appeared content with turning a blind eye to much of the sanctions evasion activities in their territories. Furthermore, political paralysis at the UN Security Council has meant that international sanctions enforcement has not kept pace with North Korean sanctions evasion: the UN's 1718 Committee has not issued any new sanctions designations since October 2018, despite ongoing and evolving breaches of the sanctions regime.

MARITIME SANCTIONS EVASION

Calls for inspections and maritime interdictions of suspect North Korean cargo were important components of the initial UN sanctions resolutions targeting North Korea, leading to several high-profile seizures of North Korean arms at port.⁹² As the scope of international sanctions has expanded, so has the sophistication of Pyongyang's deceptive shipping practices. North Korea's maritime sanctions evasion tactics, combined with methods of obscuring its financial transactions, have enabled the country to continue importing fuel in volumes well in excess of UN limits and to skirt the international bans on its exports of coal and other commodities.⁹³

One frequent tactic has been the use of flags of convenience on North Korean ships, despite UN sanctions prohibiting third countries from registering ships linked to the DPRK. The ships flying these flags of convenience are nominally owned by front companies or brokers based in third countries, with their ties to North Korea concealed.⁹⁴ North Korean vessels have also fraudulently flown the flags of foreign countries without formally registering in those countries.⁹⁵ Additionally, lax regulations, weak enforcement capacity, and (in some cases) outsourced registry management in flag-of-convenience states have enabled the practice of

“flag-hopping,” in which North Korean vessels de-registered by one flag state are registered elsewhere.⁹⁶ (In 2020, major shipping registry states created a “Registry Information Sharing Compact” to mitigate against this practice.)⁹⁷

Another common tactic is the physical or electronic misrepresentation of the identities of the vessels used to transfer sanctioned goods. Ships linked to North Korea will frequently mask their movements by disabling their automatic identification system (AIS) transponders, which transmit the identity and location of vessels. (The International Maritime Organization requires all ships above a certain size to use AIS transponders at all times on international voyages, in order to prevent collisions at sea and to monitor marine traffic.) In some cases, North Korean vessels have “spoofed” their AIS systems, broadcasting a false identity in order to avoid the scrutiny that comes with turning these transponders off.⁹⁸ North Korea has also obstructed the identification of its ships by painting over its vessels’ names and International Maritime Organization numbers with false identifiers.⁹⁹

Additionally, illicit shipments to or from North Korea frequently go through elaborate routes involving multiple interlocutors, with falsified paperwork misrepresenting the ultimate origin or destination of sanctioned goods. North Korea has also relied heavily on the use of ship-to-ship transfers at sea to enable the exchange of sanctioned goods away from port.

There have been some successes in enforcing sanctions against illicit North Korean shipping. In addition to numerous sanctions designations targeting DPRK vessels, North Korean smuggling ships – including one of its largest bulk carriers, the *Wise Honest* – have been seized at foreign ports.¹⁰⁰ Several of the North Korean ships designated by the UN or the U.S., or otherwise publicly identified, have apparently been abandoned near foreign ports – a pattern which points to the effectiveness of sanctions designations at disrupting these ships’ activities, but which also indicates that these designations have unintended consequences of environmental damage and costs to third countries.¹⁰¹ Seizures and designations have put pressure on North Korea to surreptitiously acquire new cargo ships to mitigate attrition of its fleet.¹⁰²

North Korea’s maritime trade in key commodities appears to have declined to some extent in 2018 – the first year in which the sectoral sanctions regime was fully in place – before gradually rising again the following year. According to the U.S. Mission to the UN, the U.S. government tracked at least 148 instances of oil tankers sending petroleum products to North Korea in the first eight months of 2018, delivering between 800,000 to 2,000,000 barrels of refined petroleum imports.¹⁰³ A similar U.S. report estimated that North Korea imported between 1.5 million to 4 million barrels of petroleum in the first ten months of 2019.¹⁰⁴ By comparison, the U.S. estimates that North Korea imported about 4.5 million barrels of refined petroleum in 2016, before the UN Security Council adopted sectoral sanctions on fuel imports.¹⁰⁵ North Korea has also appeared

to begin expanding oil storage capacity at the port city of Nampo, perhaps in expectation of growing fuel imports in the future.¹⁰⁶

UN sanctions appear to have had a somewhat greater impact on North Korea's coal exports than its petroleum imports. According to a UN member state estimate cited by the Panel of Experts, North Korea exported 3.7 million tons of coal in the first eight months of 2019, with an estimated value of about \$370 million.¹⁰⁷ For the five-year period from 2012-2016, in contrast, North Korea exported an average of roughly 17 million tons of coal annually, valued at \$1.2 billion.¹⁰⁸ Nonetheless, North Korean coal exports appeared to begin rising rapidly in mid-2019, possibly reflecting a more conducive environment for its illicit trade.

Around this time, North Korea and its Chinese trade partners began employing new methods of maritime sanctions evasion – methods that were frequently more brazen in flouting the UN sanctions regime than past efforts. According to the UN Panel of Experts, self-propelled barges of Chinese origin (vessels normally not intended for international shipping, and thus not subject to IMO rules on transmitting identification) began travelling to North Korean ports in 2019 to load up cargoes of coal for delivery to China. During the same timeframe, ship-to-ship transfers of North Korean coal also began to increasingly take place in Chinese territorial waters near Chinese ports, rather than in more remote international waters such as the Gulf of Tonkin where many of these transfers had previously taken place. Also around this time, a growing number of foreign-flagged vessels with obfuscated identification and ownership began taking direct voyages to North Korean ports to deliver petroleum in clear violation of UN sanctions.¹⁰⁹ These direct deliveries have involved larger-capacity vessels than those associated with ship-to-ship transfers, allowing for the more efficient delivery of smuggled fuel.¹¹⁰

Separately from these bulk commodity smuggling activities, North Korean traders may use small boats to smuggle goods into nearby Chinese ports, or to transfer their wares to Chinese ships in open waters. North Korean fishing vessels have also reportedly sold and transferred their catch to Chinese fishing vessels at sea in order to evade sanctions on seafood exports. Much of this small-scale maritime smuggling is conducted by pseudo-private enterprises, rather than by North Korea's state-run foreign trade networks.¹¹¹

CROSS-BORDER TRADE

Smuggling across the China-DPRK border is another key vector for the movement of sanctioned goods into and out of North Korea. The Chinese border city of Dandong has historically accounted for a very large proportion of North Korea's foreign trade, with trade and financial networks there serving as a nexus between North Korean actors and the global economy.¹¹² A significant volume of smuggling has long taken place at the Dandong-Sinuiju border crossing,

where traders may falsify paperwork to conceal the nature of the goods they are transporting, or bribe customs officials to turn a blind eye. Along other parts of the border, smugglers may also ferry goods across the Yalu or Tumen rivers, bribing border guards as necessary to facilitate this trade. Both state-approved actors and informal or pseudo-private enterprises conduct such cross-border smuggling. Even before the onset of sectoral sanctions, many North Korean and Chinese traders relied on cross-border smuggling to bypass restrictive North Korean trade regulations and an uncertain business environment.¹¹³

Nonetheless, assessments of the scale of cross-border smuggling – at least as it occurred prior to North Korea’s lockdown of the border to prevent Covid-19 from entering the country – remain largely anecdotal. Certain indicators – such as the availability of North Korean goods in Chinese border towns, the frequency of trucks passing through the Dandong-Sinuiju border crossing, or interviews with Chinese traders or smugglers – may be indicative of trends in informal cross-border trade at any given moment. However, the covert and decentralized nature of this trade makes it difficult to quantify.

FINANCIAL SANCTIONS EVASION

Despite the sweeping UN sanctions intended to preclude North Korean banks from accessing the international financial system, the UN Panel of Experts stated in 2019 that “financial sanctions remain some of the most poorly implemented and actively evaded measures of the sanctions regime.”¹¹⁴ In addition to contravening UN sanctions, North Korean financial institutions have also continued to routinely (though indirectly) conduct international dollar-based transactions, notwithstanding U.S. efforts to block these transactions. In parallel with its maritime smuggling operations, North Korean banks and foreign trade networks rely on the use of diplomats, foreign intermediaries, and front companies to access the international financial system clandestinely. This has allowed North Korea’s financial institutions, including its Foreign Trade Bank, to maintain covert networks of foreign branches and overseas accounts.

North Korean banks use these foreign accounts to conduct financial transactions with foreign banks and companies, keeping most of their financial assets overseas while employing an informal ledger system to keep track of the movements of funds to and from North Korean enterprises. This allows these banks to conceal the true originators, beneficiaries, and purposes of the financial transactions they conduct and to minimize the movement of foreign currency into or out of North Korean territory. Bulk cash smuggling across borders supplements these financial flows, allowing ledger imbalances to be rectified and providing an alternative means of cross-border payments as necessary.¹¹⁵

To obfuscate the financial side of a given transaction, payments are frequently disassociated from the movement of goods or provision of services. The front companies involved in the transfer of funds may be separate from those listed in a purchasing agreement, or payments made be structured in multiple tranches involving different sets of actors.¹¹⁶ In some instances, a DPRK entity may ask a foreign trade partner purchasing North Korean goods to direct payment to a different foreign company supplying goods to North Korea, thus bypassing direct involvement in the financial side of either transaction.¹¹⁷

Many of North Korea's international trade partners continue to prefer to receive payment in U.S. dollars rather than other international currencies. Payment for the coal shipment smuggled by the *Wise Honest*, for example, was routed through a U.S. financial institution, allowing the U.S. Justice Department to claim jurisdiction in the case and take control of the vessel after its initial seizure in Indonesia. The U.S. has also frozen at least \$63.5 million in North Korean funds from 2015-2020, reflecting unsuccessful attempts on the part of North Korean financial institutions to conduct dollar-based transactions.¹¹⁸

Cryptocurrency may provide North Korea with another means to evade sanctions while paying for certain goods or services. However, the volatility and unreliability of cryptocurrencies means that they are not widely used as a medium of exchange. Although some of North Korea's business partners may accept payment in cryptocurrency, it appears that North Korean actors typically exchange cryptocurrency holdings for fiat money rather than use them as a direct form of payment. Cryptocurrency operations may thus be far more useful to North Korea as a revenue source than as a means of evading financial sanctions, at least for the time being.¹¹⁹

ILLICIT ACTIVITIES

Certain North Korean state actors have engaged in smuggling and other illicit activities abroad to self-fund and remit "loyalty payments" since at least the 1970s. As the country's economy collapsed in the 1990s, the regime turned to the production of illicit drugs and counterfeit currency as new revenue sources, partnering with international criminal networks for their distribution abroad. The state-controlled production of drugs and counterfeit dollars appears to have significantly declined by the late 2000s, perhaps due in part to international pressure.¹²⁰ However, as the sanctions regime targeting North Korea evolved in subsequent years, state actors began turning to new and creative types of illicit operations to earn hard currency, particularly in the burgeoning cybercrime sector.

According to a 2019 UN Panel of Experts report, North Korea has generated an estimated \$2 billion from cyberattacks reportedly linked to networks under Pyongyang's control.¹²¹ Some of these activities targeted financial institutions, such as a 2016 attack on the Central Bank of

Bangladesh, which netted \$81 million – and came close to taking far more.¹²² Cryptocurrency exchanges have also been lucrative targets for these cyberattacks. Additionally, North Korea-linked hacking groups have been tied to ransomware attacks, to the spread of malware to create cryptocurrency mining botnets, and (in apparent partnership with foreign criminal networks) to highly orchestrated multinational attacks against ATMs.¹²³ In past years, most of the North Korean actors believed to be conducting these attacks were based overseas, but it now appears that an increasing number of these activities are conducted from within DPRK territory.¹²⁴

Before the revenue generated by these cyberattacks becomes available for use by North Korean actors, though, it must be laundered to hide its provenance. In the case of the Bangladesh Central Bank heist, this involved the conversion of stolen funds into casino chips in the Philippines, and then – owing to the lack of know-your-customer rules in the country’s casino industry at the time – reconversion to untraceable cash.¹²⁵ North Korean actors also reportedly use a digital form of layering to hide stolen assets, laundering cryptocurrency through thousands of transactions across multiple jurisdictions or through “privacy coins” such as Monero prior to converting it to fiat money.¹²⁶

As part of a broader effort to conceal its sanctions evasion activities, North Korea has also reportedly engaged in targeted cyberattacks against officials of UN Member States on the 1718 and members of the Panel of Experts. Presumably, by hacking such communications, Pyongyang seeks to stay apprised of ongoing investigations and potential new UN sanctions designations, thus remaining a step ahead of enforcement efforts.¹²⁷

Furthermore, North Korea appears to remain involved in several analog forms of illicit activity. The country’s involvement in the counterfeit cigarette trade and in cigarette smuggling appears to be quite lucrative; according to a 2018 statement from the U.S. Treasury Department, North Korea earns a gross revenue of over \$1 billion annually from this trade.¹²⁸ North Korean diplomats in Africa have been repeatedly linked to illicit trafficking of ivory and rhinoceros horn, as well.¹²⁹

OVERSEAS WORKERS

Most of the countries previously believed to be hosting North Korean workers have informed the UN Security Council’s 1718 Committee that they expelled any such workers in compliance with UNSCR 2397’s December 2019 deadline.¹³⁰ However, a significant number of these workers likely remains overseas, either illegally or with the tacit knowledge of the host government.

In Russia, for example, news reports suggest that large numbers of North Korean workers were repatriated prior to the December 2019 deadline, but Russian government data shows a large concurrent spike in the number of North Koreans entering the country on student or tourist

visas – quite possibly to work discreetly.¹³¹ Many North Koreans working in China appear to have similarly left the country prior to re-entering on alternative visas.¹³²

Between UNSCR 2397's December 2019 deadline and North Korea's closure of its borders a month later to prevent the spread of Covid-19, it is challenging to estimate how many North Korean workers remain overseas. However, it is likely that many of those North Koreans remaining overseas work in sectors that allow for a low profile. For example, a recent trend appears to be North Korea sending IT specialists overseas to work as freelance coders under the auspices of a company nominally owned by a local citizen. This arrangement allows the North Korean workers to conduct well-paying freelance IT work while concealing their identities from both their customers and their host countries.¹³³

ARMS SALES

Military-related exports have historically been an important revenue source for North Korea, encompassing everything from small arms sales, to ballistic missile exports, to the provision of military training services. The Security Council's initial targeted sanctions resolutions put a dent in the customer base for Pyongyang's arms exports, and as subsequent UN sanctions became more comprehensive in scope, instances of foreign military cooperation with North Korea appear to have further declined.¹³⁴

Nonetheless, Pyongyang appears to continue arms sales to and military cooperation with several longstanding partner countries in the Middle East and Africa. North Korea has reportedly sold arms and equipment related to the manufacture of chemical weapons to the Bashar al-Assad regime amidst the Syrian civil war.¹³⁵ (Pyongyang previously assisted Damascus with the construction of a proliferation-sensitive nuclear reactor prior to its destruction in a 2007 Israeli air strike.) In Iran, which has a long history as a purchaser of North Korean ballistic missile technology, North Korean arms firms reportedly retain active offices. According to a UN Member State cited by the Panel of Experts, North Korea no longer exports full ballistic missile systems abroad, but instead sends technicians to a buyer country to establish a complete supply chain; such activities have reportedly taken place in Iran, Syria, and Egypt.¹³⁶ North Korean military cooperation with other countries including Uganda, Eritrea, and the Democratic Republic of Congo also appears to be ongoing.¹³⁷

SALES OF RESOURCE RIGHTS

In the wake of UN bans on its seafood exports, North Korea has illegally sold fishing rights in its territorial waters to Chinese fishing vessels, netting an estimated \$120 million in revenue in 2018.¹³⁸ (North Korea's average annual reported seafood exports for the five-year period from 2012-2016 were worth an estimated \$134 million.)¹³⁹ The migration of a Chinese fishing fleet to

DPRK waters has put pressure on North Korea's fishing vessels to venture into more remote waters for their catch. Because these fishing ships are often poorly equipped, this has contributed to a growing number of North Korean fishing crews succumbing to exposure or starvation after becoming lost or stranded at sea.¹⁴⁰

In 2019, North Korea also appeared to begin selling Chinese vessels the right to dredge sand from its territorial seas, in violation of a UN ban on North Korean exports of "earth and stone" – a category that includes sand.¹⁴¹

WMD PROCUREMENT

Blocking Pyongyang's ability to procure components for its nuclear, ballistic missile, and other WMD programs has been one of the key ambitions of the UN sanctions regime, and various export-control regimes aiming to limit the spread of proliferation-sensitive technology supplement these sanctions. However, North Korea has proven adept at evading these controls and has also developed domestic capabilities that reduce its reliance on foreign goods and technology.¹⁴² Nonetheless, several choke points in the supply chain for North Korea's WMD infrastructure remain, and the country continues to develop and employ new illicit procurement techniques to obtain needed items.

As with its other sanctions evasion efforts, North Korea relies on a network of front companies, diplomats, and other intermediaries abroad to procure sensitive goods and technology. To avoid controls on trade in these goods, the country's procurement networks have frequently relied on secondary market purchases from retailers, business-to-business websites, and even the industrial scrap market, rather than purchasing directly from producers.¹⁴³ North Korean trade networks have also regularly purchased sensitive goods at specifications just below the threshold at which these goods would be subject to export controls.¹⁴⁴ The vast size of the Chinese market for industrial equipment – coupled with the production of so many of these goods by both domestic and international firms operating within China – has also meant that North Korean trading companies embedded in China have been able to work through local intermediaries with relative ease.¹⁴⁵

Intangible transfers of technology and the possible theft of business secrets may have also helped to advance North Korea's WMD programs. North Korean scientists and engineers have reportedly been able to acquire advanced knowledge and expertise in sensitive fields through graduate study or other research programs at universities abroad, principally in China, or through collaboration with foreign scientific journals.¹⁴⁶ Additionally, North Korean cyber actors may have conducted attacks on foreign defense and aerospace companies aimed at stealing technology as well as financial resources.¹⁴⁷

According to the UN Panel of Experts and the U.S. government, key targets for North Korea's international WMD procurement efforts include solid propellant fuels; carbon fiber and filament winders for producing rocket engine casings; and maraging steel.¹⁴⁸ In some cases, North Korea may lack the technical capability and expertise to produce "choke point" goods domestically, while in other cases the country's domestic production capabilities may be limited or inefficient at producing these goods at the requisite scale. One key choke point in North Korea's WMD program may be the procurement of heavy-duty vehicles used as ICBM transporter-erector-launchers. North Korea imported six such vehicles (marketed as forestry equipment) from a Chinese manufacturer in 2011 but appeared unable to manufacture similar vehicles domestically for some time, limiting the number of ICBMs the country could field. However, an October 2020 parade indicated that North Korea either has been able to begin manufacturing these vehicles domestically, or has been successful at procuring more from abroad.¹⁴⁹

LUXURY GOODS

Efforts to prevent the export of luxury goods to North Korea have been hindered by a lack of standard definitions of these goods and a multilateral export control regime governing trade in them. Prior to North Korea's self-imposed border restrictions in response to Covid-19, foreign luxury goods were widely available in elite department stores in Pyongyang.¹⁵⁰ North Korea has also been able to procure certain high-value luxury goods such as armored top-of-the-line Mercedes Benz cars popular with world leaders.¹⁵¹ There have been several recent instances of international enforcement of the UN's luxury goods ban, such as a series of prosecutions in Singapore against merchants who facilitated their export and a Dutch seizure of 90,000 bottles of Russian vodka apparently being smuggled to North Korea.¹⁵² However, Chinese Customs data indicates that certain Chinese ports may continue to act as entrepôts for the re-export of certain luxury goods from third countries to North Korea, perhaps without the original exporter of these goods knowing of their final destination.¹⁵³

The Politics and Policy Efficacy of Sanctions

There is a substantial amount of academic literature on the efficacy of sanctions as a tool of foreign policy, with much of it concluding that sanctions seldom "work" as a form of coercion. This is particularly evident in cases where sanctions target authoritarian regimes and in cases where the sanctioned country believes its core interests are at stake – two conditions that are clearly the case for North Korea.¹⁵⁴ The academic literature on sanctions also points out that they are particularly unlikely to be effective when third-party spoilers undermine their implementation.¹⁵⁵ In the case of North Korea, an overwhelming reliance on China as a trade partner gives Beijing ample room to play such a role.

Nonetheless, countries typically impose sanctions (at least in part) for reasons other than simply trying to coerce their target into meeting a set of demands. The U.S. and the UN have applied sanctions against North Korea to inhibit the development of its WMD programs, both through the denial of key materials and by choking off the revenue streams that pay for these programs. Sanctions also serve to signal to Pyongyang that it will pay a price for its nuclear weapons development and other provocative actions, as well as to deter third countries from following North Korea's example. Yet the efficacy of U.S. and UN sanctions in meeting most of these secondary objectives has also been questionable. North Korea has significantly advanced its nuclear program and has conducted multiple nuclear and long-range missile tests since the international community first imposed sanctions in 2006, and North continued to test new short- and medium-range missile systems even after the UN adopted its toughest sanctions in 2017. Nonetheless, the counterfactual questions of what North Korea's nuclear program and behavior would now look like had sanctions never been imposed, or if a tougher set of sanctions had been attempted earlier, are difficult to speculate upon.

Sanctions proponents in the U.S. have acknowledged the limited success of sanctions against North Korea thus far, but argue that more robust enforcement is needed to counter Pyongyang's nuclear program. Advocates of this approach typically call for the aggressive application of U.S. secondary sanctions against North Korea's foreign business partners, as well as for enhanced international efforts to coordinate sanctions enforcement and to assist developing countries in establishing more effective export control and anti-money laundering regimes.¹⁵⁶ Other analysts have called for lowering expectations about what sanctions can achieve as a tool of coercive bargaining, calling for some form of partial sanctions relief in exchange for a freeze in North Korea's nuclear program or other limited measures.¹⁵⁷ Opponents of the current sanctions regime argue that it has imposed a great cost on the health and livelihoods of ordinary North Koreans, while standing in the way of the inter-Korean peace process or North Korean economic reform.¹⁵⁸

For its part, North Korea has rejected UN sanctions resolutions as unlawful and has described Washington's support for sanctions as a primary component of its "hostile policy" toward the DPRK.¹⁵⁹ North Korean leader Kim Jong Un has acknowledged the hardship imposed by these sanctions while vowing to overcome them through self-reliance and ideological fortitude.¹⁶⁰ At the February 2019 U.S.-DPRK summit in Hanoi, Kim reportedly offered to dismantle most of North Korea's Yongbyon nuclear facility in exchange for the lifting of UN sectoral sanctions.¹⁶¹ The U.S. rejected this offer, with members of the Trump administration divided between advocates of a reciprocal "action-for-action" approach and those calling for Pyongyang to fully denuclearize prior to receiving any U.S. concessions. In the aftermath of the Hanoi summit,

North Korea claimed that it no longer had any interest in negotiating with the U.S. for sanctions relief.¹⁶²

The public U.S. position continues to be that North Korea must denuclearize prior to receiving any significant sanctions relief.¹⁶³ Washington's position has contrasted with that of Seoul, which has advocated for sanctions relief to facilitate inter-Korean engagement projects as part of a broader policy aimed at reconciliation with the North.¹⁶⁴ For their part, China and Russia have argued that North Korea's moratorium on conducting nuclear and long-range missile tests since the beginning of 2018 should be sufficient to merit broader sanctions relief. In October 2018, the Deputy Foreign Ministers of China, Russia, and North Korea issued a joint communiqué calling for the UN Security Council to loosen sanctions against Pyongyang and criticizing unilateral sanctions imposed by the United States.¹⁶⁵ In December 2019, China and Russia reportedly proposed that the UN Security Council lift certain sanctions, including the ban on North Korean overseas workers and prohibitions on North Korean exports of statues, seafood, and textiles. The proposal would have also facilitated certain inter-Korean infrastructure projects. However, opposition from the other three permanent members of the Security Council prevented a vote on the draft resolution.¹⁶⁶

The Humanitarian and Economic Impacts of Sanctions on North Korea

Due in significant part to policy decisions made by the Kim regime over the decades, North Korea's economy lags far behind that of its neighbors, and the country's population faces several ongoing humanitarian challenges. An estimated 40% of North Korea's population is food insecure, while 33% lack access to safe drinking water.¹⁶⁷ Additionally, North Korea has one of the highest incidence rates of tuberculosis in the world, with multi-drug-resistant strains of tuberculosis also prevalent.¹⁶⁸

The sanctions resolutions adopted by the UN Security Council state that they "are not intended to have adverse humanitarian consequences for the civilian population" of North Korea, or to restrict the work of humanitarian agencies operating in the country.¹⁶⁹ However, the UN's High Commissioner for Human Rights noted in 2017 that these sanctions "may have a detrimental impact on livelihoods and medical care" in North Korea and negatively impact the activities of aid organizations in the country.¹⁷⁰ The Special Rapporteur for Human Rights in North Korea has expressed concern that sanctions "might have negatively impacted vital economic sectors and the enjoyment of human rights."¹⁷¹ According to the UN Panel of Experts, "There can be little doubt that United Nations sanctions have had unintended effects on the humanitarian situation and aid operations, although access to data and evidence is limited and there is no reliable methodology that disambiguates United Nations sanctions from other factors."¹⁷²

IMPACTS ON HUMANITARIAN AID AGENCIES

It is easier to discern the impacts of sanctions on the operations of international humanitarian aid programs in North Korea than it is to measure the overall consequences of these sanctions on the North Korean population's welfare. U.S. and UN sanctions have not cut off all humanitarian assistance to North Korea, but they have added significant uncertainty, operational difficulties, and regulatory burdens for humanitarian agencies that operate there. These challenges compound chronic underfunding of international humanitarian aid programs in North Korea in recent years due to donor fatigue and distaste for the North Korean government's actions.

Financial sanctions pose a particular challenge for aid agencies, which lack a banking channel to send money into North Korea to pay for local expenses. In the absence of such a channel, staff for the UN agencies and NGOs operating in North Korea have had to hand-carry cash with them into the country, a process which impedes financial transparency, makes scaling up programs difficult, and potentially poses personal risks to humanitarian workers.¹⁷³ "De-risking" by financial institutions and other private sector companies has also meant that NGOs face challenges in paying third-country suppliers for humanitarian goods bound for North Korea; many private sector actors are leery of providing goods or services of any kind to NGOs that operate in North Korea, despite the sanctions exemptions in place. At least one NGO previously operating in North Korea has had to end its work in the country principally due to such banking challenges.¹⁷⁴

Additionally, the UN ban on exports of metals, machinery, and vehicles to North Korea covers several categories of goods common to aid programs, including agricultural equipment and certain medical supplies.¹⁷⁵ The UN Security Council's 1718 Committee may provide exemptions for the export of humanitarian goods to North Korea on a case-by-case basis.¹⁷⁶ For a period in 2018, however, the Committee granted nearly no such exemptions due to disputes among Security Council members.¹⁷⁷ The 1718 Committee began to issue these exemptions more regularly by early 2019, but the process has generally remained cumbersome and rigid, with the exception of certain Covid-19 related exemption requests.¹⁷⁸

In addition to the need to obtain UN sanctions exemptions, U.S. NGOs operating in North Korea may also need to apply for separate approvals from the Departments of State (for travel), Commerce (for the export of U.S.-origin goods), and Treasury (for the export of non-U.S. goods and for permission to interact with the North Korean government). At least one U.S. NGO operating in North Korea has faced a Treasury Department investigation into its work, which appears to have had a chilling effect across the sector.¹⁷⁹

U.S. and UN sanctions may also have a negative impact on the operations of human rights organizations that seek to facilitate the flow of information into and out of North Korea. UN sectoral sanctions prohibit the export of USB drives, mobile phones, and portable media devices to North Korea, among other goods. Human rights organizations focused on North Korea may also face private sector de-risking challenges and complex licensing requirements broadly similar to those faced by humanitarian agencies.

MACROECONOMIC IMPACTS OF SANCTIONS

The sanctions imposed in 2016-17 appeared to cause a contraction in the North Korean economy, with the Bank of Korea estimating that GDP shrank by 3.5% in 2017 and by 4.1% the next year before rebounding with a modest .4% growth rate in 2019.¹⁸⁰ However, weak enforcement of sanctions has prevented a freefall in the North Korean economy. The market exchange rate for the North Korean Won, as well as for food prices, has remained relatively stable. Fuel prices in North Korea jumped considerably in 2017, but subsequently stabilized at a level somewhat higher than the pre-sanctions average.¹⁸¹ North Korean imports of non-sanctioned goods from China also remained steady in 2018 and 2019, according to Chinese Customs data.¹⁸²

North Korean smuggling and illicit activities offer a partial explanation for this apparent economic stability. However, assessments of North Korean smuggling activities published by the U.S. government and by the UN's Panel of Experts would indicate that illicit North Korean trade in commodities such as coal and fuel remains below pre-sanctions levels.¹⁸³ North Korea's relatively low baseline of trade relative to GDP; its import-substitution policies imposed in response to sanctions; a rise in Chinese tourism prior to North Korea's January 2020 border shutdown; and off-the-books foreign assistance may similarly help to account for part of this picture of relative macroeconomic stability. However, they are not necessarily sufficient to explain it fully.

One hypothesis suggests that apparent price stability in North Korea may actually be the result of *de facto* austerity measures, as domestic investment and household incomes decline due to a contracting money supply.¹⁸⁴ Shocks to household income may be most acute among North Koreans who work (or formerly worked) in export-oriented sectors such as mining, fishing, and textile production, as well as among repatriated overseas workers.¹⁸⁵ Private entrepreneurs may also be seeing their sales fall as aggregate demand for goods drops, while simultaneously contending with a state apparatus that seeks a larger share of increasingly scarce resources and hard currency.

Additionally, UN restrictions on the exports of fuel, metals, electronic equipment, and machinery may have effects that ripple across the North Korean economy, with particularly notable impacts on the country's industrial sector. North Korea appears to have halted or scaled back several recent high-profile construction projects due to shortages of key inputs.¹⁸⁶ The reduced availability of fuel and other agricultural inputs, combined with bad weather conditions, may have contributed to a particularly bad harvest in the 2018/19 crop year.¹⁸⁷ However, an increase in North Korean commercial food and fertilizer imports in 2019 – possibly combined with generous amount of unreported food aid from China – may have prevented the country's chronic food shortages from worsening.¹⁸⁸

Finally, the imposition of wide-ranging sanctions has coincided with what appears to be a concerted North Korean policy effort to combat corruption, reduce the autonomy of state and pseudo-state enterprises, and re-centralize economic decision-making. These trends do not necessarily portend an effort to fully roll back marketization of the country's economy or re-instate central planning, but they could indicate an effort by the regime to capture a larger share of the country's income for itself at the expense of self-dealing local officials and private entrepreneurs.¹⁸⁹ This effort to re-assert centralized control over the economy is not necessarily a product of the economic pressure imposed by sanctions – concerns over ideology and political stability amidst the ongoing process of marketization in North Korea could be providing an impetus as well. However, sanctions could perhaps be contributing to the urgency of the regime's efforts to capture a greater share of economic rents.

Conclusion – Covid-19 and its Implications for the North Korea Sanctions Regime

In late January 2020, in response to the burgeoning Covid-19 outbreak in China, North Korea closed its borders to trade and travel, with officials vowing to keep the border closed until they could acquire a vaccine for the novel coronavirus.¹⁹⁰ State-sponsored smuggling and trade with China appeared to come to a halt after North Korea announced its lockdown, gradually resuming in subsequent months before border controls tightened once again in late July. While both North Korean sanctions evasion and international sanctions enforcement efforts have continued amidst the pandemic, the context surrounding them has changed dramatically. As a top Trump administration official has reportedly stated, "The coronavirus is probably doing more to advance our maximum pressure campaign than anything at the moment."¹⁹¹

It will be some time before the international community understands the full impact of the pandemic on North Korea's economy and the health and livelihoods of its people. Although analysts have been highly skeptical of Pyongyang's claim that there have been no Covid-19

cases in the country, it is plausible that the country's early border closure and strict enforcement of quarantines and internal travel restrictions have prevented an uncontrolled outbreak of the virus. Given the poor state of North Korea's public health system, a lax response to the virus could certainly have had a devastating impact. Nevertheless, North Korea's extreme measures – driven by a view of the pandemic as a threat to national security, and not merely to public health – may have significant second-order consequences for the country's economy and population.

The border closures would have certainly affected the livelihoods of those North Koreans who depend, directly or indirectly, on informal trade with China as smugglers, traders, or market retailers. Reported exports of non-food goods to North Korea have dropped considerably, leading to shortages of foreign goods in the markets. International humanitarian agencies in the country have withdrawn most staff and suspended operations due to their inability to receive international funds or to send aid workers on monitoring visits outside of Pyongyang, imperiling aid recipients and jeopardizing efforts to stop the spread of tuberculosis and multi-drug-resistant TB. The North Korean government has acknowledged the combined economic impact of sanctions and Covid-19, with Kim Jong Un abandoning the five-year plan begun in 2016 and expressing frustration at the central government's inability to implement the economic projects it has been tasked with carrying out.¹⁹² Flooding from heavy monsoon rains and multiple typhoons hitting North Korea in August and September 2020 has compounded all of these challenges.

Yet North Korea's willingness to bear considerable self-inflicted economic pain to avoid the perceived national security threat posed by the pandemic raises fundamental questions about the coercive power of sanctions, even if meaningfully enforced. As the regime's response to the pandemic demonstrates, its perceived national security interests will take precedence over its economic interests, no matter the cost.

When North Korea begins to re-open its borders, it will likely do so facing a difficult domestic situation, marked by a weakened economy and substantial humanitarian need among its population. Given prevailing geopolitical trends, however, North Korea could well be facing a favorable external environment when this happens, with intensifying U.S.-China competition precluding the possibility of a coordinated approach to address Pyongyang's nuclear program. In the absence of a significant change in thinking by Washington or Beijing, the long-term result of these dynamics might be an enervated sanctions regime that limps forward but never quite topples over, keeping North Korea on the hostile margins of the global economy and firmly within China's sphere of economic influence.

¹ For a useful timeline, see Gary Clyde Hufbauer, Jeffrey J. Schott, Kimberly Ann Elliott, and Barbara Oegg, "[Case 50-1 and 93-1: US and UN v. North Korea \(1950- : Korean War\). US and UN v. North Korea \(1993- : nuclear proliferation\)](#)," Peterson Institute for International Affairs, Speeches & Papers, May 1, 2008.

² Rachel Blomquist and Daniel Wertz, "[An Overview of North Korea-Japan Relations](#)," NCNK Issue Brief (June 2015).

³ "North Korean Payment Problems with the West," Central Intelligence Agency Memorandum, CREST, Document Number CIA-RDP86T00608R000600050021-9, June 3, 1975; Tom Byrne and Jonathan Corrado, "[Making North Korea Creditworthy: What Will It Take to Finance Its Post-Nuclear Development?](#)" The Korea Society (June 2019).

⁴ In the face of Chinese opposition, the U.S. did not propose an all-out UN embargo of North Korea, along the lines of the contemporary sanctions on Iraq. Instead, the U.S. circulated a draft resolution banning North Korean arms sales abroad, prohibiting cargo flights to or from North Korea, and cancelling a planned UN aid project as a set of initial sanctions measures. See Paul Lewis, "[U.S. Offers a Plan for U.N. Sanctions on North Koreans](#)," *The New York Times*, June 16, 1994.

⁵ Dianne E. Rennack, "[North Korea: Economic Sanctions](#)," Congressional Research Service, CRS Report for Congress, October 17, 2006.

⁶ North Korea was, and remains, one of two countries (along with Cuba) on the U.S. Column II tariff list, subjecting its exports to the U.S. to higher rates than countries with which the U.S. has normal trade relations. Additionally, export control laws continued to impose licensing requirements for certain U.S. exports to North Korea, and restricted the export of sensitive or dual-use items to North Korea.

⁷ Daniel Wertz, "The Evolution of Financial Sanctions on North Korea," *North Korean Review*, Vol. 9, No. 2 (Fall 2013), pp. 69-82.

⁸ Nonproliferation-related sanctions designations made under the Trading with the Enemy Act, as well as certain shipping-related sanctions, were nonetheless kept in place under the statutory authority of the International Emergency Economic Powers Act.

⁹ "[Treasury Sanctions Bank and Official Linked to North Korean Weapons of Mass Destruction Programs](#)," Department of the Treasury, Press Center, March 11, 2013.

¹⁰ "[In China's Shadow: Exposing North Korean Overseas Networks](#)," The Asan Institute for Policy Studies and C4ADS (August 2016); John Park and Jim Walsh, "[Stopping North Korea, Inc.: Sanctions Effectiveness and Unintended Consequences](#)," MIT Security Studies Program (August 2016).

¹¹ Susan V. Lawrence, Mark E. Manyin, and Keigh E. Hammond, "Why Did March 2016 U.N. Sanctions Not Curb China's Imports of Coal from North Korea?" Congressional Research Service, CRS Insight, February 3, 2017.

¹² Relevant legislation includes the Korean Interdiction and Modernization of Sanctions Act (KIMS Act) incorporated as Title III of the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA); Section 210 of the Asia Reassurance Initiative Act of 2018; and the Otto Warmbier North Korea Nuclear Sanctions and Enforcement Act of 2019, incorporated as Title LXXI of the National Defense Authorization Act for Fiscal Year 2020.

¹³ The circumstances surrounding this episode remain somewhat murky. Trump's tweet came shortly after the Treasury Department designated two Chinese shipping companies for North Korea sanctions violations, but those designations were never withdrawn. The administration later stated that it had refrained from issuing a major new package of designations on the President's order, but some reporting suggests that this was a spurious claim intended to allow the President to save face after backing off from his cancellation order. See Saleha Mohsin, Jennifer Jacobs, and Nick Wadhams, "[Trump Tried to Undo North Korea Penalty, Contrary to U.S. Account](#)," *Bloomberg*, March 26, 2019.

¹⁴ Since the adoption of UNSCR 1695 in July 2006, there have been eleven such UN Security Council Resolutions in total, excluding resolutions that act solely to extend the mandate of the UN Panel of Experts. Of these eleven, all but two invoke Article 41 of Chapter VII of the UN Charter, which allows the Security Council to address threats to peace with "measures not involving the use of armed force... [which] may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations." None of these resolutions invokes Article 42, which allows for actions including "demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."

¹⁵ UN Security Council Resolution 2397 (2017), S/RES/2397, December 22, 2017, paragraphs 2, 26-28, echoing language included in prior resolutions.

¹⁶ Stephanie Kleine-Ahlbrandt, "[Maximum Pressure Against North Korea, RIP](#)," *38 North*, October 7, 2019.

¹⁷ "[North Korea Sanctions: United States Has Increased Flexibility to Impose Sanctions, but United Nations Is Impeded by a Lack of Member State Reports](#)," United States Government Accountability Office, Report to the Chairman, Committee on Foreign Relations, U.S. Senate (May 2015); Andrea Berger, "[A House Without Foundations: The North Korea Sanctions Regime and its Implementation](#)," Royal United Services Institute, RUSI Whitehall Report 3-17 (June 2017).

¹⁸ Mirror merchandise trade data from North Korea's trading partners, as collected and adjusted by the South Korean agency KOTRA, is available at www.NorthKoreaInTheWorld.org.

¹⁹ With the exception of Russian-origin coal trans-shipped through the Rajin-Khasan port and rail project.

²⁰ A complete list of goods prohibited for export to or import from the DPRK, delineated by HS code and including U.S., Chinese, and EU definitions for certain categories of prohibited goods, is available in "[Final Report of the Panel of Experts Submitted Pursuant to Resolution 2345 \(2017\)](#)," United Nations Security Council, 1718 Sanctions Committee (DPRK), S/2018/171, March 5, 2018, pp. 92-97.

²¹ See "[Consolidated List of Additional Items and Luxury Goods](#)," UN Security Council, 1718 Committee, December 21, 2016.

²² Based on estimates provided by the U.S. government. See "[Fact Sheet: UN Security Council Resolution 2397 on North Korea](#)," United States Mission to the United Nations, December 22, 2017. For an independent set of estimates, see David von Hippel and Peter Hayes, "[Updated Estimates of Refined Product Supply and Demand in the DPRK, 2010 – 2020](#)," Nautilus Institute for Security and Sustainability, NAPSNET Special Report, September 2, 2020.

²³ UNSCR 2375's text makes no explicit mention of China's crude oil supply to North Korea. However, a fact sheet published by the US Mission to the UN explicates the intention of the resolution's structure, saying that it "freezes the current amount of crude oil provided to North Korea by banning countries from providing additional crude oil beyond what China provides through the Dandong-Sinuiju

pipeline.” See [“Fact Sheet: Resolution 2375 \(2017\) Strengthening Sanctions on North Korea,”](#) United States Mission to the United Nations, September 11, 2017.

²⁴ [“Fact Sheet: UN Security Council Resolution 2397 on North Korea,”](#) *op. cit.*

²⁵ United Nations Security Council Resolution 2375 (2017), S/RES/2375, September 11, 2017, paragraph 13. North Korea has not historically relied on natural gas for its domestic energy needs, so this was essentially a prophylactic measure.

²⁶ See [“Lists of Items Prohibited for Export to and Import from The Democratic People's Republic Of Korea pursuant to Security Council Resolution 1718 \(2006\),”](#) United Nations Security Council, 1718 Sanctions Committee, undated webpage, last accessed October 6, 2020; United Nations Security Council Resolution 2270 (2016), S/RES/2270, March 2, 2016, paragraph 27.

²⁷ This report uses the legal meaning of the word “person,” encompassing both individuals and entities.

²⁸ United Nations Security Council Resolution 2321 (2016), S/RES/2321, November 30, 2016, paragraph 33.

²⁹ The relevant UN Security Council resolutions allow the 1718 Committee to make case-by-case exemptions to this measure to facilitate the activities of foreign diplomatic missions to the DPRK, or UN humanitarian agencies stationed there.

³⁰ UNSCR 2270, paragraphs 30 and 37 similarly warns against North Korea’s use of gold transfers and gold couriers to evade sanctions, and prohibits North Korean gold exports.

³¹ UNSCR 2321, paragraph 32, building upon progressively stronger restrictions from UNSCRs 1874, 2094, and 2270.

³² The resolutions do not state that *all* such cargo must be inspected – they merely reference “*the cargo*” (*italics added*). See UNSCR 2270, paragraph 18, with clarifications in UNSCR 2321, paragraphs 13, 20, and 21. UNSCR 2094, in contrast, instructs Member States to inspect “all cargo” – but only when they have reasonable grounds to believe that the cargo contains prohibited goods. Seizure and disposal of prohibited goods is addressed in multiple resolutions, most recently UNSCR 2397, paragraph 20.

³³ UNSCR 2270, paragraph 21.

³⁴ See UNSCR 2270, paragraphs 19-20; UNSCR 2321, paragraphs 8, 23; UNSCR 2371, paragraph 7; and UNSCR 2397, paragraph 12

³⁵ UNSCR 2321, paragraph 24.

³⁶ UNSCR 2321, paragraphs 9, 22. Certificates of classification and proof of insurance are often necessary for vessels to enter foreign ports.

³⁷ UNSCR 2321, paragraph 12; and UN Security Council Resolution 2371 (2017), S/RES/2371, August 5, 2017, paragraph 6. UNSCR 2270, paragraph 12 also clarifies that vessels owned or controlled by a designated entity (such as a designated shipping company) are subject to an asset freeze.

³⁸ UNSCR 2397, paragraph 9. This language would appear to supersede a requirement in UNSCR 2270, paragraph 22 that Member States deny suspect vessels entry into their ports.

³⁹ UN Security Council Resolution 2375, S/RES/2375, September 11, 2017, paragraphs 7-9. Paragraph 10 of this resolution specifies that such inspections are only intended to be carried out by warships or other government ships or aircraft.

⁴⁰ “Fact Sheet: UN Security Council Resolution 2397 on North Korea,” *op. cit.*

⁴¹ UNSCR 2397, paragraph 8; see also UNSCR 2375, paragraph 17

⁴² UNSCR 2375, paragraph 18.

⁴³ See “[Law of the Democratic People’s Republic of Korea on Wholly Foreign-Owned Enterprises](#),” Adopted by Decision No. 19 of the Standing Committee of the Supreme People’s Assembly on October 5, 1992, and subsequently amended; and “[Code of the Act and Regulations for the Kaesong Industrial Zone](#),” ROK Ministry of Unification, translated into English by Bae, Kim & Lee, LLC (2009).

⁴⁴ UNSCR 2270, paragraph 17; UN Security Council Resolution 2321, paragraph 10.

⁴⁵ UNSCR 2321, paragraph 11.

⁴⁶ UNSCR 2321, paragraphs 14-18. The real estate provision appears aimed at ending the North Korean practice of leasing parts of its embassies for hostels or other private businesses. See David Tweed, Slav Okov, and Marta Waldoch, “[Backpackers and Lovebirds Help Fund Kim Jong Un’s Embassies](#),” *Bloomberg*, July 5, 2017.

⁴⁷ North Korea Sanctions Regulations, 31 CFR 510.

⁴⁸ See “De Minimis U.S. Content,” 15 CFR §734.4, and “Country Groups,” 15 CFR Appendix Supplement No. 1 to Part 740.

⁴⁹ Imports of North Korean goods are prohibited under the NKSR in 31 CFR §510.205. Additionally, Section 321(b) of the Countering America’s Adversaries through Sanctions Act (22 USC § 9241a) creates a rebuttable presumption that North Korean labor is forced labor within the meaning of the Tariff Act of 1930 (19 USC 1307), which prohibits the entry of goods made by forced labor into the United States. See U.S. Department of Homeland Security, “[CAATSA Title III Section 321\(b\) FAQs](#),” March 30, 2018.

⁵⁰ New investment is prohibited in 31 CFR 510.209; facilitation is prohibited under 31 CFR 510.211 and 510.412.

⁵¹ The full NKSR exemptions and licensing policy can be found at 31 CFR §510.213 and §§510.501 - 510.519. Statutory IEEPA exemptions are in 50 USC §1702(b). The North Korea Sanctions and Policy Enhancement Act (22 USC §9228) also contains various exemptions and a humanitarian waiver authority.

⁵² Colin Zwirko, “[Citing Legal Complaints, YouTube Purges More North Korea-Focused Channels](#),” *NK News*, January 14, 2020.

⁵³ Under the Passport Act of 1926 (22 USC §211a), the U.S. may restrict the use of U.S. passports to travel to countries where there is an imminent danger to the health or safety of U.S. travelers. North Korea is currently the only country subject to such travel restrictions; special validation passports may be issued on a one-time basis for journalists, humanitarians, and others with travel “otherwise in the national interest.”

⁵⁴ See 31 CFR §§ 510.201, 510.210, and 510.214.

⁵⁵ In practice, the distinction between mandatory and discretionary sanctions established by NKSPEA may be less than it appears, as the executive branch maintains independence in how it undertakes investigations and findings of sanctions violations. The most important aspect of this distinction from a policy perspective may be in terms of how a prospective offer of partial sanctions relief might be offered: the Treasury Department could unilaterally suspend the enforcement of discretionary sanctions, but it

does not have leeway to suspend mandatory sanctions absent either Congressional action or a determination that North Korea has met the statutory criteria described in Title IV of NKSPEA.

⁵⁶ 22 U.S. Code § 9214.

⁵⁷ This mechanism creates very low legal threshold for a sanctions designation, allowing Treasury to issue a designation in the absence of concrete or disclosable evidence that the target is engaged in malicious activity.

⁵⁸ See 31 CFR 510.201(a)(3)(vi) on financial facilitation of trade, and Executive Order 13810 on broader counter-trade criteria.

⁵⁹ See 31 CFR §510.214. Designation under this authority places a foreign financial institution on the Office of Foreign Assets Controls (OFAC) Correspondent Account or Payable-Through Account (CAPTA) Sanctions List; certain transactions related to Iran Russia, and Lebanese Hizbollah can also land a non-U.S. financial institution on this list. However, at the time of writing only one bank (China's Bank of Kunlun and its affiliates) is on this list, due to Iran-related transactions. See "[US Unveils CAPTA List](#)," *Dentons*, March 22, 2019.

⁶⁰ Coast Guard, DHS, "List of Vessels Prohibited From Entering or Operating Within the Navigable Waters of the United States, Pursuant to the Ports and Waterways Safety Act, as Amended by the Countering America's Adversaries Through Sanctions Act" 83 FR 5638 (February 8, 2018).

⁶¹ See 22 USC §9223.

⁶² See 22 U.S. Code § 2799aa-1, and "Presidential Determination on Sanctions Against North Korea for Detonation of a Nuclear Explosive Device," Presidential Determination No. 2007-7 of December 7, 2006, 72 FR 1897.

⁶³ See, for example, "Consolidated Appropriations Act, 2019," Public Law 116-6, 16th Congress, Division F, Sec. 7007, prohibiting the expenditure of funds from certain aid programs to assist the governments of Cuba, North Korea, Iran, or Syria. The U.S. government may still provide humanitarian assistance to the North Korean people, as well as programs aimed at supporting civil society and the rule of law in North Korea.

⁶⁴ North Korea was listed as a State Sponsor of Terrorism from 1988-2008, and returned to the list in November 2017. The relisting was prompted in part by the assassination of Kim Jong Un's half-brother with VX nerve agent in a Malaysian Airport in February 2017, as well as by the death later that year of Otto Warmbier, a U.S. citizen, shortly after his release from detention in North Korea.

⁶⁵ Default judgments in cases brought under the Foreign Sovereign Immunities Act include *Massie v. Government of the DPRK* (2008) (\$65.85 million); *Calderon-Cardona v. DPRK* (2010) (\$378 million); *Kaplan v. Hezbollah* (2016) (\$169 million); *Han Kim v. DPRK* (2015) (\$330 million); and *Warmbier v. DPRK* (2018) (\$501 million).

⁶⁶ Tom Winter and Alex Johnson, "[Seized North Korean Cargo Ship Awarded to the United States](#)," *NBC News*, October 21, 2019.

⁶⁷ North Korea-related sanctions designations are spread across six separate sanctions programs administered by OFAC (DPRK, DPRK2, DPRK3, DPRK4, DPRK4-NKSPEA, and NPWMD), which have different legal bases and criteria for designation.

⁶⁸ "[Ranking U.S. Lawmaker Seeks Sanctions on 12 Chinese Banks over N. Korea](#)," *Yonhap News*, September 13, 2017.

⁶⁹ These actions include designations of China's Bank of Dandong and Latvia's ABLV Bank as institutions of primary money laundering concern, as well as the listing of two Russian financial institutions – Agrosyuz Commercial Bank and Russian Financial Society – as SDNs.

⁷⁰ “2018 Annual Report for the Bank of Dandong, Co., Ltd.,” Bank of Dandong (April 2019), cited in Elizabeth Rosenberg, Peter E. Harrell, and Ashley Feng, “A New Arsenal for Competition: Coercive Economic Measures in the U.S.-China Relationship,” Center for a New American Security (2020).

⁷¹ Civil and criminal penalties for violations of IEEPA are described in 50 USC §1705. Criminal cases involving IEEPA violations may also include related charges such as conspiracy, making false statements, bank fraud, or money laundering.

⁷² “[e.l.f. Cosmetics, Inc. Settles Potential Civil Liability for Apparent Violations of the North Korea Sanctions Regulations](#),” Department of the Treasury, Office of Foreign Assets Control, January 31, 2019.

⁷³ “[Manhattan U.S. Attorney Announces Arrest of United States Citizen for Assisting North Korea in Evading Sanctions](#),” Press Release, Department of Justice, U.S. Attorney's Office, Southern District of New York, November 29, 2019.

⁷⁴ “[Four Chinese Nationals and China-Based Company Charged with Using Front Companies to Evade U.S. Sanctions Targeting North Korea's Nuclear Weapons and Ballistic Missile Program](#),” Press Release, Department of Justice, Office of Public Affairs, September 26, 2016.

⁷⁵ “[Two Chinese Nationals Charged with Laundering Over \\$100 Million in Cryptocurrency From Exchange Hack](#),” Press Release, Department of Justice, Office of Public Affairs, March 2, 2020; Spencer S. Hsu and Ellen Nakashima, “[U.S. Brings Massive N. Korean Sanctions Case, Targeting State-owned Bank and Former Government Officials](#),” *The Washington Post*, May 28, 2020.

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