

An Analysis on the Conditions for Successful Economic Sanctions on North Korea : Focusing on the Maritime Aspects of Economic Sanctions

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<< Abstract >>

The failure of early economic sanctions aimed at hurting the overall economies of targeted states called for a more sophisticated design of economic sanctions. This paved way for the advent of 'smart sanctions,' which target the supporters of the regime instead of the public mass. Despite controversies over the effectiveness of economic sanctions as a coercive tool to change the behavior of a targeted state, the transformation from 'comprehensive sanctions' to 'smart sanctions' is gaining the status of a legitimate method to impose punishment on states that do not conform to international norms, the nonproliferation of weapons of mass destruction in this particular context of the paper. The five permanent members of the United Nations Security Council proved that it can come to an accord on imposing economic sanctions over adopting resolutions on waging military war with targeted states. The North Korean nuclear

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issue has been the biggest security threat to countries in the region, even for China out of fear that further developments of nuclear weapons in North Korea might lead to a 'domino-effect,' leading to nuclear proliferation in the Northeast Asia region. Economic sanctions had been adopted by the UNSC as early as 2006 after the first North Korean nuclear test and has continually strengthened sanctions measures at each stage of North Korean weapons development.

While dubious of the effectiveness of early sanctions on North Korea, recent sanctions that limit North Korea's exports of coal and imports of oil seem to have an impact on the regime, inducing Kim Jong-un to commit to peaceful talks since 2018. The purpose of this paper is to add a variable to the factors determining the success of economic sanctions on North Korea: preventing North Korea's evasion efforts by conducting illegal transshipments at sea. I first analyze the cause of recent success in the economic sanctions that led Kim Jong-un to engage in talks and add the maritime element to the argument. There are three conditions for the success of the sanctions regime, and they are: (1) smart sanctions, targeting commodities and support groups (elites) vital to regime survival., (2) China's faithful participation in the sanctions regime, and finally, (3) preventing North Korea's maritime evasion efforts.

Keywords: North Korea, Economic Sanctions, United Nations Security Council, Maritime Security

I . Introduction

Powerful United Nations Security Council (UNSC) resolutions that have restricted North Korean exports of coal and imports of oil since 2016 began to hurt the regime economically, forcing the state to increase illegal transactions at sea, as a way to evade economic sanctions. The hypothesis of this paper is that effective international sanctions on North Korea has been the key in bringing about change in North Korean leader Kim Jong-un's path between belligerence and negotiations, and that further enforcement of sanctions along with prevention of North Korea's sanctions evasion leads to continued peaceful engagement in negotiations. There is much existing literature that assesses the effectiveness of economic sanctions in general, but little analysis has been made regarding maritime sanctions. News reports reveal that suspected cases of illegal transshipment occur frequently, and the UNSC Panel of Experts, established pursuant to resolution 1874, and a joint report by the U.S.

Department of State, U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), and the U.S. Coast Guard raise similar concerns. Therefore, analysis on the impact of economic sanctions on North Korea's economy and measuring the degree of effectiveness of preventing North Korea's maritime evasion efforts are imperative.

There are two sides of the argument that discuss the overall effectiveness of international economic sanctions on North Korea. First of all, Colonel Robert S. Renfro II's empirical research on the effectiveness of sanctions concluded that they have "little potential for coercing either the North Korean government or populace."¹⁾ Taking a quantitative approach, Renfro examined the bilateral trade balance between North Korea and other partners to find that North Korea's economy of isolation and, circumvention of sanctions by trilateral trade are some reasons for such a failure. However, Renfro admits that his research does not answer other questions such as the effectiveness of a maritime blockade as a tool for economic coercion and the use of economics as an instrument of national power. Chen Jiawen is another scholar who supports the contention that economic sanctions are ineffective. After conducting a qualitative study on the impact of existing economic sanctions on North Korea, Chen concludes that "economic sanctions have proven to be a futile policy instrument in promoting de-nuclearization in North Korea."²⁾ Specifically, Chen argues that economic sanctions targeting North Korean elites resulted in the suffering of ordinary North Korean citizens and instead increased domestic resistance against outside influence.

On the other side of the argument, some scholars like Victor Cha argue that "sanctions have been and will continue to be the primary means of addressing the North's vertical (development of own programs) and horizontal (selling to others) proliferation potential."³⁾ Cha further notes that sanctions will convey

1) Robert S. Renfro II, "Why Expanded North Korean Sanctions Fail," *North Korean Review* 14, no. 1 (Spring 2018): 107.

2) Chen Ziawen, "Why Economic Sanctions on North Korea Fail to Work?" *China Quarterly of International Strategic Studies* 3, no. 4 (2017): 532.

3) Victor Cha, *The Impossible State* (New York: Ecco, 2013): 456.

the message to the regime that economic costs will always outweigh the benefits of keeping the nuclear program, and therefore sanctions need to be maintained until the last nuclear weapon is taken out of North Korea. In addition, Cha proposes five strategies to coerce behavioral change from Kim Jong-un without starting a war. Of the five strategies, two involve maintaining sanctions: 1) continuing to strengthen the maximum pressure global sanctions regime, and 2) buttressing sanctions with a non-proliferation statement.⁴⁾ Peter Harrell and Juan Zarate are also optimistic about the effectiveness of sanctions, especially after the imposition of five new resolutions at the beginning of 2016. Harrell and Zarate argue that “these measures have had a notable effect, thanks in part to better Chinese cooperation to cut off key trade in coal and other minerals, South Korean shipping interdictions, and international financial vigilance.”⁵⁾ They suggest four additional pillars to ensure success when enforcing sanctions: the first is relentless enforcement to prevent North Korea from evading sanctions, the second is to integrate sanctions with other coercive national security tools, the third is China’s participation, and the final pillar is maintaining the sanctions for an adequate time for them to take effect.⁶⁾

As mentioned earlier, the ongoing debate on whether sanctions have an effect on bringing about change in the course of North Korean policy leaves out an important variable that has remained almost unanswered. This variable is the significance of North Korea’s maritime trade and efforts to evade international economic sanctions. As a matter of fact, according to a recent report published by the UN Panel of Experts, North Korea has conducted illegal ship-to-ship transfers in an attempt to evade UNSC resolutions that limit the annual amount of imports and exports of various commodities.⁷⁾ While official reports reveal

4) Victor Cha and Katrin Fraser Katz, “How to Coerce Pyongyang Without Starting a War,” *Foreign Affairs* (June 1, 2018).

5) Peter Harrell and Juan Zarate, “A Long-Term Strategy for Washington and Its Allies,” *Foreign Affairs* (January 30, 2018).

6) Ibid.

7) United Nations, Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009)*, S/2019/171 (March 5, 2019).

the prevalence of North Korea's illegal maritime transactions to evade sanctions, little analysis has been done to measure the scale of maritime sanctions to North Korea's economy. This paper will first define the basic concepts of sanctions, then analyze the impacts of UNSC economic sanctions on the North Korean economy. Focusing on the maritime aspects of sanctions and North Korean evasion efforts at sea, future policy implications for better enforcement of sanctions will follow suit.

II. How did the UNSC Resolutions Impact the North Korean Economy?

1. What are Economic Sanctions?

The purpose of imposing economic sanctions is to “restrict trade and such mostly for non-economic reasons.”⁸⁾ In case of North Korea, the purpose of levying economic sanctions is to restrict trade and economic activity for non-economic reasons, specifically, giving up their nuclear program and long-range ICBM development. While there is no stipulation of what ‘sanctions’ constitute in the UN Charter, chapter 7 regulates possible measures that could be taken against ‘threats to the peace.’ Article 39 clearly states that the Security Council should take action “to maintain or restore international peace and security”⁹⁾ and article 41 refers to the use of unarmed force such as “complete or partial interruption of economic relations and of rail, sea, air...”¹⁰⁾ In other words, economic sanctions are imposed to change the course of action of a country which threatens international peace and security. Article 25 regulate

8) Maarten Smeets, “Can Economic Sanctions Be Effective?” World Trade Organization Staff Working Paper ERSD-2018-03, 15 March 2018: https://www.wto.org/english/res_e/reser_e/ersd201803_e.pdf

9) United Nations, *Charter of the United Nations* (24 October 1945), 1 UNTS XVI, available at: <http://www.unwebsite.com/charter>

10) Ibid.

that all member states of the United Nations should accept and carry out the decisions of the Security Council and article 103 mention that the Charter's obligations are prioritized before any other international agreements.¹¹⁾ Although article 25 and 103 are strong regulations that enforce the decisions of the UNSC, historical experience show that states do not always abide by international law. Lim Gapsu categorized sanctions into four: 1) diplomatic sanction, 2) economic sanction, 3) military sanction, and 4) sports sanction to describe that economic sanctions are different from others in the way it is levied upon a targeted state by banning trade of specific commodities, restricting port visits or a comprehensive ban of transactions.¹²⁾ Daniel W. Drezner explains the changing trend from comprehensive economic sanctions which hurt the mass public to smart sanctions which target elite supporters of the regime.¹³⁾ UNSC sanctions on North Korea can be categorized into the framework of 'smart sanctions' as the contents of the resolutions focus on asset freeze, travel ban, and economic sectors of the North Korean elites.

2. UNSC Resolutions

Numerous economic sanctions had been levied upon North Korea since 2006. The intuitive way to measure UN sanctions' impact on North Korea's trade volume is by looking at the decreasing/increasing amount of total trade before and after the implementation of UN sanctions. However, cultivating the statistics related to North Korean trade is close to impossible because the regime does not openly publish their data. The second-best method is by exploiting "mirror statistics," assuming the numbers by collecting data on the imports of countries trading with North Korea.¹⁴⁾ In

11) Ibid.

12) Lim Gap-su and Moon Duk-ho, *Politics in the UN Security Council sanctions* (Paju: Hanul, 2013), 15.

13) Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review* 13 (2011).

14) Stephan Haggard and Marcus Noland, "Sanctions Busting," *Peterson Institute for International Economics*, Last Modified: June 12, 2012: <https://www.piie.com/blogs/>

this regard, the Korea Trade-Investment Promotion Agency (KOTRA)'s annual report on North Korea's trade is used to determine the various dynamics of North Korea's trade as it follows the methodology of "mirror statistics,"¹⁵⁾ collected in coordination with overseas agencies.

〈Figure 1〉 North Korea, Trade

* In billion dollars

	Total Trade Volume	Imports	Exports	UNSC resolution no.
2005	\$3.00	\$2.00	\$1.00	
2006	\$2.99	\$2.05	\$0.94	1718
2007	\$2.94	\$2.02	\$0.92	
2008	\$3.82	\$2.69	\$1.13	
2009	\$3.41	\$2.35	\$1.06	1874
2010	\$4.17	\$2.66	\$1.51	
2011	\$6.36	\$3.57	\$2.79	
2012	\$6.81	\$3.93	\$2.88	
2013	\$7.35	\$4.13	\$3.22	2094
2014	\$7.61	\$4.45	\$3.16	
2015	\$6.26	\$3.56	\$2.70	
2016	\$6.53	\$3.71	\$2.82	2270, 2371
2017	\$5.55	\$3.78	\$1.77	2397
2018	\$2.84	\$2.60	\$0.24	

* Source: KOTRA, Trade Trends in North Korea

* Combined KOTRA's Trade Trends in North Korea report of 2008 and 2018

By looking at the change in North Korea's total trade volume after major UNSC resolutions, we cannot find any consistency in measuring the effect of economic sanctions. When resolution 1718 was adopted in 2006, the total trade volume was \$2.99 billion, a \$0.01 billion decrease from 2005. Resolution 1874 in 2009 also decreased the total volume by \$0.41 billion, but resolution 2094

north-korea-witness-transformation/sanctions-busting

- 15) According to UN International Trade Statistics Knowledgebase, "mirror statistics" is statistics reconstructed on the basis of data reported by partner countries. It is the second-best solution for measuring trade volume that do not report their own trade data – in this case, North Korea – but it innately has shortcomings.

and 2270 adopted in 2013 and 2016 did not result in the decrease of trade volume, but instead a substantial amount of increase. The economic sanctions failed in hurting the overall economy of North Korea and rather saw an increase in trade volume. It is not the imposition of economic sanctions that directly led to the increase in exports or production in North Korea, but paved way for North Korea's sole dependence on China which will be discussed in detail in the next section.

While most UNSC resolutions ended up failing to bring about impact on North Korean economy and the regime, the most recent UNSC resolutions 2371 and 2397 had a notable influence on the total trade volume of North Korea. While total trade volume recorded \$6.53 billion in 2016, the amount reduced to \$5.55 billion in 2017. Furthermore in 2018, the amount dropped to \$2.84 billion, similar to that of the early 2000s. The main reason for such a change is China's participation in the sanctions regime and additional secondary boycott measures from the U.S. Congress by passing the first statute in 2016 and the Countering America's Adversaries Through Sanctions Act in 2017.¹⁶⁾ Early conclusions can be made that UN sanctions on top of secondary boycott measures led by the U.S. is effective only under the premise that China enforces the resolutions passed by the UNSC. In addition, the decrease of total trade volume itself has no impact on inducing change in the path of Kim Jong-un's regime. Stephan Haggard and Marcus Noland explains that, "because authoritarian regimes can repress and impose costs on their populations – and may even be incentivized to do so by sanctions – they constitute "hard targets," vulnerable only under highly specific circumstances."¹⁷⁾ The specific circumstances referred here constitute sanctions on particular items such as imports of oil which is critical to nuclear weapons and ICBM developments, along with exports of

16) Eleanor Albert, "What to Know About Sanctions on North Korea," *Council on Foreign Relations*, Last updated: February 25, 2019: <https://www.cfr.org/backgrounder/what-know-about-sanctions-north-korea>

17) Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, and the Case of North Korea* (Stanford, California: Stanford University Press, 2017), 6.

coal and imports of luxury goods where coal makes the biggest revenue and luxury goods used to maintain loyalty among sponsor groups.¹⁸⁾ This in line with the focus of sanctions from shifting to ‘smart sanctions’ that target sponsor groups of the regime instead of the public mass. In reality, North Korea has a relatively simple structure of energy utilization, relying heavily on traditional energy sources such as coal and oil.¹⁹⁾ The UNSC resolution 2371 was important in this aspect that it prohibited North Korea’s export of coal²⁰⁾ and resolution 2397 capping North Korea’s import of all crude oil to 4 million barrels and refined petroleum to 500 thousand barrels annually.²¹⁾ It is important to emphasize that resolution 2371 and 2397 was adopted in 2016 and 2017, which resulted in an abrupt decrease in North Korea’s trade volume. In case of luxury goods, prohibition of supply, sale and transfer to the DPRK had been implemented as early as resolution 1718. Resolution 2094 clarifies on what defines luxury goods - jewelry and transportation items such as yachts and luxury automobiles.²²⁾ Resolution 2270, 2321 expands the definition to watches, recreational sports equipment, additional transportation, rugs, tapestries, and many more.

18) Han Yong-sub, *The fate of nuclear weapons in North Korea* (Paju: Pakyoungsa, 2018), 203.

19) Lee Jun-bum, “The external factors of North Korean oil,” *The Korean Journal of Unification Affairs* (2001): 157.

20) United Nations Security Council Resolution 2371, S/RES/2371 (5 August 2017).

21) United Nations Security Council Resolution 2397, S/RES/2397 (22 December 2017).

22) United Nations Security Council Resolution 2397, S/RES/2094 (7 March 2013).

3. The China Factor

The correlation between UNSC resolutions and North Korea's total trade volume imply that international sanctions are successful in targeting North Korea's economy only when they implement restrictions on core items such as oil, coal, and luxury goods. The second requirement is China's enforcement of the UNSC resolutions. In this section, China's trade relations with North Korea will be assessed in detail in order to verify the fact that China's implementation of UNSC resolutions cause damage to North Korea's economy.

〈Figure 2〉 North Korea, Trade with China

* In billion dollars

	Total Trade Volume	Imports	Exports	UNSC resolution no.
2005	\$1.57	\$1.08	\$0.49	
2006	\$1.70	\$1.23	\$0.47	1718
2007	\$1.97	\$1.39	\$0.58	
2008	\$2.78	\$2.03	\$0.75	
2009	\$2.68	\$1.89	\$0.79	1874
2010	\$3.47	\$2.28	\$1.19	
2011	\$5.63	\$3.17	\$2.46	
2012	\$6.01	\$3.53	\$2.48	
2013	\$6.54	\$3.63	\$2.91	2094
2014	\$6.86	\$4.02	\$2.84	
2015	\$5.71	\$3.23	\$2.48	
2016	\$6.05	\$3.42	\$2.63	2270, 2371
2017	\$5.26	\$3.61	\$1.65	2397
2018	\$2.72	\$2.53	\$0.19	

* Source: KOTRA, Trade Trends in North Korea

* Combined KOTRA's Trade Trends in North Korea report of 2008, 2018

As the statistics above indicate, North Korea's economy increasingly relies on China, especially after each major UNSC resolutions were adopted. In other words, the reason for North Korea's continuous

increase in total trade volume was increased trade between DPRK-China. This implies that China's participation is key to successful achievement of UNSC resolutions goals and that the biggest hindrance to the successful realization of economic sanctions in pursuit of its original purpose is China. As stated above, the purpose of enforcing economic sanctions against North Korea and interdicting maritime transshipment is to cause economic pain on the regime, provide incentives to return to the international negotiating table for eventual denuclearization, and construct stable security in the region. The so-called "China factor" needs to be discussed in depth, analyzing the level of economic dependence of North Korea on China and examine the arbitrary participation of China in the sanctions regime for it to succeed. The U.S. Institute of Peace Senior Study Group's recent publication also agrees that China's, "cooperation - or lack of cooperation - in sanctions enforcement largely determines the effectiveness of economic pressures ."²³⁾

It was only after China's participation in the international sanctions regime that led North Korea to the negotiating table. Prior to the consecutive nuclear tests in 2016 and 2017 along with multiple long-range missile tests, "China clearly feared that too much pressure would trigger instability in the North, which could create a refugee crisis or, more seriously, lead the North to do something desperate with its conventional armed forces, its nuclear weapons, or both."²⁴⁾ But after 2016, it became clear to China that North Korea's recognition as a de facto nuclear state may trigger nuclear proliferation in the region (South Korea, Japan, and Taiwan), which would seriously risk China's national security and ambition as a sole regional superpower. As Oriana Skylar Mastro argued in her study on China's involvement in North Korea, China's vital national interest in North Korea

23) USIP China-North Korea Senior Study Group, "China's Role in North Korea Nuclear and Peace Negotiations," *United States Institute of Peace*, May 6, 2019.

24) Richard Haass, *A World In Disarray: American Foreign Policy and the Crisis of the Old Order* (New York: Penguin Press, 2017), 88.

depends on nuclear security and the possibility of massive refugees instead of economic considerations which are petty in comparison.²⁵⁾ As a result, in 2016, Chinese President Xi Jinping mentioned in his inaugural statement at the Conference on Interaction and Confidence Building Measures in Asia (CICA) that China, “as a permanent member of the UN Security Council, has implemented relevant Security Council resolutions fully and faithfully.”²⁶⁾ As Xi Jinping testified, China participated in the sanctions regime, and the result came out as an evaporation of approximately \$8 billion worth of exchange between the two countries, especially a sharp \$10 billion worth of Chinese imports from North Korea. Moreover, the transparency and clearness of China’s implementation of UNSC resolutions became evident and “China’s participation in sanctioning North Korea and measures taken have manifested in more specific and public ways.”²⁷⁾ China’s participation seems to be more evident in the Northeast border region between China-DPRK, hurting the local economy and China as well. News reports show that “sanctions are hitting local Chinese businesses hard and starting to bite inside North Korea, with factory closures, price rises and power shortages in some areas.”²⁸⁾ In terms of key resources, China has been the main source of oil exports where the state-owned China National Petroleum Corporation (CNPC) ranks the highest supplier of oil at an annual 520,000 tons of crude oil to North Korea.²⁹⁾ However, in 2017, “CNPC drastically drew down on the quantities of fuel it sold to North Korea, and in late June,

25) Oriana Skylar Mastro, “Conflict and Chaos on the Korean Peninsula: Can China’s Military Help Secure North Korea’s Nuclear Weapons?” *International Security* 43, no.2 (Fall 2018).

26) Secretariat of the Conference on Interaction and Confidence Building Measures in Asia, “Inaugural Statement by H.E. Mr. Xi Jinping President of the People’s Republic of China,” http://www.s-cica.org/page.php?page_id=6044&lang=1

27) Lee Kihyun, Kim Jangho, “Cooperation and Limitations of China’s Sanctions on North Korea: Perception, Interest and Institutional Environment,” *North Korean Review* 13, no. 1 (Spring, 2017): 32.

28) Jeremy Page, Andrew Jeong and Ian Talley, “China, Finally, Clamps Down on North Korea Trade – And the Impact is Stinging,” *The Wall Street Journal*, March 2, 2018.

29) Benjamin Katzeff Silberstein, “Peninsula Pressure: China maintains contingencies for North Korean instability,” *HIS Jane’s Intelligence Review*, September 2017.

even suspended sales completely, allegedly out of concerns that North Korea wouldn't be able to pay."³⁰) The report by Benjamin Silberstein on the change in fuel prices in North Korea to measure the impact of Chinese reduction in oil supply provides a proxy on North Korea's reliance on China³¹) and its motivation to return to the negotiation table.

According to statistics, the amount of gasoline and diesel fuel exported from China to North Korea reduced to the level near 2014 but the amount of crude oil exports to North Korea is hard to measure since China halted recording its data since January 2014, probably to "hide from its own people the fact that it gives this oil to North Korea under a long term aid contract, likely not a very popular issue."³²) Moreover, among the six strategies for promoting non-proliferation of WMD (deterrent, remunerative, preventive, generative, cognitive, and normative), imposing sanctions can be categorized as a deterrent strategy but creates, "strong incentives to conceal deviant behavior, thus frustrating efforts to achieve transparency."³³) As for coal exports to China, on February 2017, Chinese Ministry of Commerce announced that it will suspend coal imports for the rest of the year to follow suit UNSC resolution 2321.³⁴) Finally, luxury goods which accounts for 17% of total imports from China dropped 3.8% in 2017 from \$0.66bn in 2016.³⁵)

30) Benjamin Katzeff Silberstein, "CNPC suspends fuel exports to North Korea," *North Korean Economy Watch*, June 28, 2017, accessed on October 16, 2018: <http://www.nkeconwatch.com/2017/06/28/cnpc-suspends-fuel-exports-to-north-korea/>

31) Benjamin Katzeff Silberstein, "China's Sanctions Enforcement and Fuel Prices in North Korea: What the Data Tells Us," *38 North*, February 2019.

32) William Brown, "For Real Change, Beijing Should Stop Giving Crude Oil to a Volatile Kim Jong Un," *Center for Strategic and International Studies*, September 14, 2017: <https://www.csis.org/analysis/real-change-beijing-should-stop-giving-crude-oil-volatile-kim-jong-un>

33) Ronald B. Mitchell, "International Control of Nuclear Proliferation: Beyond Carrots and Sticks," *The Nonproliferation Review*, Fall 1997.

34) Ministry of Commerce of the People's Republic of China, Announcement No. 12 of the General Administration of Commerce of the Ministry of Commerce of the People's Republic of China <http://www.mofcom.gov.cn/article/b/e/201702/20170202518342.shtml>

35) Hyonhee Shin, "North Korea bought at least \$640 million in luxury goods from China in 2017, South Korea law maker says," *Reuters*, October 22, 2018: <https://www.reuters.com/article/us-northkorea-nuclear-china/north-korea-bought-at-least-640-million-in-luxury-goods-from-china-in-2017-south-korea-lawmaker-says-idUSKCN1MW15M>

The following commitments to negotiations on the Kim Jong-un's side after strengthened UNSC resolutions and China's participation in the sanctions regime resulted in the Singapore, Hanoi summit between Kim-Trump in 2018, 2019 and many more meetings between Kim Jong un-Xi Jinping and Kim Jong un-Moon Jae In. It is no surprise that UNSC resolution's heavy sanctions on North Korean key imports/exports and China's participation paved way for Kim Jong-un to engage in peace talks. The main purpose of Kim Jong-un engaging in the talks clearly appears to be revoking the recent sanctions as it hurt the economy of North Korea and the regime with China's participation to international sanctions, especially in the sectors of oil/luxury goods imports and coal exports. The first historic summit between the two leaders of U.S.-DPRK was held at Singapore on June 2018. The two sides were able to issue a joint statement, agreeing upon establishing new U.S.-DPRK relations, recovering POW/MIA remains, and work towards complete denuclearization of the Korean Peninsula.³⁶⁾ However, the interpretation of what the "denuclearization of the Korean Peninsula" meant differed as North Korea saw complete denuclearization as withdrawal of the U.S. military in South Korea and folding the nuclear umbrella in the Korean peninsula at minimum. The real purpose of Kim Jong-un's commitment was to lift the recent sanctions, a condition that Kim suggested in exchange for the destruction of the Yongbyon facilities at the Hanoi Summit.³⁷⁾ Specifically, Kim asked to relax five major UNSC resolutions that were passed between 2016 and 2017.³⁸⁾ It became clear that economic sanctions

36) United States White House, Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the Democratic People's Republic of Korea at the Singapore Summit, <https://www.whitehouse.gov/briefings-statements/joint-statement-president-donald-j-trump-united-states-america-chairman-kim-jong-un-democratic-peoples-republic-korea-singapore-summit/>

37) Daniel Wertz, "US-DPRK Negotiations After Hanoi: Reconcilable Differences?" *38 North*, March 4, 2019: <https://www.38north.org/2019/03/dwertz030419/>

38) Ankit Panda, "British Royal Navy Vessel Reports North Korean Illicit Ship-to-Ship Transfer in East China Sea," *The Diplomat*, April 9, 2019: <https://thediplomat.com/2019/04/british-royal-navy-vessel-reports-north-korean-illicit-ship-to-ship-transfer-in-east-china-sea/>

hurt the regime and that imposing sanctions is the best way to bring North Korea to the negotiation table.

III. The Maritime Aspects of UNSC Resolutions

Understanding that international economic sanctions on North Korea is conspicuously taking effect on the regime, especially with China's enforcement, it is important to note that sustaining and strengthening the current measures of economic sanctions is crucial. In this part of the section, I would like to point out the importance of maritime interdiction and inspection on North Korean cargo vessels because according to a research, average share of trade by sea has steadily increased over the past years, from 23% (1985-1990) to 25% (1991-1997) and to 30% (1998-2005).³⁹⁾ The research argues that "maritime transportation in North Korea may have been largely underestimated."⁴⁰⁾ It is estimated that North Korea's annual 22-billion-dollar worth of exports on average are transported via ships.⁴¹⁾ Currently, there are eight ports for trade in North Korea which include Nampo, the port with the highest share of maritime trade of 28.9% located in the West Sea, and other ports such as Chungjin, Hongnam, Rajin, Haeju, and so on.⁴²⁾ In addition, although North Korea's port cargo handling capability is only gradually increasing from 30,980 thousand tons in 1980 to 41,760 thousand tons in 2017, approximately 1/25 of South Korea,⁴³⁾ weak road and railway infrastructure makes North Korea more dependent on

39) Jin-Cheol Jo, "Maritime Trade and Port Evolution in a Socialist Developing Country: Nampo, Gateway of North Korea," *The Korea Spatial Planning Review*, (December 2006).

40) Ibid.

41) Jung Young, "Why is North Korea Fiercely Opposed to the Naval Blockade," *Institute of North Korea Studies* (2017): 137.

42) Statistics Korea, North Korea Statistics, SOC, Port Loading Capacity, http://kosis.kr/bukhan/bukhanStats/bukhanStats_03_01List.jsp

43) Statistics Korea, North Korea Statistics, SOC, 2018 North Korea's Key Statistical Indicators, <http://www.korea.kr/goNews/resources/attaches/2018.12/19/bcb6ea5f7f5727f87aa5d7fc93a68435.pdf>

maritime trade.⁴⁴⁾ Therefore, efforts to regulate North Korea's shipment is essential to the success of economic sanctions. As explained proven above, China's participation in the international sanctions regime leads North Korea to rely more on the sea lanes. The increased number of illegal maritime shipments prove that the sanctions are having a significant impact on the North Korean economy, making North Korea find ways to evade sanctions and maintain the necessary level of energy supply by illegal methods. Above various attempts of evasion, illegal ship-to-ship transfers in the high seas seems to be the most problematic. The suspected number of illegal ship-to-ship transfers rose to 130 in 2018 compared to 60 in 2017.⁴⁵⁾ Understanding the significance of maritime transportation for North Korean imports and exports of commodities, the international society has been imposing sanctions accordingly against North Korean transactions at sea.

First of all, the UN Security Council passed resolution 1718 just five days after North Korea conducted its first nuclear test in 2006. The Security Council expressed "the gravest concern" over the tests and agreed "there is a clear threat to international peace and security."⁴⁶⁾ After North Korea conducted its second nuclear test in 2009, resolution 1874 was adopted by the Security Council, to extend the list of commodities being transferred to North Korea from certain arms to "all arms and related material."⁴⁷⁾ In addition, resolution 1874 specified on the procedures of inspecting vessels that are suspected of carrying products and materials banned by the provisions. Resolution 1874 dedicates six chapters (11-17) on maritime cargo inspection, which calls upon all states to inspect all cargo to and from North Korea. Ultimately, the resolution urges all member states to cooperate in maritime inspections, allowing items prohibited by the

44) Jung Bong-min, "A Study on the Development of South-North Korea Shipping," *Korea Maritime Institute* (July 2008), 19.

45) Yang Seung-sik, "Illegal Oil Transshipments to N.Korea Doubled Last Year," *The Chosun Ilbo* (English Edition), Last Updated: March 20, 2019: http://english.chosun.com/site/data/html_dir/2019/03/20/2019032001489.html

46) United Nations Security Council 1718, S/RES/1718 (14 October 2006).

47) United Nations Security Council 1874, S/RES/1874 (12 June 2009).

resolution to be seized and disposed. This is a big step forward in comparison to resolution 1718 which simply mentioned the need of cooperative action on the inspection of cargo without further elaboration on the details. Although resolution 1874 provided justifications for inspecting suspected vessels, conditions over enforcing inspections remained strict. In order to inspect, states had to have “reasonable grounds to believe”⁴⁸⁾ that the suspected vessel was carrying prohibited items. Moreover, inspections required consent by the flag state on the high seas, and when the flag state would refuse, member states had no other means of enforcement other than submitting a report containing relevant details.

Resolution 2094 followed North Korea’s third nuclear test in 2013. Here, measures related to inspection of vessels are given greater importance, as states are allowed to deny entry in their ports which refuse inspection even after the flag state’s consent. Three years after resolution 2094, resolution 2270 passed the UN Security Council which condemned North Korea’s fourth nuclear test. This is the first resolution that provided the list of thirty-one North Korean ships that are subject to asset freeze. The resolution moved from abstraction to concrete, designating specific ships in which the sanctions are applied, and heightens the level of restrictions: prohibiting member state’s from “leasing or chartering their flagged vessels or aircraft or providing crew services to the DPRK,” “inspect the cargo within or transiting through their territory… that is destined for the DPRK, or has been brokered or facilitated by the DPRK or its nationals,” “obtaining authorization for a vessel to use the DPRK flag,” and much more. The purpose of strengthened inspection measures was for the purposes of “ensuring that no items are transferred in violation of resolutions” that had been widening the scope of items being banned, which believed to have caused damage to the continuous development of WMD including nuclear weapons and luxury goods.

The latest resolution 2397 adopted in 2017 recognized the seriousness of North Korea’s prevalent conduct of illegal maritime transshipment. Under a

48) Ibid.

separate section titled [maritime interdiction of cargo vessels], eight chapters (9-16) are dedicated to expressing great concern over “deceptive maritime practices and obtaining petroleum illegally through ship-to-ship transfers”⁴⁹⁾ and further strengthens measures on preventing such acts by prohibiting insurance services and allowing de-registration of vessels that are or once were involved in transport of cargo in and out of North Korea. Robert Huish concurs to the point that UNSC resolution 2397 was particularly effective in sanctioning North Korea’s maritime transactions. Huish found out three important findings from data collected between May 2016 and January 2018 on vessels entering North Korean waters. First, almost all ships entering North Korean ports were either DPRK-flagged or ships sailing under flags of convenience. Second, vessels entering North Korean waters would undertake deceptive acts such as turning off AIS systems or deleting previous destinations. Third, most North Korean vessels had P&I certificates (without it, ships are blocked from entering international ports) from insurance companies. According to Huish, UNSC resolution 2397 targeted such insurance companies from providing P&I certificates to North Korean vessels, even those under flags of convenience. When resolution 2397 took effect in 2017, “North Korea lost almost all of its capacity for international trade, aside from some small-vessel traffic into Chinese waters.”⁵⁰⁾

Once again, China’s participation and enforcement of sanctions is key to the success of inducing change in North Korea. North Korea’s maritime policies are almost entirely dependent on China as it can be seen by the resemblance of maritime administrative system and organizational structure of administrative bodies between North Korea and China.⁵¹⁾ The international society has to put pressure on China so that their core interests such as economic health will be

49) United Nations Security Council Resolution 2397, S/RES/2397 (22 December 2017).

50) Robert Huish, “Making Sanctions Smart Again: Why Maritime Sanctions Have Worked against North Korea,” *Asia Policy* 25, no. 3 (August 2018).

51) Jang Duk Hee, Hwang Gyu Won, Yang Hee Chul, Kang Gil Mo, “An Analysis of Major Issues in the Marine Fisheries Sector in North Korea: A Report on the Rodong Newspaper,” *Conference on Korean Policy Studies* (April 2018): 30.

put at risk unless it pushes North Korea toward a peaceful path of denuclearization. The international society can accomplish this by, “publicizing photos and other evidence of evasion, like North Korea’s ship-to-ship oil transfers, can shame China into greater compliance.”⁵²⁾ Furthermore, U.S. secondary boycott measures can be used to encourage China’s participation in the sanctions regime, suggesting that China can lose the U.S. market for exports when illegal transactions continue.⁵³⁾ In fact, news report reveal that secondary measures are targeting Chinese business person and companies, and in a recent case, Chinese company Dandong Hongxiang’s manager and three managers have been indicted on “charges of conspiring to evade U.S. sanctions meant to stop North Korean firms from helping Pyongyang to develop nuclear weapons and ballistic missiles.”⁵⁴⁾ Since stable economic growth is considered a vital national interest for China’s political leaders to cover up sociopolitical dissent, the U.S. can use its economic hegemony status for leverage to faithfully cooperate in the international sanctions efforts and prevent backdoor rooms for transaction through land.

UN Panel of Experts’ recent report is utilized along with individual state’s report showing evidence of such illegal acts as mandated in the consecutive resolutions to report to the UN Commission pursuant to resolution 1718. The numerous cases of illegal transshipment provide evidence that long line of UN resolutions and individual states’ sanction measures are taking effect on the North Korean regime disadvantageously, seeking alternate illicit ways to evade economic constraints. As a matter of fact, “illegal ship-to-ship transfers of petroleum products greatly accelerated in 2018,”⁵⁵⁾ where more than 50 vessels

52) Peter Harrell and Juan Zarate, “How to Successfully Sanction North Korea,” *Foreign Affairs*, January 30, 2018.

53) Cho Nam Hoon, “The Case of the Dismantling of Sanctions in the U.S. and Its Implications for Sanctions against North Korea,” *2019 Association of North Korean Studies* (March 2019): 538.

54) Jonathan Stempel, “Chinese company, owner indicted in U.S. on North Korea sanctions charges,” *Reuters*, July 24, 2019: <https://www.reuters.com/article/us-usa-crime-northkorea-charges/chinese-company-owner-indicted-in-u-s-on-north-korea-sanctions-charges-idUSKCN1UI2CM>

and 160 associated companies are being investigated for participating in such actions.⁵⁶⁾

According to the recent report published by the UN Panel of Experts established pursuant to resolution 1874, North Korea has conducted acts of illegal ship-to-ship transfers in an attempt to evade United Nations Security Council resolutions that limit the annual amount of imports and exports of various commodities.⁵⁷⁾ The report dedicates more than hundred pages of evidence that show the collection of evidence by surveillance of various countries. It introduces sophisticated maritime evasion measures that had been taken by North Korean vessels, and they include: false automatic identification system (AIS) broadcasting, physical disguise and false documentation, false certificate of registry, false flagging, etc.⁵⁸⁾ The report reveal numerous cases of evasion efforts at sea, providing a list and evidence of North Korean vessels engaged in such measures such as the 'Ji Song 6,' and 'Wise Honest.' In fact, after the U.S. froze the 'Wise Honest,' Kim Sung, North Korean representative to the United Nations criticized the U.S. and demanded the release of the ship.⁵⁹⁾

A report published jointly by the U.S. Department of State, U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), and the U.S. Coast Guard on March 2019 addresses North Korea's numerous practices to evade maritime sanctions. Some examples are manipulation or disablement of AIS, physical alteration of identification, and falsification of cargo and vessel documents. In addition, the report shows the areas of which North Korea's ship-to-ship transfers of natural resources occurred. The main areas are the East China Sea, West Sea, and the East Sea high waters. It is estimated that at least 28 North Korean tanker ships are capable of transferring refined petroleum products, and 33 ships capable of coal transfer.⁶⁰⁾ The report provides a long

55) United Nations Security Council, Panel of Experts Report, S/2019/171 (5 March 2019).

56) Ibid.

57) Ibid.

58) Ibid.

59) Sarah Kim, "North's envoy to UN says ship must be returned," *Korea JoongAng Daily*, May 23, 2019: <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3063394>

list of vessels that are capable of engaging in transshipment of petroleum products, foreign vessels that are believed to have engaged in transshipment with North Korean tankers, and vessels that are believed to have exported North Korean Coal since August 2017. The list acts advantageously in that it is updated instantly and annual reports providing evidence.

A recent report⁶⁰⁾ by the Wall Street Journal also reveals similar acts of evasion on the North Korean side, to secretly continue shipping of banned products to fund the regime and developments of WMD. The first example that the report reveals is the use of circuitous routes. In 2018, Panama-flagged vessel 'Hua Fu' loitered off the Chinese coast near Shidao, attempting to give a false image of departing from a Chinese port. Then the ship turned off its tracking device to enter the North Korean port Nampo, where it loads coal to unload them in Vietnam. Since the strengthening of UN sanctions on North Korean vessels entering member states' ports, it conducts transshipment at sea. The second example of evasion efforts is ship-to-ship transfers at sea. Again, another Panama-flagged 'Shang Yuan Bao' departed from Taiwan and a North Korean tanker 'Paek Ma' departs from Nampo to meet near the coast off Shanghai to receive petroleum products. Finally, the report shows that North Korean vessels adopt the strategy of shuffling identities of ships, providing the case of a North Korean oil tanker 'Sam Jong 1' as an example. The ship is believed to have obtained petroleum products through transshipment at sea by faking its identity many times such as transmitting a different name, broadcasting a different flag, and repeating the same procedure numerous times. It concluded that from January to mid-August in 2018, "two dozen tankers made at least 148 deliveries of refined petroleum products to North Korean ports," probably exceeding the UNSC resolutions cap of 500,000 barrels per year by five times.

Despite prevalence of North Korean evasion attempts at sea, difficulties remain due to the discordance with international law that recognizes innocent

60) United Nations Security Council, Panel of Experts Report, S/2019/171 (5 March 2019).

61) Niharika Mandhana, "Fake Signals and Illegal Flags: How North Korea Uses Clandestine Shipping to Fund Regime," *The Wall Street Journal*, Nov 28, 2018.

passage through territorial and high seas. UNCLOS part VII article 90 states the right of navigation where, “every state, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas”⁶²⁾ and part II article 17 recognizes that, “ships of all states, whether coastal or land-locked, enjoy the right of innocent passage through the territorial seas.”⁶³⁾ In fact, article 23 even admits innocent passage for ships carrying nuclear or other inherently dangerous or noxious substances⁶⁴⁾, although it recommends to observe special precautionary measures. As a matter of fact, most cases of illegal transactions at sea occur within or near the territorial seas of China, making inspections more difficult and requiring cooperation from the Chinese side more necessary. For direct inspection of suspected vessels, four conditions have to be met. The first is when the suspected ship entering North Korean ports is passing through territorial waters. The second is that there has to be an agreement from the flag ship when attempting inspection in the high seas. Third is that the flag state should make the ship port call to the nearest port when defying inspection, and finally, the fourth condition is that member states can freeze or contain the suspected ship when it has been proven that the ship had been involved in shipments of illicit commodities or transshipment of natural resources.⁶⁵⁾ It is the requirement of the agreement of the flag state that makes inspection of suspected vessels difficult in the high seas.

IV. Conditions for Successful Enforcement of UNSCR Upon the DPRK

So far, the research above show that three conditions evidently determine the

62) UN General Assembly, Convention on the Law of the Sea (10 December 1982).

63) Ibid.

64) Ibid.

65) Kim Suk Gyun, “International Legal Implications of the U.S. Coast Guard Ship to the Korean Peninsula,” Korea Institute for Maritime Strategy, KIMS Periscope (21 May 2019): <http://www.kims.or.kr/peri159/>

success of the sanctions regime on North Korea: (1) smart sanctions, targeting commodities and support groups (elites) vital to regime survival., (2) China's faithful participation in the regime, and finally, (3) Preventing North Korea's maritime evasion measures for the effective implementation of the sanctions. This section provides three policy implications for the future of sustaining the positive effects of economic sanctions. The first implication is to review the possibility of maritime containment or naval blockade. As mentioned above, economic sanctions are effective only when limitations are imposed on North Korean exports of coal and imports of oil, presuming that China faithfully participates in the sanctions regime. Since North Korea continues to attempt evasion of sanctions through illegal maritime transactions, stronger policies that can stop North Korea's attempt is imperative. As a matter of fact, when former U.S. Secretary of State Rex Tillerson mentioned the possibility of a naval blockade to interdict ship-to-ship transfers of North Korea, the Rodong newspaper reacted furiously on their commentary that a naval containment policy would be regarded as an "overt declaration of war and will not just stand by and watch."⁶⁶) In addition, the commentary stated that, "immediate and brutal self-defense measures will take place when an even small attempt to implement containment policies are put in reality."⁶⁷) All such comments from North Korea prove the point that containing their maritime passageway is a matter of survival. The seas near the Korean Peninsula can be considered the 'neck of a bottle' because the only way out to the open waters for North Korea is to pass through the 'neck of a bottle' – either through the West Sea or the East Sea. Naval blockade, containing the waters of West and East China could be critical to North Korean attempts of further illegal transactions at sea. South Korea as the entry point before North Korea endows its significant role of closing the cap of the bottle. When conducting interdiction and inspection of

66) Rachel Lee, "North Korea says naval blockade will trigger war," The Korea Times, December 11, 2017: https://www.koreatimes.co.kr/www/nation/2019/07/103_240672.html

67) Choi Ju Yong, "A sea blockade is a declaration of war... Follow the merciless countermeasure," The Chosun Ilbo (10 December 2017): http://news.chosun.com/site/data/html_dir/2017/12/10/2017121000354.html

North Korean ships unilaterally, there is a high possibility of naval provocations considering past experiences of combats at sea. Therefore, blockade and containment efforts against North Korean vessels should be multilateral in cooperation of neighboring countries such as Japan, the U.S. and any other UN member states willing to participate to gain justification and legitimacy. Since inspection of suspected ships are justified under the resolutions of the Security Council, there are no grounds for North Korea to protest against decisions based upon international organizations. The 9.19 military agreement between North and South Korea that widened the waters as peace zones can act beneficially for blockade efforts because containment can be conducted near the South Sea of Korea, below Sokcho in the East and Taean in the West which are boundaries for peace zones in the waters. When complete blockade to eradicate illegal North Korean maritime transactions is achieved, North Korea's economy, especially sectors of importance such as energy which rely heavily on sea lanes will suffer to bring Kim Jong-un out to the negotiation table and commit to talks. The Malacca strait is the entry zone to the South China Sea where many suspected cases of ship-to-ship transfers had been reported. Therefore, sophisticated inspection at the level of containment in the Malacca strait is necessary for preventing illegal transshipment. More than 70% of the total traffic of petroleum products passes through the Indian Ocean, and 40% of world trade passes through the Strait of Malacca, which makes the strait vital to choke North Korea's economic transactions in the area. There are successful examples of naval blockade against the Soviet Union during the Cold War and Iran which led to the retreat of Soviet weapons to Cuba and the signing of the JCPOA in 2015. Commander Park Changwon explained that naval blockade is becoming more useful for political purposes rather than containing the sea for military purposes and that it is more effective in peace time rather than war times.

The second policy implication for a more effective economic sanctions is enhancing surveillance and reconnaissance of North Korea's vessels to collect evidence of illegal ship-to-ship transfers at high seas to prevent illegal transshipment of items related to WMD as well as natural resources such as

petroleum and crude oil. Since international law including UNCLOS makes it difficult for direct inspection of suspected ships on board at open waters, multilateral efforts are focused on collecting evidence, in order to submit them to the UNSC Committee to demand future economic sanctions on parties that were involved in the transactions with North Korea. Multilateral efforts have been put in the suspected areas of illegal transshipment, like USCGC Bertholf and Stratton conducting surveillance operations in the West Pacific Ocean, along with allied countries such as Canada and Australia providing military assets to the area to participate in the efforts. Even countries to the far West which seem unrelated directly to the North Korean issue such as Czech Republic and Lithuania expressed concerns over North Korea's explicit acts of sanctions evasion.⁶⁸⁾ Multilateral efforts to keep an eye on illegal North Korean ship-to-ship transfer can be categorized as a collective security level defined as the level of cooperation on a particular area of focus among states with common interests. A historical example may be in June 2011 when states cooperated on the basis of PSI to track down a North Korean vessel carrying WMD headed for Myanmar to turn the ship back to North Korea. Most acts of illegal ship-to-ship transfers are conducted near the South/East China Sea and therefore multilateral groups of navies or coast guards should increase the level of surveillance to the level of containment. China's insecurity on multilateral operations being conducted near their territorial waters should be explained as joint efforts to prevent North Korea's illegal transactions at sea, and it has to be maintained until no single North Korean vessel conducts illegal transactions. It will in China's utmost interest as well to cooperate in the surveillance mission to when the international society makes a clear stance that it will not leave until their mission is complete.

The last policy implication is South Korea's active participation in the sanctions regime. South Korea has to understand that its participation in the

68) Baek Sung Won, "East Europe States "North Korean Oil Transshipment must be prevented... participating in filing a protest," *VOA Korea* (21 June 2019): <https://www.voakorea.com/a/4967240.html>

international sanctions regime is vital and that, “unless the ROK upholds larger goals endorsed unanimously by the UN Security Council, the collective effort to inhibit and reverse Pyongyang’s pursuit of nuclear weapons could appreciably weaken.”⁶⁹⁾ In reality, South Korea’s participation in multilateral efforts to maintain high caution level on North Korea remains low. To one’s surprise, the U.S. report listed a South Korean ship named ‘Lunis’ which is suspected to have engaged in ship-to-ship transfers with North Korean tankers. Moreover, it is known that South Korea hasn’t been participating in the joint efforts of seven countries including the U.S., U.K., France, Australia, New Zealand, and Japan to curb North Korean illegal ship-to-ship transfers at sea, arguing that the multilateral operation area is far from ROK Navy’s operation area.⁷⁰⁾ It is important for the ROK Navy to participate in the multilateral efforts of keeping an eye on North Korean maritime transactions as it is a matter of its own national security. Historically, most of North Korean provocations had been conducted at sea, attempting to nullify the NLL, and weaken the defense posture at sea. The most representative example is the Yeonpyeong attack in 2002 and the sinking of a ROKN battleship Cheonan in 2010. North Korea is developing new asymmetric weapons, especially an anticipated 3,000-ton sized submarine for the launch of SLBMs.⁷¹⁾ Unless South Korea shows that they are the main player of the international sanctions by participating in multilateral operations at sea, we cannot expect to derive support from the international community. When the battleship Cheonan was sunk in 2010, binding resolutions failed to

69) Jonathan D. Pollack, “Economic Cooperation with North Korea: Implications for the Sanctions Regime and Denuclearization,” *7th Korea Research Institute for National Strategy-Brookings Institution Joint Conference, Seoul, Korea*, January 16-17, 2019 (2019): <https://www.brookings.edu/wp-content/uploads/2019/01/KRINS-Brookings-2019-Economic-Cooperation-with-North-Korea-Jonathan-Pollack.pdf>

70) Kim Joo Young, “ROK is not cracking down on illegal DPRK transshipments, ROK MND: Not True” *Financial News* (7 June 2019): <https://www.msn.com/ko-kr/news/national/%E6%97%A5-%E9%9F%93-%E5%8C%97%EB%B6%88%EB%B2%95%ED%99%98%EC%A0%81-%EB%8B%A8%EC%86%8D-%EC%95%88%ED%95%B4-%E8%BB%8D-%EC%82%AC%EC%8B%A4-%EC%95%84%EB%83%90/ar-AACwTKJ>

71) Choe Sang-Hun, “Kim Jong-un inspects New Submarine That Could Increase Range of Missiles,” *The New York Times*, July 22, 2019: <https://www.nytimes.com/2019/07/22/world/asia/north-korea-kim-jong-un-submarine.html?searchResultPosition=1>

pass in the UN Security Council, only to end up in publishing a presidential statement mildly criticizing the North. This is a clear example that international support can be brought to recognition only when North Korean provocations are pertaining to the interests of the international society rather than security interests of individual states. Therefore, interdicting North Korean vessels through multilateral operations and faithfully enforcing the UNSC resolutions is the best way to secure our sovereignty and national security at the same time. Effective implementation and maintenance of UNSC resolutions is the key to bringing peace in the Korean Peninsula, and South Korea has to take the leading role in enhancing such stance.

V. Conclusion

The importance of sea is indisputable in terms of political, economic and strategical aspects. Robert Kaplan mentioned that, “even today, in the jet and information age, 90% of global commerce and about 65% of oil travel by sea,” emphasizing the significance of sea power even in the age of other highly developed transportation technologies.⁷²⁾ In 2006, Paul Kennedy emphasized the importance of sea power at the ‘International Forum on National Ocean Strategy.’ Referring to Alfred Mahan’s book, he mentioned geography, natural environment, the size of territory, population, national character, and the government’s will as important elements of sea power. He argued that while the first three elements are unchangeable, the latter three are subject to change depending on the amount of effort that is put into it. Above all the elements Paul Kennedy mentioned, ‘government’s will’ can be related to maritime sanctions on North Korea in that the success of economic sanctions depend on the government’s will to actively participate in the multilateral operations of enforcing UNSC resolutions, especially efforts to prevent North Korean maritime evasion activities.

72) Robert D. Kaplan, “Center Stage for the 21st Century,” *Foreign Affairs* (March/April, 2009).

The positive impact of continuous international economic sanctions is not only limited to disrupting the North Korean regime's lifeline, but also to an 'unintended good' that Anastasia Barannikova introduced in her paper. Before China's participation to the sanctions regime, "North Korean coal and ore were exported primarily to China at artificially low prices and in such large quantities that domestic power plants faced shortages of coal." But after China scaled down on its imports of coal and other industries that the resolutions stipulated, "factories and workshops that previously produced goods for export have been reoriented towards meeting domestic demand, displacing the products of Chinese light industry in North Korean stores."⁷³⁾ In other words, the economic sanctions and China's participation are unintendedly transforming the North Korean economy to increase domestic production and consumption, propping up the welfare of ordinary North Korean citizens. Already, at least 70% of the income of North Korean citizens are originated from market-related activities, and further marketization of the North Korean economy, whether by official/unofficial markets, can have the possibility of coexisting and propping up connectivity between the people of North Korea for organized activities.⁷⁴⁾ When trust and networks are formed, organizing power can possibly unite the people to ask for further democratization, at least in the economical aspect. In fact, Kim Jong-un called on the North Korean people to concentrate on enhancing economic self-reliance during the new year speech in 2018, blaming the U.S. and its followers' attempt of cruel economic sanctions.⁷⁵⁾

We have learned from the past experience that the purpose of North Korea's nuclear development is not of regime survival, but instead is to obtain offensive capabilities. Long history of negotiations with North Korea proved to have failed because the international society could not learn from previous experiences that

73) Anastasia Barannikova, "Sanctions Against North Korea: An Unintended Good?" *Center for Strategic and International Studies*, April 1, 2019.

74) Byung-Yeon Kim and Seong Hee Kim, "Market Activities and Trust of North Korean Refugees," *Asian Economic Policy Review* 14, no. 2 (July 2019).

75) Ministry of Unification, Weekly North Korea Trend 1395 (18 January 2018): <https://nkinfo.unikorea.go.kr/nkp/argument/viewArgument.do>

North Korea will never give up their weapons by providing carrots. Recent economic sanctions to cap the amount of coal exports and oil imports of North Korea is successfully hurting the regime under China's faithful cooperation with international sanctions measures. North Korea's two-sided tactics is once again appearing, increasing illegal maritime transactions at sea to supplement losses from sanctions, while pretending to be committed to denuclearization. In conclusion, South Korea has to take further steps to actively participate in the sanctions regime, multilateral operations to keep a close eye on illegal transactions by North Korean vessels should be enhanced, and if necessary, naval blockade should be considered to force North Korea's acts of sanctions prevention at sea. Despite limitations to the content of sanctions and its enforcement, "the extensive sanctions regime placed on Pyongyang remains one of the only levers of pressure – albeit an imperfect one – on the Kim regime."⁷⁶⁾

76) J. Berkshire Miller, "Sanctions Enforcement Remains Critical to North Korea Diplomacy," *World Politics Review*, March 26, 2019: <https://www.worldpoliticsreview.com/articles/27696/sanctions-enforcement-remains-critical-to-north-korea-diplomacy>

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Abstract

대북경제제재의 효과성과 미래 발전 방향에 대한 고찰: 해상대북제재를 중심으로

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유엔 안전보장이사회(UNSC, United Nations Security Council) 주도의 경제제재는 초창기 ‘포괄적 경제제재(comprehensive sanctions)’ 모델에서 ‘스마트 경제제재(smart sanctions)’ 모델로 발전하고 있다. 유엔 안보리는 직접적인 무력개입(military intervention)보다 규범적 비용(normative costs)과 부담이 덜한 경제제재를 통해 대상 국가의 손익계산법(cost-benefit calculation)을 바꿔 행동변화를 이끌어내려고 했으나, ‘포괄적 경제제재’에 따른 비용 대부분이 일반 대중에게 전가되면서, 인도적 위기(humanitarian crisis) 사태를 초래하고, 대상 국가의 내부 결속력을 강화하는 역설적인 상황을 만들었다. 이에 따라 정책 결정 과정에 직접적으로 관여하는 지도자와 정치 엘리트를 대상으로 자산을 동결(asset freeze)하거나 여행금지(travel ban) 조치 등을 집중적으로 하는 ‘스마트 제재’가 탄생하였다.

대북한 경제제재 또한 ‘스마트 경제제재’ 모델로 점차 발전하여 그 효과성을 나타내고 있다. 특히 최근의 결의안(resolutions)을 통해 석탄 수출을 전면 금지하고, 원유 수입을 제한함에 따라 지표상 가시적인 성과가 나타나고 있고, 2018년부터 한국, 미국과 평화협상에 나서면서 제재완화를 촉구하는 등, 위와 같은 ‘스마트’ 대북제재가 북한의 행동변화를 이끌어내고 있음을 알 수 있다. 대북제재의 효과성은 북한의 대외무역규모(total trade volume) 변화량을 통해 측정할 수 있는데, ‘포괄적 경제제재’의 성격에 가까운 초기의 대북제재 결의안 채택 이후에는 북한 대외무역규모가 감소한 경우도 있지만 도리어 증대된 경우도 있었다. 그러나 석탄 수출 금지 및 원유 수입 제한 조치를 담은 2016, 2017년의 결의안 이후에는 북한 대외무역규모가 2016년 약 65억 달러에서 2017년 약 55억 달러로, 2018년에는 약 28억 달러로 대폭 감소한 사실을 발견할 수 있다. 북한의 대외무역은 정권의 자금줄과 같기 때문에 대외무역규모의 감소는 곧 ‘스마트 제재’의 효과와 같다.

대북경제제재의 효과성에 영향을 미치는 두 번째 조건은 중국의 대북제재 레짐

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(sanctions regime)에의 참여 여부다. 북한은 경제적으로 중국에 상당히 의존하고 있고, 이는 지표상으로도 명백히 나타나고 있다. 중국은 그 동안 북한의 지정학적인 가치 및 급변 사태 시 북-중 국경에서의 대규모 난민 발생 우려 등에 따라 직간접적으로 북한을 지지해왔지만, 북한 핵능력의 고도화에 따른 동북아시아 지역에서의 핵확산(nuclear proliferation) 우려, 미-중 무역분쟁에 따른 여파 등으로 대북제재 레짐에 성실히 참여할 것을 밝혔다. 실제로 중국의 대북한 석유 수출량이 감소하고, 북-중간 대외무역 총량 또한 2016년부터 지속적으로 감소하며, 대북경제제재에 중국의 참여가 제재 성공의 중요한 변수임을 증명했다.

효과적인 대북제재를 위한 마지막 요건은 북한의 경제제재 회피 노력 방지(prevention of North Korea's economic sanctions evasion efforts)다. 앞서 밝힌 바와 같이 석탄 수출과 원유 수입은 북한 정권의 자금줄이자 핵무력 고도화를 위한 필수 에너지원이다. 중국이 대북제재 레짐에의 참여를 선언한 상태에서 중국으로부터의 원유 수입량이 급감함에 따라 중동지역 등지로부터 바닷길을 통해 원유를 수입해야 하는데, 원유 수입량 제한에 따라 동중국해(East China Sea) 및 공해(high seas)상에서 선박 대 선박간 불법 환적(ship-to-ship illegal transshipment)을 실시하면서 대북제재를 무력화하고 있다. 유엔 대북제재위 산하 전문가 패널(Panel of Experts), 미 국무부(U.S. Department of State), 미 재무부 외부자산통제국(U.S. Department of the Treasury's Office of Foreign Assets Control, OFAC) 등은 보고서를 통해 북한의 해상 불법 환적 실태를 상세히 밝히고 있는데, 자동 선박 식별 장치(AIS, Automatic Identification System)의 허위 신호 송출(false signaling), 선박 등록 문서 위조(false certificate of registry)와 같은 방식으로 감시 및 단속을 회피하고 있는 실정이다. '스마트'한 대북제재 설계 및 중국의 참여로 대북제재가 북한의 행동 변화를 이끌어낼 수 있음이 확인되었지만, 국제사회의 눈을 피해 해상에서 만연하고 있는 불법 환적과 같은 행위는 효과적인 대북제재 실행의 마지막 퍼즐이라고 할 수 있다.

앞으로 해상에서의 불법 환적 행위를 막기 위해 다음 세 가지 정책적 함의를 도출해낼 수 있다. 첫 번째는 가장 강력한 조치라고 할 수 있는 해상봉쇄(maritime blockade)에 대한 고려다. 전세계 물동량의 40%가 지나가는 말라카 해협(Malacca Strait)은 북한에게도 중요한 해상 교통로이다. 북한이 계속해서 결의안을 위반하고 공해상에서 불법 환적 행위를 자행할 경우, 말라카 해협에서 북한과 연계된 의심 선박을 검문 검색하고 차단(interdiction)하여 강제적인 방식으로 북한의 제재 회피 노력을 근절할 수 있다. 남중국해(South China Sea)에서 중국과 미국 간, 중국과 주변국 간 갈등이 격화됨에 따라 다국적군의 말라카 해협 봉쇄는 중국에게 달갑지 않았지만, 유엔 대북제재 결의안에 명시되어 있는 의심 선박에 대한 검문 검색 행위임을 명백히 함과 동시에 다자간의 협조를 바탕으로

하여 규범적 정당성(normative justification)을 높인다면 충분히 실현 가능한 방안이다. 두 번째는 공해상에서의 불법 해상 환적에 대한 감시 강화와 증거 수집이다. 마지막 세 번째는 대한민국의 다국적 해상 감시 활동에의 참여다. 북한의 대북제재 이행 여부는 한국의 안보와 직결되는 사안이다. 대북제재의 최종 목표는 북한 비핵화에 있고, 협상 테이블에 북한을 이끌어내는 데 제재가 효과적이라는 것이 드러났기 때문에 핵 위협의 당사자인 대한민국 또한 효과적인 제재 이행 여부 감시에 책임감을 가져야 한다.

핵심어: 북한, 경제제재, 유엔 안보리, 해양안보

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