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# Why Imposed Sanctions Have Little Effect on North Korea

## 1. Introduction

In order to make states comply with their legal obligations in the context of the system of collective security of the organization, the UN has been using sanctions as its essential measure. Sanctions are adopted under Chapter VII, which is titled “action with respect to threats to the peace, breaches of the peace, and acts of aggression”, of the UN Charter. Essential articles have authorized the Security Council of the UN (hereinafter referred to “UNSC”) to employ various sanctions as below<sup>12</sup>:

### *Article 39 of the UN Charter*

*“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”*

### *Article 41 of the UN Charter*

*“The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These 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.”*

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<sup>1</sup> “UN Charter (Full Text)” (*United Nations*) <<https://www.un.org/en/sections/un-charter/un-charter-full-text/>> accessed August 11, 2020.

<sup>2</sup> The sanctions in this thesis mean only non-military sanctions. In this regard, it does not present any provisions relating to the military sanctions in this Chapter.

### *Article 42 of the UN Charter*

*“Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”*

If the existence of any threat to peace, breach of peace, or act of aggression is determined by the UNSC based on Article 39 of the UN Charter, the UNSC may call upon the Member States to implement punitive or defensive measures. Such measures are decided according to Article 41 and 42 of the UN Charter.

However, despite the importance of sanctions in maintaining international peace and security, the current methods of the UN implementing sanctions are often criticized for their ineffectiveness. In particular, this can easily be demonstrated by the sanctions against North Korea (Democratic People’s Republic of Korea, hereinafter referred to “DPRK” or “North Korea”). North Korea seems to be the only remaining state in the world currently advocating strict “socialism”. Ten rounds of targeted sanctions imposed by the UN since 2006, and several sanctions by the U.S. and other states, have been applied against it. However, up until now, Kim Jong-un’s rule and North Korea’s constant ambition to develop nuclear weapons and ballistic missiles seem not to have been affected. It is plain to see that, after imposing targeted sanctions, their political goals, such as bringing about regime change or changing the target’s behaviors, have not been achieved easily.

This thesis analyzes both comprehensive and targeted sanctions, as well as their respective strengths and weaknesses. It then focuses on UN sanctions imposed on North Korea in chronological order. In addition, it presents the factors that explain the limited effects of these sanctions on North Korea. Furthermore, this thesis reports the prior sanctions imposed on North Korea by the U.S., including secondary sanctions, along with providing an in-depth summary and analysis of the recent summits between North Korea and the U.S. It also introduces South Korea's stance on the matter and role in these relations. Lastly, the thesis

evaluates the meaning and impacts of previously imposed sanctions as well as ongoing sanctions against North Korea.

## **2. General Aspects of International Sanctions**

This chapter introduces the main characteristics of both comprehensive and targeted sanctions according to “Targeted Sanctions”, which was written by Thomas J Biersteker, Sue E Eckert, and Marcos Tourinho in 2016.

### **2. 1. Targeted Sanctions and Comprehensive Sanctions**

UN sanctions have played a pivotal role in international sanctions. Although unilateral and/or regional sanctions are often necessary, only those sanctions imposed by the UN Security Council (or the UNSC) under Chapter VII of the UN Charter are universally applied and legally binding.<sup>3</sup> There are various types of sanctions, such as economic, non-military, and diplomatic, among others. This thesis analyzes comprehensive and targeted sanctions, which are the most notable types of sanctions. To provide a brief overview, comprehensive sanctions are a policy instrument halting all international relations with a target. These generally prohibit all direct or indirect imports from and exports to a target state, with the exception of humanitarian assistance. Namely, these include broad trade restrictions and prohibit participation in any and all commercial activity with the target state. Examples of comprehensive sanctions include U.S. sanctions against Iran and Cuba.<sup>4</sup> Meanwhile, targeted sanctions are designed to protect innocent persons and instead specifically aimed against individuals or groups like governments, rebels, or terrorists who are directly responsible for grave breaches of international law, as either decision-makers or those perpetrating unlawful

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<sup>3</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 12.

<sup>4</sup> *Economic Sanctions: Agencies Assess Impacts On Targets, And Studies Suggest Several Factors Contribute To Sanctions’ Effectiveness* (United States Government Accountability Office 2019) <<https://www.gao.gov/assets/710/701891.pdf>> accessed 11 August 2020. P. 4.

acts.<sup>5</sup>

Historically, the most comprehensive range of sanctions thus far imposed by the UNSC was adopted in the wake of the invasion of Kuwait by Iraq on August 2, 1990. UNSCR 661 (1990), noting that Iraq had failed to withdraw immediately and unconditionally from Kuwait and acting under Chapter VII of the Charter, imposed a wide range of economic sanctions upon Iraq. These sanctions included the prohibition by states of all imports from and exports to Iraq and occupied Kuwait, and the transfer of funds to Iraq and Kuwait for such purposes. Additionally, the Security Council decided that states must not make available to the Government of Iraq or to any commercial, industrial or public utility undertaking in Iraq or Kuwait any funds or any other financial or economic resources and prevent their nationals and persons within their territories from remitting any additional funds to persons or bodies within Iraq or Kuwait, notwithstanding any existing contract or license.<sup>6</sup> The comprehensive sanctions against Iraq were reinforced under the UNSCR 665 (1990) which authorized those UN Member States deploying maritime forces in the area in co-operation with the legitimate government of Kuwait ‘to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council’ in order to enforce the naval blockade on Iraq.<sup>7</sup>

However, these comprehensive sanctions caused disastrous humanitarian consequences in Iraq in the 1990s. After experiencing the devastating humanitarian effects of the comprehensive sanctions, a substantial change in the design and implementation of sanctions occurred.<sup>8</sup> For a start, a concern was raised in academia regarding the powerful mandates of the Security Council and the necessity for restrictions on them. Heated debates arose, claiming that the Security Council was given a ‘blank cheque’, which it was free to fill in at its discretion. However, Article 24(2) of the UN Charter obliges the Security Council to act in accordance with the Purposes and Principles of the UN. Article 1(3) of the Charter lists the

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<sup>5</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 76.

<sup>6</sup> Malcolm N Shaw, *International Law* (8th edn, Cambridge University Press 2017). P. 952.

<sup>7</sup> Malcolm N Shaw, *International Law* (8th edn, Cambridge University Press 2017). P. 953.

<sup>8</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 11.

promotion, encouragement, and respect for human rights and fundamental freedoms among the primary purposes of the World Organization.<sup>9</sup> Because there are questions concerning what precisely constitutes “human rights”, doubts have likewise arisen regarding which obligations the Security Council is bound to protect.<sup>10</sup> According to the scholar Hanspeter Neuhold, the most fundamental of these rights is the right to life, seeing that if such a right is violated, all other rights can no longer be exercised. He suggests that beyond the basic right to life, the right to an adequate standard of living (including sufficient food, clothing, and housing), as well as the right to physical and mental health, are all considered fundamental human rights.<sup>11</sup> Anyway, it is necessary to remember that unless one ignores the Charter, there is no doubt that the Security Council is bound by human rights law.<sup>12</sup>

As a result, the UNSC decidedly shifted towards the imposition of targeted sanctions, not comprehensive sanctions. In only two instances (the former Yugoslavia in 1992 and Haiti in 1994), the UNSC imposed new comprehensive measures for a period (following targeted ones), but the last time a comprehensive trade embargo was imposed by the UN was in 1994. Today, most international and all UN sanctions are targeted sanctions.<sup>13</sup>

Given this history of transformation from the comprehensive sanctions to targeted sanctions, it is necessary to compare and examine the concepts of both types of sanctions. Comprehensive sanctions are an ‘all or nothing’ policy instrument that halts all international economic and commercial transactions with a state, with the exception of humanitarian assistance. In this sense, comprehensive sanctions are not a flexible or agile policy instrument,

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<sup>9</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 75.

<sup>10</sup> Dapo Akande, 'The Security Council And Human Rights: What Is The Role Of Art. 103 Of The Charter?' (*Ejiltalk.org*, 2009) <<https://www.ejiltalk.org/the-security-council-and-human-rights-what-is-the-role-of-art-103-of-the-charter/>> accessed 11 August 2020.

<sup>11</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 75.

<sup>12</sup> Dapo Akande, 'The Security Council And Human Rights: What Is The Role Of Art. 103 Of The Charter?' (*Ejiltalk.org*, 2009) <<https://www.ejiltalk.org/the-security-council-and-human-rights-what-is-the-role-of-art-103-of-the-charter/>> accessed 11 August 2020.

<sup>13</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 11.



and are intended to completely isolate the target.<sup>14</sup> Targeted sanctions differ from comprehensive sanctions in that they are discriminating measures. While comprehensive sanctions apply indiscriminately on an entire state and its population with harmful humanitarian consequences, targeted sanctions are focused on specific individuals, entities, sectors, and/or regions of a state. Targets can include designated individuals, selected firms or business entities, political parties, non-state actors, or regimes (such as the Taliban in Afghanistan). Travel bans and asset freezes are commonly imposed on individuals, while firms likewise may be subject to asset restrictions. Targeted sanctions can also be imposed on a sector of activity (such as diplomatic activities) or restrict trade with an entire sector of an economy. Sectoral targeted sanctions include arms embargoes, commodity bans (e.g., on oil, diamonds, or timber), transportation bans, luxury goods bans, and more general financial sector restrictions. Finally, sanctions may be targeted on a region of a state, such as a province or sub-regional territory, or on the territory under the control of a proscribed rebel group.<sup>15</sup>

In addition, targeted sanctions are more complex than comprehensive sanctions in various ways. They entail decisions about whom to target, how to limit indiscriminate unintended consequences, and often, a strategy for how to suspend or lift them in an incremental manner as the situation on the ground changes. Targeted sanctions are also more difficult to design and implement than comprehensive sanctions. To maximize effectiveness, they require a sophisticated and detailed knowledge of a state's economy and its political system. Designing measures that most directly affect the political leadership responsible for decision-making (and in the process, avoiding a negative humanitarian impact to the extent possible) requires detailed knowledge of a state's internal political dynamics. It is far more complicated than imposing blanket sanctions on an entire state.<sup>16</sup> Namely, simply banning all transactions, as

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<sup>14</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 14.

<sup>15</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 13.

<sup>16</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 15.

done in comprehensive sanctions, is far easier to implement.<sup>17</sup>

As seen above, targeted sanctions vary in the degree of discrimination, and they differ from comprehensive sanctions in that they are not imposed indiscriminately on an entire population. However, it does not mean that they may not have any unintended humanitarian consequences. It means only that, since the latter inflict costs on innocent civilians rather than on those directly responsible for some proscribed behavior, targeted sanctions are more normatively acceptable than comprehensive sanctions.<sup>18</sup>

From now on, this thesis delves into targeted sanctions in depth.

## **2.2. The Purpose of Targeted Sanctions**

Contrary to the general perception, the primary purpose of sanctions is not to punish the targeted state, but rather to force it to cease its unlawful behavior and accept the consequences of such behavior under the law of state responsibility, such as the payment of reparations.<sup>19</sup> Based on the view that sanctions do not aim to punish, many sanctions are designed to support governments and regions working towards peaceful transition. For example, the sanctions targeting the Libyan and Guinea-Bissau regimes all exemplify this approach.<sup>20</sup> Regarding targeted sanctions, in particular, the purposes of such sanctions have been divided into three categories. Firstly, these are to coerce a change in a target's unlawful behavior. Secondly, these are to constrain, i.e., make it more difficult for a target to continue a proscribed activity. Lastly, these are to signal and/or stigmatize a target or others about the violation of an international norm.

To be more specific, sanctions with a coercive purpose seek to change the behavior of targets,

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<sup>17</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 16.

<sup>18</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P 13.

<sup>19</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 73.

<sup>20</sup> 'Sanctions | United Nations Security Council' (*Un.org*) <<https://www.un.org/securitycouncil/sanctions/information>> accessed 11 August 2020.

often requesting them to fulfil a set of demands explicitly stated in the UNSC resolutions or asserted by a relevant actor (e.g., Secretary-General). In other words, senders attempt to coerce a change in the behavior of the targeted party, and it is considered a primary purpose of sanctions.<sup>21</sup> Additionally, the goal of sanctions can be to constrain a target in its ability to engage in proscribed activities (e.g., financing, technical knowledge, material), raising its costs, or forcing a change in strategy. This is often the case with commodity sanctions, which target an important sector of the economy to deny targets the resources needed to carry out their proscribed activities. Signaling and stigmatizing sanctions publicly assert the target's deviation from an international norm, producing at the same time an articulation or reframing of the norm and a statement of its practical applicability in that case.<sup>22</sup> Sanctions also send signals to multiple constituencies, not only the target, but also other actors tempted to pursue similar policies. They can even be used as signals to prevent allies from escalating conflict and resorting to the use of military force, as they were in the case of recent EU sanctions against Iran.<sup>23</sup>

These purposes, as elaborated above, are often interrelated. For example, sanctions may be designed to constrain a target's access to military resources in order to force a change in the cost-benefit calculation of engaging in warfare. On the surface, constraining and signaling could also be interpreted broadly as an indirect attempt of coercion. Coercion is seen as the principal objective, and constraint and signaling are considered as 'sub-goals' of sanctions (to assist in the achievement of coercion). However, it is clear that they operate differently from each other. Sanctions with coercive purposes seek most immediately to change the target's policy objective.<sup>24</sup> Constraining sanctions aim at impairing the operational capacity of the target in the conduct of its policies. Signaling sanctions work by highlighting the absence of

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<sup>21</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 18.

<sup>22</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 21.

<sup>23</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 19.

<sup>24</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 22.

broad international social acceptability of the target's policy.<sup>25</sup> Besides, by differentiating the effectiveness of sanctions according to their purpose, the research of the Targeted Sanctions Consortium (TSC)<sup>26</sup> on the UN targeted sanctions has shown that sanctions intended to constrain or to signal targets are nearly three times as effective (27% of the time) as sanctions intended to coerce a change in behavior (only 10% of the time).<sup>27</sup>

### 2.3. Types of Targeted Sanctions

There are various types of non-military sanctions adopted by the Security Council of the UN. The Council can choose between economic (for instance, trade restrictions) and non-economic measures (for example, the suspension of cultural exchanges and sports events).<sup>28</sup> Such measures may also be comprehensive or selective with regard to the persons affected. That is to say, the measures may be aimed at either the entire population or only certain individuals, juridical persons, or groups of persons.<sup>29</sup> In this regard, it is not easy to decisively distinguish which sanctions fit under either the category of comprehensive sanctions or targeted sanctions. Therefore, this chapter follows the same approach of Thomas J Biersteker, Sue E Eckert, and Marcos Tourinho, the authors of the book "Targeted Sanctions". In this sense, targeted sanctions include diplomatic measures, restrictions on the external political activities of non-state entities, and arms embargoes, and are not limited to

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<sup>25</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 22-23.

<sup>26</sup> The Targeted Sanctions Consortium (TSC) first convened in 2009 and has been engaged in research and periodic policy briefings ever since. The TSC was formed to conduct a systematic, comprehensive, multi-year, multi-nation study of the impacts and effectiveness of UN targeted sanctions. It is composed of more than fifty scholars and policy practitioners worldwide. / Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 4-5.

<sup>27</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 18.

<sup>28</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 73.

<sup>29</sup> Hanspeter Neuhold, *The Law of International Conflicts: Force, Intervention and Peaceful Dispute Settlement* (Brill Nijhoff 2015). P. 74.

economic measures based on the UN's practices.<sup>30</sup>

To be more specific, targeted sanctions can be categorized into six broadly different types. Individual/entity sanctions (most often asset freezes and travel bans) are applied to individuals and corporate entities (companies or political parties). Diplomatic sanctions are restrictions on the diplomatic activity of a governing body, and they refer to measures such as the limitation of authorized personnel, travel, and general suspensions from intergovernmental organizations. Arms embargoes, the most frequently applied UN sanction, include the general or limited suspension of international arms or proliferation-related dual-use goods to a specific state or region.<sup>31</sup> Commodity sanctions limit trade in specific resources in the targeted state or region. To date, these sanctions are applied to valuable natural resources such as diamonds, timber, oil, charcoal, and wildlife. Transportation sanctions refer to prohibitions on international transit of carriers (by sea or air) from or to the targeted state. Targeted sanctions may also be applied to core economic sectors, which have a broader impact on the economy, including financial sanctions (e.g., investment ban, limitations of banking services, and sovereign wealth funds).<sup>32</sup>

### Types of UN targeted sanctions<sup>33</sup>

Type of Sanctions	Frequency	%
Individual sanctions	47	75
Travel ban	34	54
Asset freeze	40	63
Asset freeze and transfer	3	5

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<sup>30</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 11.

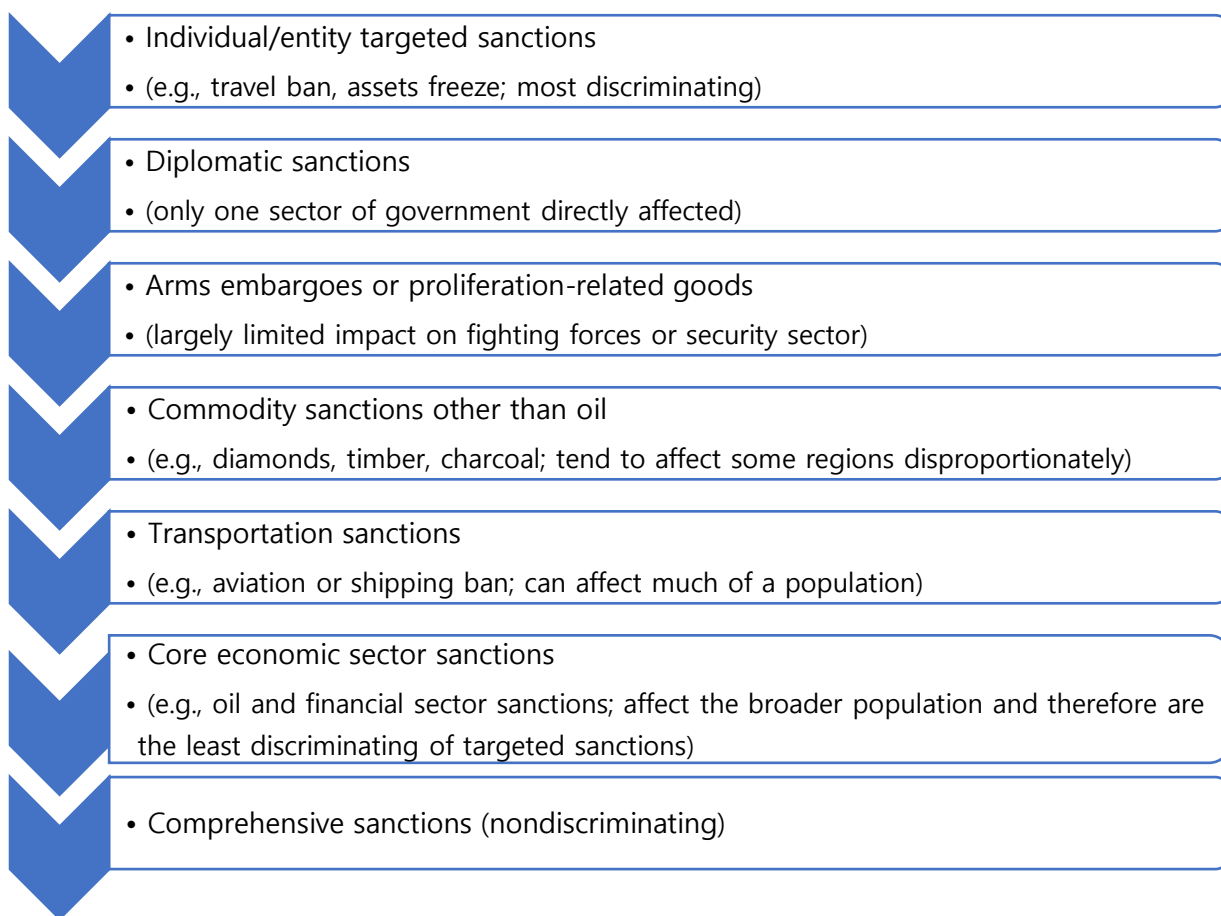
<sup>31</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 25.

<sup>32</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 25-26.

<sup>33</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 26.

Diplomatic sanctions	13	21
Revision of visa policy	6	10
Limiting travel of diplomatic personnel	11	17
Limiting diplomatic representation	5	8
Limiting number of diplomatic personnel	5	8
Sectoral sanctions	60	95
Arms imports embargo	55	87
Aviation ban	11	17
Arms export ban	11	17
Proliferation-sensitive material	7	11
Shipping	3	5
Oil service equipment	2	3
Commodity sanctions	26	41
Diamonds exports ban	11	17
Petroleum imports ban	8	13
Timber exports ban	3	5
Luxury goods	3	5
Charcoal exports ban	1	2
Other	5	8
Financial sector sanctions	6	10
Investment ban	1	2
Diaspora tax	2	3
Central Bank asset freeze	2	3
Financial services	1	2
Sovereign wealth funds	2	3

## Types of targeted sanctions and degrees of discrimination<sup>34</sup>



To sum up, what is an important thing regarding these various types of targeted sanctions is that: the more narrowly targeted sanctions – individual travel bans and asset freezes, and arms embargoes<sup>35</sup> – typically have fewer impacts than other types and rarely have major economic impacts. In contrast, broader sanctions affecting economic sectors or commodities result in more impacts and unintended consequences. In addition, the broader sanctions appear to be

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<sup>34</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 27.

<sup>35</sup> Arms embargoes are not targeted in the narrow sense, but in practice, may only affect certain persons/groups like the regime using arms against their population.

more effective at signaling and constraining targets.<sup>36</sup>

## **2.4. Targeted Sanctions: Weaknesses and Strengths**

Targeted sanctions are essential measures to reduce the indiscriminate effects on ordinary people. There are some critical benefits associated with the move to targeted sanctions by the UN. First, in contrast to comprehensive sanctions, they can be more readily and subtly combined with other policy instruments such as diplomacy, mediation, legal referrals, peacekeeping, and threats of the use of force.<sup>37</sup> Second, they are easier to calibrate (ratchet up or down) in a general bargaining situation between the UN Security Council and targets. Third, they do not lead inevitably too broad, non-discriminating, harmful humanitarian consequences.<sup>38</sup>

However, these sanctions have resulted in various issues relating to less effectiveness, their implementation, and unintended consequences. Targeted sanctions are designed at UN headquarters in New York but implemented by the individual Member States in their respective capitals. The complexity of their design can lead to disconnections between policy intentions and consequences. Ministries of Finance or Economics in capitals responsible for implementation may interpret the measures more broadly or narrowly than intended by the diplomats negotiating the measures in the Security Council. Individual financial institutions responsible for the freezing of assets or the blocking of transfers call upon local officials for guidance as to whether or not to block a particular transaction or account. This often leads to different interpretations, not only across national jurisdictions but potentially among officials from the same government, with important consequences for the scope and impacts of the measures imposed.<sup>39</sup>

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<sup>36</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 188.

<sup>37</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 16.

<sup>38</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 16-17.

<sup>39</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness*



In addition, the implementation of targeted sanctions is more costly, not only for both the UN and the Member States, but also for private sector entities required to enforce the measures. There has been a significant increase in the administrative support required of the UN Secretariat to service sanctions committees.<sup>40</sup> There are currently 14 ongoing sanctions regimes that focus on supporting the political settlement of conflicts, nuclear non-proliferation, and counter-terrorism. Each targeted state is administered by a sanctions committee composed of all Members of the Security Council and chaired by a non-permanent member of the Security Council.<sup>41</sup> In this regard, separate sanctions committees and the UN's support of them have resulted in increased costs during the implementation of the sanctions. Panels of Experts have become routine in nearly all ongoing UN sanctions regimes, which also entail additional short-term contract costs for the UN. What is more, the complexity of implementing the measures has forced many Member States to expand their enforcement capacity, particularly with regard to financial sanctions.<sup>42</sup>

Furthermore, there are issues relating to unintended consequences, both positively and negatively, although targeted sanctions do not have the same degree of unintended impact as comprehensive sanctions. Indeed, they are found in 94% of the cases for which reliable data are available. For example, the positive unintended consequences have included: increases in international enforcement capacity in certain areas in different issue domains; increase in international regulatory capacity in certain areas. While the negative unintended consequences have included: increases in corruption and/or criminality; humanitarian consequences; decline in the credibility and/or legitimacy of the UN Security Council; strengthening of authoritarian rule; resource diversion; increases in human rights violations; strengthening of political factions; harmful effects on neighboring states; widespread harmful

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of *United Nations Action* (Cambridge University Press 2016). P. 15.

<sup>40</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 16.

<sup>41</sup> 'Sanctions | United Nations Security Council' (Un.org) <<https://www.un.org/securitycouncil/sanctions/information>> accessed 11 August 2020.

<sup>42</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 16.

economic consequences; rally-round-the-flag effect, and others.<sup>43</sup>

Among those unintended consequences as elaborated above, the increase in corruption and criminality was most frequently observed (58%). The strengthening of authoritarian rule in the target (35%) and the diversion of resources (34%) was also often identified.<sup>44</sup> Meanwhile, negative humanitarian consequences, historically considered as an impact of comprehensive sanctions, were observed in 44% of the episodes. Also, importantly, the legitimacy and authority of the Security Council were harmed in more than one third of the cases (37%). It is important to note that while many unintended consequences could be anticipated and are avoidable, some are not and should be considered as the “costs” of the tool in the policy-making process.<sup>45</sup>

As pointed out above, targeted sanctions have been able to significantly reduce their side effects - the increase in the suffering of ordinary people due to indiscriminate sanctions - compared to comprehensive sanctions, but they still cause a number of unintended social and other problems. However, from the point of awareness of the potential unintended consequences during the design of sanctions, it can help select the most appropriate measures and mitigate their broader side-effects on the population.<sup>46</sup>

### **3. The History of Sanctions by the UN on North Korea**

#### **3. 1. Situations before the Adoption of UN Sanctions on North Korea**

Sanctions against North Korea were resorted to for two reasons; first, because of the invasion of South Korea in 1950, and in the 2000s because of its nuclear weapons and ballistic missile

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<sup>43</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 28.

<sup>44</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 27.

<sup>45</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 28-29.

<sup>46</sup> Thomas J Biersteker, Sue E Eckert and Marcos Tourinho, *Targeted Sanctions: the Impacts and Effectiveness of United Nations Action* (Cambridge University Press 2016). P. 29.

programs. Enforcement measures against North Korea were employed by the individual Member States, particularly by the U.S., but not imposed by the UN before 2006. For instance, three days after North Korea's Armed Forces launched an invasion of South Korea in June 1950, the U.S. imposed a total embargo on exports to North Korea. The Department of Commerce of the U.S. imposed the most restrictive export controls available against North Korea. Over the years, export controls were restated as the Export Administration Regulations (or "EARs"). In 1965, the EARs were revised to sort states into categories of restriction, and North Korea was classified as a member of "Country Group Z", the most restricted lot.<sup>47</sup>

However, sanctions against North Korea by the U.S. started to ease during the 1990s. In 1989, the EARs were again modified to allow the export to North Korea of commercially supplied goods intended to meet basic human needs. In 1995, as part of the U.S.' engagement of North Korea under the 1994 Agreed Framework, and again in September 1999, in response to North Korea's willingness to cease missile testing, President Clinton announced the lifting of most export restrictions applied to that state. Regulations issued in June 2000 amended the EARs to reflect North Korea's new relatively unfettered status. Many items that previously had required a license were now eligible for export without a license, and certain items on the Commerce Control List (CCL) moved from a policy of denial status to case-by-case review.<sup>48</sup> Additionally, South Korea's then liberal government pushed for engagement policies with the North in the 1990s. While easing sanctions, North Korea agreed to replace its nuclear reactors, which could easily produce weapon-grade plutonium, with light water reactors, with which plutonium enrichment becomes substantially difficult. In return, several states, including South Korea, Japan, and the U.S., jointly funded the development of the light-water reactor. It was accompanied by the easing of trade, finance, and travel sanctions. Also, humanitarian aid flowed into North Korea after a severe famine.<sup>49</sup>

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<sup>47</sup> Dianne E. Rennack, *North Korea: Economic Sanctions* (Congressional Research Service 2006) <<https://fas.org/sgp/crs/row/RL31696.pdf>> accessed 13 August 2020. P. 9-10.

<sup>48</sup> Dianne E. Rennack, *North Korea: Economic Sanctions* (Congressional Research Service 2006) <<https://fas.org/sgp/crs/row/RL31696.pdf>> accessed 13 August 2020. P. 10.

<sup>49</sup> Yong Suk Lee, 'International Isolation And Regional Inequality: Evidence From Sanctions On North Korea' (2018) 103 *Journal of Urban Economics*. P. 36.

### 3. 2. The Details of UN Sanctions on North Korea

However, the relaxing of economic sanctions, which were mentioned above, was short-lived. North Korea admitted that it was enriching uranium and reactivated its nuclear reactor in 2002. North Korea officially withdrew from the Nuclear Non-Proliferation Treaty in 2004, and states started to reinstate various sanctions. Additional sanctions and UN Security Council Resolutions were imposed after North Korea performed nuclear tests in 2006, 2009, 2013, and more recently in 2016 and 2017. Initially, sanctions by the UN focused on trade bans on weapons-related materials and goods, but also expanded to luxury goods to target the elites. Sanctions by the UN further expanded to financial assets and banking transactions, and general travel and trade, as well as North Korean workers abroad.<sup>50</sup>

Hereinafter, this chapter sums up ten consecutive sanctions taken by the UN, which have been imposed on North Korea since its first nuclear provocations in 2006. The decisions of the SC were reactions to prohibited nuclear weapons or missile tests despite previous UN sanctions.

- ① UNSC Resolution 1718 (2006), passed on October 14, 2006: UNSCR 1718 (2006) strongly condemned the nuclear test by DPRK on October 9, 2006. The objectives of the UNSC's sanctions against North Korea were to dismantle its nuclear program and to induce North Korea to return to the international community without negatively affecting North Korea's population through adequate measures. It included restrictions on the following exports and imports: luxury goods; heavy weaponry (battle tanks, combat aircraft, warships, missile systems, and others), WMD-related items (missile and missile-related items, materials, goods, and technology being transferred to DPRK's missile or WMD programmes). It also contained financial and economic restrictions, such as asset freezes (funds and other economic resources owned or controlled by North Korea) and financial resources (prohibiting the transfer of any financial resources in relation to DPRK's missile or WMD programmes).

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<sup>50</sup> Yong Suk Lee, 'International Isolation And Regional Inequality: Evidence From Sanctions On North Korea' (2018) 103 Journal of Urban Economics. P. 36.

Vessel restrictions regarding entry and transit by designated persons were included in this Resolution as well.<sup>51</sup>

- ② UNSC Resolution 1874 (2009), passed on June 12, 2009: UNSCR 1874 (2009) condemned in the strongest terms the nuclear test performed by the DPRK on May 25, 2009. While it maintained previously imposed restrictions, it updated and added several new restrictions. As far as the most notable changes, it first updated some restrictions, such as cargo/vessel inspection, in which States were called upon to inspect all cargo to and from the DPRK in their territory and vessels on the high seas, as well as to cooperate with such inspections. Also, it initiated new restrictions on the DPRK, such as comprehensive restrictions on new grants, financial assistance to the DPRK, excluding humanitarian and civilian needs or the promotion of denuclearization. Furthermore, it imposed restrictions on public financial support for trade, such as export credits where such support could contribute to the DPRK's WMD-related programs or activities, as well as the restriction of specialized teaching or training, which aims to prevent specialized teaching or training of DPRK nationals in disciplines which could contribute to proliferation.<sup>52</sup>
- ③ UNSC Resolution 2087 (2013), passed on January 22, 2013: UNSCR 2087 (2013) strongly condemned the DPRK's launch using ballistic missile technology on December 12, 2012. It strengthened previous sanctions. For example, WMD-related items and technical training, which contribute to DPRK's nuclear-related and WMD-related items or programs, were prohibited. The transfer of items involving a designated individual or entity was also restricted. Financial and economic restrictions, as well as vessel restrictions, were strengthened by establishing the right to seize and dispose of prohibited items and to prevent the transfer of items involving a designated individual or entity.<sup>53</sup> Those newly designated as individuals included

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<sup>51</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>52</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>53</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

under the travel ban and the asset freeze were as follows: Paek Chang-ho (senior official and head of the satellite control center of Korean Committee for Space Technology), Chang Myong-chin (General Manager of the Sohae Satellite Launching Station and head of the launch center at which the April 13, and December 12, 2012 launches took place), Kim Kwang-il (a Tanchon Commercial Bank (TCB) official). Additionally, the entities newly designated for the asset freeze were as follows: the Korean Committee For Space Technology, the Bank Of East Land, the Korea Kumryong Trading Corporation, the Tosong Technology Trading Corporation, the Korea Ryonha Machinery Joint Venture Corporation, and the Leader (Hong Kong) International.<sup>54</sup>

- ④ UNSC Resolution 2094 (2013), passed on March 7, 2013: UNSCR 2094 (2013) strongly condemned the nuclear test conducted by the DPRK on February 12, 2013. It imposed sanctions on luxury goods, including jewelry, yachts, and luxury automobiles, and also any brokerage related to WMD-items and all arms. Financial and economic restrictions were strengthened by prohibiting DPRK banks from opening new branches, subsidiaries, or representative offices, and by preventing foreign financial institutions in the DPRK from operating in the DPRK. In addition, the Resolution enhanced vigilance over DPRK diplomatic personnel. It offered a mandate to expel DPRK nationals if such individuals are designated persons or their family members, or are believed to be working on behalf of individuals or entities engaging in prohibited activities, with certain exceptions.<sup>55</sup> Those newly targeted as individuals listed on the travel ban and the asset freeze were as follows: Yo'n Cho'ng Nam (Chief Representative for the Korea Mining Development Trading Corporation (hereinafter KOMID)), Ko Ch'o'l-chae (Deputy Chief Representative for the KOMID), Mun Cho'ng-ch'o'l (a Tanchon Commercial Bank official). The entities newly designated for the asset freeze were as follows: The Second Academy of Natural Sciences, and the Korea Complex Equipment Import Corporation.<sup>56</sup>

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<sup>54</sup> UNSC Resolution 2087 (2013), adopted by the Security Council at its 6904th meeting, on 22 January 2013.

<sup>55</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>56</sup> UNSC Resolution 2094 (2013), adopted by the Security Council at its 6932nd meeting, on 7 March 2013.

- ⑤ UNSC Resolution 2270 (2016), passed on March 2, 2016: UNSCR 2270 (2016) condemned in the strongest terms the fourth nuclear test conducted by the DPRK on January 6, 2016, and also condemned the DPRK's launch using ballistic missile technology on February 7, 2016. It further strengthened existing sanctions and also imposed newly designed sanctions. For example, importing aviation fuel and any item contributing to military capabilities excluding food or medicine was prohibited. It also restricted the DPRK from exporting coal, iron, iron ore, precious metals, and rare earth minerals- gold, titanium ore, vanadium ore, and others. Financial and Economic Restrictions were enhanced by requiring States to take necessary measures to close existing representative offices, subsidiaries, or banking accounts in the DPRK within 90 days. Furthermore, States shall prohibit their citizens from registering vessels in the DPRK, obtaining authorization for a vessel to use the DPRK flag, and from owning, leasing, or operating any vessel flagged by the DPRK, with certain exceptions. Moreover, vessel crew services, vessel insurance services, and vessel classification services to the DPRK were prohibited.<sup>57</sup> Those newly designated as individuals for the travel ban and the asset freeze were as follows: Choe Chun-sik (Director of the Second Academy of Natural Sciences (SANS) and Head of the DPRK's long-range missile program), Choe Song Il (Tanchon Commercial Bank Representative in Vietnam), Hyon Kwang Il (Department Director for Scientific Development at the National Aerospace Development Administration), Jang Bom Su (Tanchon Commercial Bank Representative in Syria), Jang Yong Son (Korea Mining Development Trading Corporation Representative in Iran), and others. The entities newly designated for the asset freeze were as follows: Academy of National Defense Science, Chongchongang Shipping Company, Daedong Credit Bank (DCB), Hesong Trading Company, and others.<sup>58</sup>
- ⑥ UNSC Resolution 2321 (2016), passed on November 30, 2016: UNSCR 2321 (2016) strongly condemned the nuclear test performed by the DPRK on September 9, 2016. It further strengthened the existing sanctions by adding several restrictions on exports

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<sup>57</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>58</sup> UNSC Resolution 2270 (2016), adopted by the Security Council at its 7638th meeting, on 2 March 2016.

and imports of new helicopters and vessels, as well as other metals, including copper, nickel, silver, and zinc. It also imposed new financial and economic restrictions on DPRK workers in other States and new restrictions on scientific and technological cooperation. In addition, States shall take steps to restrict the entry into or transit through their territory of members and officials of the DPRK government and the armed forces, if States determine that such individuals are associated with prohibited activities.<sup>59</sup> Those newly listed as individuals included under the travel ban and the asset freeze were as follows: Pak Chun Il (served as the DPRK Ambassador to Egypt and provides support to KOMID), Kim Song Chol (KOMID official that has conducted business in Sudan on behalf of KOMID's interests), Son Jong Hyok (KOMID official that has conducted business in Sudan on behalf of KOMID's interests), Kim Se Gon (works on behalf of the Ministry of Atomic Energy Industry), and others. The entities newly listed for the asset freeze were as follows: the Korea United Development Bank, the Ilsim International Bank, the Korea Daesong Bank, the Singwang Economics And Trading General Corporation, and others.<sup>60</sup>

- ⑦ UNSC Resolution 2356 (2017), passed on June 2, 2017: UNSCR 2356 (2017) strongly condemned the nuclear weapons and ballistic missile development activities conducted by the DPRK since September 9, 2016. This Resolution had restrictions concerning exports to and imports from North Korea, similar to UNSCR 2321 (2016). However, it updated the list of designated individuals and entities of the DPRK government restricted from entering into or passing through their territory. It also strengthened the asset freeze by limiting the use of real property by the DPRK to diplomatic or consular purposes.<sup>61</sup> Those newly added as individuals included under the travel ban and the asset freeze were as follows: Cho Il U (Director of the Fifth Bureau of the Reconnaissance General Bureau), Cho Yon Chun (Vice Director of the Organization and Guidance Department), Choe Hwi (First Vice Director of the

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<sup>59</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>60</sup> UNSC Resolution 2321 (2016), adopted by the Security Council at its 7821st meeting, on 30 November 2016.

<sup>61</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.



Workers' Party of Korea Propaganda and Agitation Department), Jo Yong-won (Vice Director of the Worker's Party of Korea's Organization and Guidance Department), Kim Chol Nam (President of Korea Kumsan Trading Corporation), and others. The entities newly designated for the asset freeze were as follows: the Kangbong Trading Corporation, the Korea Kumsan Trading Corporation, the Koryo Bank, and the Strategic Rocket Force of The Korean People's Army.<sup>62</sup>

- ⑧ UNSC Resolution 2371 (2017), passed on August 5, 2017: UNSCR 2371 (2017) condemned in the strongest terms the ballistic missile launches conducted by the DPRK on July 3 and 28, 2017. It enhanced the previous restrictions and imposed prohibitions on all exports of coal, iron, lead, and lead ore, as well as seafood. The Resolution prohibited the opening of new joint ventures or cooperative entities with DPRK entities or individuals, in addition to the expansion of existing joint ventures through additional investments in another State.<sup>63</sup> Those newly designated as individuals included under the travel ban and the asset freeze were as follows: Choe Chun Yong (Representative for Ilsim International Bank), Han Jang Su (Chief Representative of the Foreign Trade Bank), Jang Song Chol (a Korea Mining Development Corporation (KOMID) representative overseas), Jang Sung Nam (Chief of an overseas Tangun Trading Corporation branch), and others. The entities newly inserted for the asset freeze were as follows: the Foreign Trade Bank (FTB), the Korean National Insurance Company (KNIC), the Koryo Credit Development Bank, and the Mansudae Overseas Project Group Of Companies.<sup>64</sup>
- ⑨ UNSC Resolution 2375 (2017), passed on September 3, 2017: UNSCR 2375 (2017) strongly condemned the nuclear test by the DPRK on September 2, 2017. The Resolution updated some prohibitions on WMD-related and dual-use items, as well as luxury goods, including jewelry, yachts, luxury automobiles, luxury watches, recreational sports equipment, and certain porcelain and bone china tableware. States also should prohibit the direct or indirect supply, sale, or transfer to the DPRK of all

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<sup>62</sup> UNSC Resolution 2356 (2017), adopted by the Security Council at its 7958th meeting, on 2 June 2017.

<sup>63</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>64</sup> UNSC Resolution 2371 (2017), adopted by the Security Council at its 8019th meeting, on 5 August 2017.

condensates and natural gas liquids and crude oil (not beyond the amount supplied, sold, or transferred to the DPRK in the previous twelve months), refined petroleum products (not beyond the limit of 2 million barrels per year), and the DPRK shall not procure such items. In addition, it imposed restrictions on ship-to-ship transfers, which means that States shall prohibit their citizens and vessels flying their flag from facilitating or engaging in a ship-to-ship transfer with DPRK-flagged vessels of any goods or items.<sup>65</sup> Pak Yong Sik (a member of the Workers' Party of Korea Central Military Commission) was newly added as an individual for the travel ban and the asset freeze. Entities, such as the Central Military Commission of The Workers' Party Of Korea (CMC), the Organization And Guidance Department (OGD), and the Propaganda And Agitation Department (PAD) were newly designated for the asset freeze.<sup>66</sup>

- ⑩ UNSC Resolution 2397 (2017), passed on December 22, 2017: UNSCR 2397 (2017) condemned in the strongest terms the ballistic missile (Hwasong-15) launched by the DPRK on November 28, 2017. It banned crude oil (not beyond 4 million barrels or 525,000 tons in the aggregate per 12-month period), refined petroleum products (not beyond the limit of 500,000 barrels per year). Also, it prohibited all exports to the DPRK of industrial machinery, transportation vehicles, and iron, steel, and other metals. It banned States from importing statues (no 30-day exception), textiles (no 30-day exception), food and agricultural products, machinery, electrical equipment, earth and stone including magnesite and magnesia, wood, and vessels from the DPRK. Financial and economic restrictions were further strengthened by requiring States to repatriate all North Korean citizens earning income abroad within 24 months. In addition, the Resolution authorized States to seize and inspect any vessel in their territorial waters found to be illicitly providing oil or other prohibited products to the DPRK.<sup>67</sup> Ch'oe So'k Min (an overseas Foreign Trade Bank

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<sup>65</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

<sup>66</sup> UNSC Resolution 2375 (2017), adopted by the Security Council at its 8042nd meeting, on 11 September 2017.

<sup>67</sup> 'Understanding UN Sanctions On North Korea' (*Carnegie Endowment for International Peace*) <<https://carnegieendowment.org/publications/interactive/north-korea-sanctions>> accessed 11 August 2020.

representative), Chu Hyo'k (an overseas Foreign Trade Bank representative), Kim Jong Sik (a leading official guiding the DPRK's WMD development efforts), Kim Kyong Il (a Foreign Trade Bank deputy chief representative in Libya), and others. were newly listed as individuals for the travel ban and the asset freeze. The Ministry of The People's Armed Forces (MPAF) was newly inserted as an entity for the asset freeze.<sup>68</sup>

### **3. 3. Differences between Sanctions Imposed Before and After UNSCR 2270 (2016)**

There are currently sanctions, adopted between 2016 and 2017, which directly block international economic cooperation with North Korea, including inter-Korean economic cooperation. Since the sanctions against North Korea were imposed in 2006 by the UNSCR 1718 (2006), the focus has been on preventing the development of weapons of mass destruction (WMD) as well as a ban on conventional weapons. However, the initial multilateral sanctions did not have much material effect, because they required Chinese acquiescence and were limited to large-scale conventional weapons systems and WMD-related transfers.<sup>69</sup> However, with the UNSCR 2270 (2016) was adopted, the focus changed to restrict the entirety of North Korea's international economic relations more broadly.<sup>70</sup>

According to Richard Nephew, the provisions of the UNSCR 2270 (2016) and the following resolutions encompass both military programs, as well as broader economic concerns, targeting major North Korean economic vulnerabilities and potential pathways for its continued procurement of any foreign items necessary for its nuclear and missile programs. Also, he pointed out that the adoption of UNSCR 2270 (2016) demonstrates that China has decided to pursue a new direction by taking a hostile stance against North Korea.<sup>71</sup> In

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<sup>68</sup> UNSC Resolution 2397 (2017), adopted by the Security Council at its 8151st meeting, on 22 December 2017.

<sup>69</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 191.

<sup>70</sup> Soo-Ho Lim, 'U.S. Sanctions On North Korea And Prospects For Economic Normalization Of U.S.-DPRK Relations' (2019) 35 *Korea and World Politics*. P. 134.

<sup>71</sup> Richard Nephew, 'UN Security Council's New Sanctions On The DPRK' (38 *North*, 2016) <<https://www.38north.org/2016/03/rnephew030216>> accessed 11 August 2020.

particular, the extensive ban on natural gas, crude oil, and refined petroleum products has had a serious and widespread effect on the lives of ordinary civilians. For example, the little amount of oil and natural resources which did enter the state has been extremely controlled and regulated by the ruling class, and has not been distributed to ordinary civilians. Otherwise put, since the adoption of the UNSCR 2270 (2016) in March 2016, the UN sanctions have become more comprehensive, and the scope and types of imposed sanctions have expanded dramatically.<sup>72</sup>

The adoption of the UNSCR 2270 (2016), as well as additional UNSC resolutions which followed, have put considerable economic pressure on North Korea and led to major setbacks for the state's economy. In 2019, according to official data from the World Bank and projections from Trading Economics, the Gross Domestic Product (GDP) in North Korea was 18 billion US dollars, but the GDP growth rate contracted by – 3.5% in 2017 and - 4% in 2018 from the respective previous year.<sup>73</sup>

Focusing on the UN sanctions adopted between 2016 and 2017, their economic effects towards inter-Korean trade, can be briefly summarized as follows.

Firstly, since the UNSCR 2270 (2016) was adopted, the subsequent Resolutions have contained a 'catch-all' provision that forbids the transfer to or from North Korea of any item (except food and medicine) that could directly contribute to the military's operational capabilities.<sup>74</sup> That is to say, all dual-use items that could be used to develop weapons of mass destruction or conventional weapons were banned from being exported to North Korea. This means that dual-use goods not mentioned on the export control list have become increasingly difficult to export to North Korea. As a result, even economic cooperation with North Korea will be restricted in large part to the transport or transfer of machinery, facilities,

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<sup>72</sup> Sang Soon Lim, 'U.N. Security Council's Sanctions Against North Korea And The Response Strategy Of Kim Jong-Un Regime' (2018) 22 NORTH KOREAN STUDIES REVIEW. P. 8-9.

<sup>73</sup> 'North Korea GDP | 1970-2019 Data | 2020-2022 Forecast | Historical | Chart | News' (*Tradingeconomics.com*, 2020) <<https://tradingeconomics.com/north-korea/gdp>> accessed 12 August 2020.

<sup>74</sup> Nicholas J. Spiliotes and others, 'New North Korean Sanctions: Ratcheting Up The Pressure On Kim Jong-Un - International Law - United States' (*Mondaq.com*, 2016) <<https://www.mondaq.com/unitedstates/export-controls-trade-investment-sanctions/486250/new-north-korean-sanctions-ratcheting-up-the-pressure-on-kim-jong-un>> accessed 12 August 2020.

and some raw materials to North Korea.<sup>75</sup>

Secondly, key products in North Korea's foreign trade, including raw materials such as agricultural products, minerals, sand, and fishery products, as well as finished products including textiles, clothing, and electronics, have been put on the list of prohibited items. In the case of inter-Korean trade, minerals, sand, fishery products, and agricultural products were key items for general trade, while finished textiles and clothing, as well as electronic equipment, were key items for the Kaesong Industrial Complex and consignment processing projects.<sup>76</sup> This means that the UNSCR 2270 (2016) and the subsequent resolutions have also negatively affected the majority of inter-Korean economic cooperation.

Thirdly, the export of machinery and electronics, transportation equipment, and basic metals to North Korea was prohibited. As a result, it has become impossible for South Korea to receive equipment and materials which had been previously invested by South Korea for the renovation of the Mt. Kumgang tourism facility, or consignment processing projects in the Rason special zone, the Kaesong Industrial Complex, and Pyongyang. Furthermore, all products, including metals, cannot be shipped to North Korea.<sup>77</sup>

Fourthly, joint ventures between North and South Korea were banned, and existing joint ventures were forced/ordered to close. This is the most direct sanction preventing the reopening of the Rason special zones, the Kaesong Industrial Complex, and the Mount Kumgang tours. It is also impossible for the international community to invest in special economic zones that have been opened since the inauguration of Kim Jong-un, since these projects are likely to be interpreted as joint projects with North Korea.<sup>78</sup>

Lastly, after the UNSCR 2270 (2016) was adopted, the following Resolutions froze the assets of North Korean agencies related to weapons of mass destruction. Furthermore, a North

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<sup>75</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 134.

<sup>76</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 134-135.

<sup>77</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 135.

<sup>78</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 135.

Korean financial institution was prohibited from opening an overseas branch and joining a foreign exchange transaction bank network. The existing branches were also forced to close. These resolutions also banned financial institutions from other states from opening branches in North Korea, and required those existing branches to be closed too. Additionally, indirect financial transactions through foreign financial institutions are prohibited by the sanctions imposed independently by the U.S. This has made it impossible to make financial transactions involving trade with North Korea. Considering that bulk cash transactions have already been banned in the UNSCR 2094 (2013), there is currently no way to trade money in any form between the international community and North Korea.<sup>79</sup>

#### **4. Why UN Sanctions Do Not Have Effects on North Korea- Factors Affecting the Effectiveness of the UN Sanctions**

Obviously, the sanctions imposed by the UN for almost 15 years have so far failed to produce the desired effect. This failure can be explained by several factors as below.

##### **4. 1. The Nature of the Kim Family Regime**

From the outset of the regime, Kim Il-sung designated himself as the leader (suryong in Korean), and subsequent propaganda work emphasized that the political system was leader-dominated (suryongje in Korean) and monolithic ('yuil cheje' in Korean). The system was cemented by ideological innovations combining residual Marxist-Leninism with familialism and even outright elitism in the form of myths of national purity. Although these formulations underwent subtle shifts following Kim Il-sung and Kim Jong-il, the emphasis on the leader as the center of the system remained intact, and references to the familial nature of the regime became if anything more explicit.<sup>80</sup>

To be more specific, at the formal political level, the regime has relied on an extraordinarily

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<sup>79</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 135.

<sup>80</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 32.

narrow ruling coalition. An analysis of core political institutions in North Korea reveals a hybrid authoritarian structure, part personalist, part single party, and part military. Yet close analysis of membership in these institutions shows that they overwhelmingly represent the personal and familial retinues around the ruler, the military, the security apparatus, the military-industrial complex, and the control-oriented party functionaries. The representation of these groups comes at the expense of the cabinet, the economic and social ministries, and those with technocratic or diplomatic backgrounds.<sup>81</sup> The regime survived by maintaining a complex system of surveillance down to the household level, exercising control over all social organizations, and maintaining an internal security apparatus and prosecutorial, judicial, and penal systems capable of swift and harsh punishment of even the most modest infractions. These controls are not limited to political activity but extend to economic activity and movement, including across borders, and flows of information.<sup>82</sup>

When it comes to Kim Jong-un's recent counterstrategies against UN sanctions, they can be summed up in his remarks. Kim Jong-un pointed out that the Security Council is trying to completely obliterate North Korea's right to self-reliance, survival, and development. In response, he stressed the need to continue expanding nuclear weapons and 'bubble up' strategy to ensure the right to self-reliance, survival, and development. Kim Jong-un has been pursuing two counterstrategies: firstly, the "very strongest" (Choganggyung in Korean) counterstrategy, which stresses the development of its WMD and missile technologies against outside pressures. This has been used since Kim Il-sung's rule.<sup>83</sup> Secondly, the "bubble up" (Moolgeapoom in Korean) counterstrategy, which is a method to find the opponent's greatest weaknesses and then makes his arguments and activities meaningless with minimal effort. For example, Kim Jong-un has tried to prevent the UN Member States from joining sanctions by continuously claiming the unfairness of these sanctions through diplomatic activities and channels. Since this approach has been newly employed by Kim Jong-un, this "bubble up" strategy presents the difference from past leader's approaches. In addition, North Korea has

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<sup>81</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 29-30.

<sup>82</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 30.

<sup>83</sup> Sang Soon Lim, 'U.N. Security Council's Sanctions Against North Korea And The Response Strategy Of Kim Jung-Un Regime' (2018) 22 NORTH KOREAN STUDIES REVIEW. P. 12.

tried to change trade channels by strengthening its relations with states that have been reluctant to implement sanctions, while emphasizing self-reliance based on science and technology domestically.<sup>84</sup> Through these strategies, North Korea aims to weaken the effectiveness of sanctions.

In sum, not only is North Korea's ruling coalition incredibly narrow and skewed toward the military, it has also maintained a remarkable capacity to control and repress. Given this capacity, outside pressures are not likely to generate parallel domestic political pressure on the regime. On the contrary, they are likely to generate more repression.<sup>85</sup> In addition, recent strategies launched by Kim Jong-un, have had a blocking effect or an offset effect against imposed sanctions. Particularly, Kim Jong-un has been restricting his people from accessing information, including why the sanctions were imposed. Through the media and extreme censorship of his people, he has shifted citizens' complaints and blame to external factors, in particular to the U.S and South Korea. Besides, his regime has gained sufficient support and popularity from the North Korean population through an increase in the rally-round-the-flag phenomena, defined as the common surge of public approval for the president whenever a state is involved in an international crisis.<sup>86</sup> In this regard, targeted sanctions on North Korea have had inherent weaknesses, and the nature of the regime should be considered first when designing sanctions.

## **4. 2. The Presence of Supportive External Relationships**

### **4. 2. 1. China's Deep Involvement**

China has always played a pivotal role in North Korea's economy. North Korea exports

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<sup>84</sup> Sang Soon Lim, 'U.N. Security Council's Sanctions Against North Korea And The Response Strategy Of Kim Jung-Un Regime' (2018) 22 NORTH KOREAN STUDIES REVIEW. P. 12-13.

<sup>85</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 30.

<sup>86</sup> Shoon Murray, 'Politics' (*oxfordre.com*, 2017) <<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-518>> accessed 12 August 2020.



commodities such as minerals, metallurgical products, textiles, and agricultural and fishery products.<sup>87</sup> According to the Central Intelligence Agency (CIA) World Factbook, the North Korean economy is one of the world's least open economies. The CIA World Factbook reported that as of 2017, North Korea's main export and import partners were China. As the former's closest ally, China accounted for 86.3% of exports from North Korea, and constituted 91.9 % of total imports to North Korea. For reference, as of 2016, exports of goods and services consisted of only 5.9 % of North Korea's GDP.<sup>88</sup>

The extent of China's involvement is more evident when considering recent events. For instance, in the first year of the UNSCR 2270 (2016) adoption, China was hesitant and passive at best in following said Resolution. Therefore, North Korea's economy was able to grow by 3.9% compared to the previous year and maintain its volume of international trade. However, after Trump was elected President, the U.S. has pressured Member States to join them in imposing trade sanctions and introduced a secondary boycott towards those States that did not comply with sanctions against North Korea (the secondary boycott will be illustrated in Chapter 5. 1. "The individual sanctions against North Korea by the U.S.")<sup>89</sup> Eventually, China had to change its attitude towards North Korea in order to avoid secondary sanctions from the U.S. This shift brought about a reduction in North Korea's trade volume.

Looking back even further in history, UN statistics demonstrate that North Korea's foreign trade rose from 3.8 billion dollars in 2005 to 6.5 billion dollars in 2008, as a direct result of the increase in trade between North Korea and China. In particular, China's share of foreign trade in North Korea increased from 32% in 2001 all the way up to 73% in 2008. If it were not already apparent, in addition, most analytic agencies commonly show North Korea's high level of dependence on China.<sup>90</sup>

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<sup>87</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 4.

<sup>88</sup> 'East Asia/Southeast Asia : Korea, North — The World Factbook - Central Intelligence Agency' (*Cia.gov*, 2020) <<https://www.cia.gov/library/publications/the-world-factbook/geos/kn.html>> accessed 12 August 2020.

<sup>89</sup> Sang Soon Lim, 'U.N. Security Council's Sanctions Against North Korea And The Response Strategy Of Kim Jung-Un Regime' (2018) 22 NORTH KOREAN STUDIES REVIEW. P. 22.

<sup>90</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 25.

To be more specific, general trade, declined slightly after financial sanctions were put in place in 2005 by the U.S.<sup>91</sup> For reference, general trade refers to a typical form of trade that is based on the foreign currency payment, in accordance with two states' regular trade procedures.<sup>92</sup> However, considering the characteristics of traded goods, it still holds a key position in North Korea-China economic relations. In the case of general trade, because it requires foreign currency payments, it can be expected to decrease in its share of total trade after the financial sanctions by the U.S. in 2005 and UN sanctions in 2006. In fact, the share of general trade had decreased in North Korea's imports from China shortly after the financial sanctions in 2005.<sup>93</sup><sup>94</sup> North Korea imported petroleum oil (HS<sup>95</sup> 2709) from China mainly through general trade and exported to China coal and briquettes (HS 2701), iron, and ore (HS 2601) mainly through general trade. That is, North Korea had imported essential items for industrial production by using general trade and exported its main items such as coal and iron by using the same type of trade to acquire foreign currency.<sup>96</sup>

Border trade refers to when a company that is authorized by the Chinese government for border trade trades with North Korea counterpart through predetermined border customs. Border trade, which originated from barter trades near border lines, has become one form of cross-country trade following the establishment of related laws in the 1980s.<sup>97</sup> It acts as a

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<sup>91</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 28.

<sup>92</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 27.

<sup>93</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 29.

<sup>94</sup> Despite the decrease in general trade's share, it was still a significant trade type in North Korea-China trade./ Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 29.

<sup>95</sup> Harmonized System (HS) Codes : The Harmonized System is a standardized numerical method of classifying traded products. It is used by customs authorities around the world to identify products when assessing duties and taxes and for gathering statistics./ 'Harmonized System (HS) Codes' (*Trade.gov*, 2020) <<https://www.trade.gov/harmonized-system-hs-codes>> accessed 26 July 2020.

<sup>96</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review, P. 29.

<sup>97</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review, P. 28.

major channel for North Korea's exports to China, still claims a big share of North Korea's total exports, along with general trade. For instance, China's imports from North Korea, in border trade, of food and fuel goods sharply increased since financial sanctions were imposed by the U.S. in 2005.<sup>98</sup> North Korea's imports from China through border trade are increasing both in its volume and share. It has imported food and fuel related goods which are needed to maintain its regime. It means that border trade has political aims rather than economic incentives, and it can be a notable type of trade in connection with international economic sanctions. Particularly, considering the fact that the share of border trade in North Korea's total imports from China exhibits rapid growth after 2005, it is apparent that border trade has had a role in ameliorating North Korea's worsening situation and weakening the effects of international pressure.<sup>99</sup>

As seen above, North Korea's constant increase in trade was obviously different from the situation in Iran and Libya, where UN sanctions caused trade to decline. That is to say, North Korea's foreign trade constantly rose even after economic sanctions were put in place. It seems that this is caused by China, which has been reluctant to support the UNSC Resolution 1718 (2006) as well as subsequent Resolutions. China uses North Korea as a political instrument for its own interest because their objective is to stabilize the border area internally, and to maintain hegemony in Northeast Asia externally. Likewise, as the international isolation and the unrest inside North Korea grew more intense due to its frequent nuclear and ballistic missile tests, North Korea was also trying to find solutions to internal and external problems through its relations with China. The political strategies of both states facilitated trade and promoted friendly relationships with each other.<sup>100</sup> That is why only after the introduction of a secondary boycott by the U.S, North Korea has suffered from economic difficulties. In conclusion, considering North Korea's high trade dependence on China and the features of bilateral trade, it is necessary to approach the effectiveness of sanctions on

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<sup>98</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review , P. 30.

<sup>99</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review , P. 29.

<sup>100</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 International Area Studies Review. P. 25.

North Korea with regards to North Korea-China relations.<sup>101</sup>

#### **4. 2. 2. South Korea's Engagement- Humanitarian Aid and Economic Cooperation**

Even though the UN has imposed various sanctions on North Korea since 2006, it often faces criticism regarding its effectiveness. One of the most important causes of the inefficiency of sanctions is the fact that some states and international organizations provide various types of aid to North Korea. It temporarily eases North Korea's economic difficulties and offers the North Korean leadership a sense of stability that they are not isolated. Eventually, it leads to North Korea to stand firmly against imposed sanctions.

For instance, even at times when the Six-party talks were not progressing since 2003, South Korea was also seeking to engage North Korea by offering humanitarian assistance. For reference, the Six-Party talks were established in 2003 as a multilateral forum to achieve the Korean peninsula's denuclearization. However, the parties (China, Japan, North Korea, Russia, South Korea, and the U.S.) have not met since December 2008, when the talks stalled over verification issues.<sup>102</sup>

To be more specific, the pattern of humanitarian assistance from South to North closely followed the rise and fall of the so-called Sunshine Policy under Presidents Kim Dae-jung (1998–2003) and Roh Moo-hyun (2003–2008). During both administrations, food and fertilizer aid sought to address humanitarian concerns, but it was also rooted in a highly diffuse conception of reciprocity designed to gradually transform North-South relations in a more cooperative direction.<sup>103</sup>

The idea of the “separation of politics and economics” was a crucial component of the Sunshine Policy. Private actors would have increasing freedom to engage in trade and investment with the North without government approval or backing. Kim Dae-jung was

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<sup>101</sup> Sung-taek Cho and Hyuk-hwang Kim, 'The Effect Of Economic Sanction Against North Korea On North Korea-China Trade' (2016) 20 *International Area Studies Review*, P. 30.

<sup>102</sup> 'North Korea: Beyond The Six-Party Talks' (*Crisis Group*, 2015) <<https://www.crisisgroup.org/asia/north-east-asia/korean-peninsula/north-korea-beyond-six-party-talks>> accessed 12 August 2020.

<sup>103</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 129.

consistent in his belief that the effect of such exchanges was “nudging North Korea towards a market economy and the democratic elements and environment [sic]”.<sup>104</sup> For instance, South Korea provided 200,000 tons of fertilizer aid to the North in 1999, 300,000 tons in 2000, 200,000 tons in 2001, and 300,000 tons in 2002, which was the final year of the Kim Dae-jung administration. The election of Roh Moo-hyun and his commitment to the Sunshine Policy quickly became an issue of contention with the Bush administration. On coming to office, the Roh administration made a contribution (100,000 tons of maize) through the WFP, but aid policy reverted to the bilateral format that had developed after the 2000 inter-Korean summit, between Kim Dae-jung from South Korea and Kim Jong-il from North Korea. The bilateral Inter-Korean Economic Cooperation Promotion Committee became the venue for discussion of aid commitments. In May 2003, the North Koreans requested 200,000 tons of fertilizer, which the South Koreans delivered, and a total of 500,000 tons of grain, approximately 400,000 tons of which South Korea ultimately supplied for the year; this was an amount equal to nearly half of the state’s uncovered food deficit.<sup>105</sup> It means that North Korea was heavily dependent on aids from South Korea to make up for the shortage of food and other essential goods.

However, the separation of politics and economics proved extremely difficult to sustain for reasons pertaining to politics in both South and North. Even after achieving the separation of economics and politics, an overarching political-legal framework was required. The passage of the Inter-Korean Exchange and Cooperation Act in 1990 during the Roh Tae-woo presidency was the first effort to establish a legal foundation for North-South trade and investment. It was followed by the negotiation of a number of additional protocols that facilitated basic commercial exchanges. But the National Assembly failed to approve four key North-South agreements (on investment guarantees, avoidance of double taxation, procedures for resolution of commercial disputes, and clearing settlements), due to partisan politics in South Korea. It resulted in substantially reducing private-sector interest in pursuing

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<sup>104</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 182.

<sup>105</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 130.

commercial relations with the North.<sup>106</sup>

In addition, as North Korea derided efforts to exchange humanitarian assistance for family reunions as “horse-trading,” the Kim Dae-jung administration gradually shifted to a conception of “flexible reciprocity” that eschewed explicit quid-pro-quos.<sup>107</sup> When it comes to humanitarian aid and joint projects, the majority of South Korea’s total direct investment in North Korea was the result of both a tourist project around Mt. Kumgang, as well as a joint project of the Kaesong Industrial Complex (KIC). The development of the KIC was initiated by a private company, the Hyundai Group (despite the fact that it ultimately involved substantial government financing.) Despite the provision of government subsidies and guarantees against political risks, the Complex attracted investment from both small- and medium-sized enterprises alike and began exporting products in 2006. However, North Korea’s foreign and domestic policies continually served to undercut the efforts to attract foreign investment outside of the mineral sector and the Kaesong and Rason zones. The Mt. Kumgang tourist resort was effectively shuttered following the shooting and subsequent death of a tourist in 2008.<sup>108</sup> As a result, talks between North and South Korea stalled, and the expansion of Kaesong was put on hold. What’s more, amid the spike in tensions on the peninsula in the spring of 2013, North Korea chose to withdraw all workers from the Kaesong and Rason zone.<sup>109</sup>

Furthermore, the election of a conservative president (Lee Myung-bak) in December 2007 resulted in a hard policy swing. Conditionality and explicit linkage came to infuse all aspects of South Korea’s policy toward the North, including humanitarian assistance. As a result, large-scale assistance fell off sharply from 2008 and by no means recovered under the administration of Park Geun-hye (2013–2018).<sup>110</sup> Finally, the Lee Myung-bak and Park

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<sup>106</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 182.

<sup>107</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 181.

<sup>108</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). p. 55.

<sup>109</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 56.

<sup>110</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea*

Geun-hye administrations not only sought to minimize South Korea's public aid commitments but acted to curtail growing NGO activity as well.<sup>111</sup>

As a summary, the U.S. strategy of seeking to pressure the North Korean regime faced headwinds in the very different preferences of South Korea with respect to diplomatic engagement for many years.<sup>112</sup> It also faced the constraint that both China and South Korea were pursuing strategies of deep economic engagement. In particular, South Korean strategy placed more weight on aid and joint projects such as infrastructure and the enclaves at Kaesong and Mt. Kumgang.<sup>113</sup> Anyway, there is no doubt that South Korea provided an important economic lifeline to Pyongyang that effectively offset the sanctions that the U.S. sought to mobilize.

#### **4. 2. 3. Russia's Support**

Recently, North Korea has expanded its economic relations with Russia to reduce its heavy dependence on China.<sup>114</sup> In fact, Russia provides many opportunities for North Korea to export its labor. According to an author from the "Bookhan" journal, if there are no workers from North Korea in Russia, it would be difficult to make any progress at construction sites and Siberian logging sites. Furthermore, according to the same paper, the Russian Federal Customs Service announced that trade between North Korea and Russia from January to June 2017 was around \$61 million, up 72.9 percent from the same period the previous year. North Korea regularly exports labor to Russia, which Russia then takes advantage of as a source of cheap labor, in a mutually beneficial relationship. Additionally, the paper indicated that, according to an announcement by the Russian government, the total number of North Korean

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(Stanford University Press 2017). P. 129.

<sup>111</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 132.

<sup>112</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 186.

<sup>113</sup> Stephan Haggard and Marcus Noland, *Hard Target: Sanctions, Inducements, And The Case Of North Korea* (Stanford University Press 2017). P. 186-187.

<sup>114</sup> Young Jung, '유엔제재망에 구멍 뚫는 북·러 협력' [2017] Bookhan. P. 138.

dispatched workers stood at 47,364 as of early 2017. There are also lots of workers from China, Mongolia, and Turkey in Russia. However, such workers are often more difficult to control, and in addition to this, they generally hold visas, which allow them to move between companies if they so choose. On the other hand, North Korean workers are cheap, easy to manage, and easy to control, because their visas are always tied to a particular corporation. North Korean workers in the logging and construction industries are widely scattered throughout Moscow, Novosibirsk, and Vladivostok.<sup>115</sup>

Moreover, the relationship between North Korea and Russia is very important when it comes to political views. Both Russia and China have had similar political stances towards North Korea from the standpoint of regional and international security.<sup>116</sup>

As cited in “Is The Northern Alliance Making A Comeback? Do Russia, China and North Korea Constitute an Alliance?” written by Stephen Blank, Sergei Radchenko stated that the three states maintain strong ties: *“The argument for the China–Russia–DPRK triangle in Northeast Asia hinges on the idea that the three countries are willing to coordinate their actions on the international stage, adopt similar positions on key regional questions, and develop trilateral cooperation in economic or military spheres.”*<sup>117</sup>

Many experts are divided on whether or not a so-called “Sino-Russian” alliance technically exists, meaning the official name of an alliance between Russia and China. Regardless of what label is attached to this relationship, it is undeniably at least a de-facto alliance, albeit an informal one. Additionally, some experts have recently evaluated that both parties have attained a level of interaction higher than simply a strategic partnership, and even more deeply intertwined than an alliance.<sup>118</sup>

In particular, Russia and China have shared strategic political and military perspectives with

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<sup>115</sup> Young Jung, '유엔제재망에 구멍 뚫는 북·러 협력' [2017] Bookhan. P. 139.

<sup>116</sup> Stephen Blank, 'Is The Northern Alliance Making a Comeback? Do Russia, China And North Korea Constitute an Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 211.

<sup>117</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 212.

<sup>118</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 212.



regard to North Korea. For example, both Russia and China have overtly announced their support for North Korea's negotiating position of 'phased, synchronous' concessions. As cited in the same journal ("Is The Northern Alliance Making a Comeback? Do Russia, China And North Korea Constitute an Alliance?"), this aspect can be seen in the comments: "*on October 9, 2018, following the latest visit of U.S. Secretary of State Mike Pompeo to North Korea, deputy foreign ministers of Russia, China, and North Korea—Igor Morgulov of Russia, Kong Xuanyou of China, and Choe Son Hui of North Korea—gathered for the first time in Moscow to discuss easing sanctions on North Korea. Summarizing the meetings, Morgulov stated in a TASS interview that 'measures' should reflect 'reciprocity, and parallel, synchronous and gradual steps'*"<sup>119</sup>

Increasingly, Russian analyses of the Korean issue follow China in blaming Washington for the DPRK's continuing nuclearization, as a result of threats made by the U.S. against North Korea. Russia and China argue that Washington must initiate concessions in the form of formally ending the Korean War, giving security guarantees, and ceasing its threats while deferring the urgent necessity of denuclearization.<sup>120</sup>

As seen above, after meetings with DPRK diplomats in late 2018, Russian diplomats announced their support for North Korea's insistence on 'phased, synchronous concessions', which means declaring an end to the war and making concessions on a peace treaty before any concessions on denuclearization.<sup>121</sup> Besides, President Putin and President Xi Jinping both announced their opposition to sanctions against North Korea,<sup>122</sup> and Xi Jinping further expressed his support by visiting North Korea in June 2019.<sup>123</sup> It can be summed up that Russia, along with China, has expressed its amicable stance towards North Korea in various

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<sup>119</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 213.

<sup>120</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 213.

<sup>121</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 218.

<sup>122</sup> Stephen Blank, 'Is The Northern Alliance Making A Comeback? Do Russia, China And North Korea Constitute An Alliance?' (2019) 31 the Korean Journal of Defense Analysis. P. 218.

<sup>123</sup> Jane Perlez, 'Xi Jinping Arrives In North Korea, With Many Eyes On Trump' (*Nytimes.com*, 2019) <<https://www.nytimes.com/2019/06/20/world/asia/xi-jinping-china-north-korea.html>> accessed 12 August 2020.

ways in the international political sphere.

#### **4. 3. The Participation Rate of Member States**

All Member States of the UN should impose and enforce UN sanctions, and that is why UN sanctions have a broader impact than individual U.S sanctions. However, the problem is that the UN does not know the extent to which members are actually implementing its sanctions. The lack of participation in sanctions on North Korea was pointed out as another fundamental matter that weakened the sanctions' effect.

To be more specific, Member States do not provide perfect information about working with a UN panel of experts<sup>124</sup> regarding sanction implementation. For example, the panel of experts discovered that the Ugandan government had contracted North Korea to provide police force training. According to an official of U.S. Mission to the United Nations, Ugandan government officials purported that they did not realize that UN sanctions prohibited this type of activity.<sup>125</sup>

Additionally, UNSCRs 1718, 1874, and 2094, adopted in 2006, 2009, and 2013 respectively, call upon the Member States to report on the concrete measures they have taken in order to effectively implement the specified provisions of the resolutions. By 2015, more than 80 percent (158) of the UN's 193 Member States had not submitted implementation reports in response to these three UNSCRs.<sup>126</sup> Members that had not submitted one or more reports, including Member States with major international transit points (such as the United Arab

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<sup>124</sup> The Panel of Experts was established in 2009 as a technical body within the committee. Pursuant to UNSCR 1874, the panel is tasked with, among other things, gathering, examining, and analyzing information regarding incidents of noncompliance with United Nations Security Council sanctions on North Korea. / *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 24.

<sup>125</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 28.

<sup>126</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 28.

Emirates) or that had reportedly been used by North Korea as a foreign intermediary (such as Thailand). The panel expressed concern in its 2015 final report that 8 years after the adoption of UNSCR 1718 in 2006, a consistently high proportion of Member States in some regions had not reported at all on the status of their implementation. It also reported that some Member States had submitted reports that lack detailed information, or were late impeding the panel's ability to examine and analyze information about national implementation<sup>127</sup>

However, according to the UNSCR 1718 (2006) Sanctions Committee, the number of states participating in imposing sanctions has significantly increased. As of 28 July 2020, 61 Member States have submitted reports on the implementation of paragraph 8 of resolution 2397 (2017), 80 Member States have submitted reports on the implementation of paragraph 17 of resolution 2397 (2017), 94 Member States have submitted reports on the implementation of resolution 2375 (2017), 90 Member States have submitted reports on the implementation of resolution 2371 (2017), 107 Member States have submitted reports on the implementation of resolution 2321 (2016) and 115 Member States on the implementation of resolution 2270 (2016).<sup>128</sup> This means that the world has finally begun to share the view that North Korea's nuclear issues are not just problems limited to the Korean Peninsula, but also worldwide common difficulties.

As a summary, the lack of implementation reports from all Member States was often presented as a cause to hinder the UN sanctions enforcement. Additionally, many Member States reported that they lacked the technical capacity to develop the reports and to implement sanctions.<sup>129</sup> However, according to the recent information by the 1718 Sanctions Committee on North Korea, over half of Member States have recently participated in imposing sanctions, and there have been 547 implementation reports as of 28 July 2020. It seems that the reasons mentioned above can no longer justify the lack of effectiveness of the

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<sup>127</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 28-29.

<sup>128</sup> 'Implementation Reports | United Nations Security Council' (*Un.org*, 2020) <<https://www.un.org/securitycouncil/sanctions/1718/implementation-reports>> accessed 15 August 2020.

<sup>129</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 21.

imposed sanctions on North Korea.

#### **4. 4. “Reference Points”**

There is an interesting study to explain the ineffectiveness of targeted sanctions on North Korea based on economic theory. In order to introduce that study’s main conclusion, it is necessary to begin with an explanation of the effects of so-called “reference points”. A reference point is defined as a circumstance or condition against which to compare other choices, and has a crucial influence on decision-making, according to prospect theory. In general, humans are more sensitive to negative(-), rather than positive(+) change relative to a reference point. People respond more sensitively to change near a reference point, as opposed to change, which occurs further away from that reference point. This effect is known as “diminishing sensitivity.”<sup>130</sup>

It can be applied to States’ behaviors, and thus a State would react more sensitively to loss than gain based on its current situation. To be more specific, if sanctions are enforced they can be expected to be maintained, and the target will have to decide whether to stand firm or to relent based on a comparison between the respective expected utilities of the two options. And the expected utilities of settlement and contest can be derived from the reference point and the probability level proposed by prospect theory. In other words, the higher the reference point is, the higher the boundary point would be. A higher boundary point implies low effectiveness of economic sanctions, which manifests itself in the target’s strong resistance. In conclusion, the utility function proposed by prospect theory shows that as the reference point increases, a target can be expected to decide to stand firmer against the sender’s demands.<sup>131</sup>

The reason North Korea decided to pursue nuclear weapons programmes despite facing such severe economic sanctions can be found in terms of reference point effects. To begin with the

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<sup>130</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 2.

<sup>131</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 4.

conclusion, since North Korea's reference points have increased, it will decide to resist.

Namely, the extent to which the value of the expected result decreases in the case where North Korea backs down and agrees to denuclearization is much greater than the decrease in the value of the expected result in the case where it stands firm. It means if North Korea stands and resists firmly, it will lose a relatively small amount of the expected value. For instance, if the reference point increased between the first nuclear crisis triggered by North Korea and the second nuclear crisis it, and consequently the utility of agreement decreased by a much greater extent than the decrease in the utility of confrontation (resistance to the economic sanctions), this could explain North Korea's firmer resistance in the second case.<sup>132</sup>

In addition, both the domestic and international circumstances of North Korea must be considered when establishing a reference point. Over time, North Korea has recovered from domestic political instability arising from the collapse of the Soviet Union and Eastern Europe in the 1990s. Without such domestic instability, North Korea would have had no reason to change its hostile stance towards South Korea. The economic situation of North Korea was also very unstable at that time. The loss of its external markets following the collapse of the Communist Bloc greatly affected the North Korean economy. North Korea even experienced increasing consecutive negative growth rates, from -4.3 percent in 1990, to -4.4 percent in 1991, and even -7.1 percent in 1992.<sup>133</sup>

However, by the early 2000s, North Korea's domestic and international situation had stabilized to some extent, particularly when compared to the early 1990s. Internally, Kim Jong-il's time as leader and the substantial changes he made may have relieved some of the domestic political insecurity. Kim Jong-il extended his power across the entire state through constitutional reform and by appointing himself as National Defence Commission (NDC) Chairman. The North Korean economic situation also began to improve in the 2000s. Economic growth was 0.4 percent in 2000, 3.8 percent in 2001, 1.2 percent in 2002, 1.8 percent in 2003, and 3.8 percent in 2004. Moreover, North Korea sought to end its

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<sup>132</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 *International Journal of Conflict and Violence*. P. 6.

<sup>133</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 *International Journal of Conflict and Violence*. P. 6.

international isolation by improving relations with China. China, in turn, sought to expand its international influence by assuming the role of active mediator, in a change from its past stance, during which time it was reluctant to impose new sanctions on North Korea and handle the North Korean nuclear issue.<sup>134</sup> Indeed, China continued to provide economic assistance in a variety of forms, despite economic sanctions imposed by the U.S. For instance, after the imposition of economic sanctions in 2002, aid from China to North Korea amounted to \$10,888,000 in 2003, \$14,556,000 in 2004, \$38,123,000 in 2005, and \$37,360,000 in 2006.<sup>135</sup>

By comparing North Korea to Libya, we can get a better idea of how friendly international relations affect reference points and, as a result, each State chooses different responses to sanctions. For example, after being sanctioned by other Member States, Libya abandoned its weapons programs and terrorism activities. These decisions resulted in an amicable atmosphere between the U.S. and Libya. To be more specific, in 2002, the U.S. referred to Iran, Iraq, and North Korea as the “axis of evil” and strongly criticized them as states sponsoring terrorism. On the other hand, the U.S. displayed an amicable attitude towards Libya, which was excluded from the group despite its involvement in the 1998 Pan Am explosion, despite other acts that could be considered terrorism.<sup>136</sup> This is because when a target resists the sanctions of a sender with which it has hostile relations, it usually results in little to no loss. However, very large losses are expected under amicable relations. Therefore, the more amicable the relations with the sender state, the lower the likelihood of the target state resisting said sanctions.<sup>137</sup> Amicable relations with a sender state are an influential factor in bringing about an increase in the reference point relative to sanctions.

In conclusion, when the reference point increases, as in the case of North Korea, the target’s

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<sup>134</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 7.

<sup>135</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 8.

<sup>136</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 11-12.

<sup>137</sup> Jiyoung Park, 'Why Targets Of Economic Sanctions React Differently: Reference Point Effects On North Korea And Libya' (2017) 11 International Journal of Conflict and Violence. P. 12.

losses from “backing down” loom larger, and as a result, the target resists the economic sanctions more firmly. On the other hand, when the reference point decreases, as in the case of Libya, the target’s losses incurred from “backing down” are smaller, and therefore, the target tends to resist less. In the case of North Korea, its economic and political stability compared to the 1990s, its close relations and trade with China, the humanitarian aid it received, and its hostile international relations and isolation have all functioned as factors to increase its reference point, eventually leading to strong resistance to targeted sanctions and pressures from the world. Of course, the reference point and prospect theory are not all-encompassing tools in explaining the unreasonable behavior of North Korea, but at the same time, they can provide more extensive grounds to understand said behavior.

## **5. The Recent Relationship between the U.S., North Korea, and South Korea**

### **5. 1. Individual Sanctions against North Korea by the U.S.**

Throughout its history, the U.S. has constantly led to adopt and implement sanctions on North Korea. If a state is designated as a state sponsor of terrorism by the U.S. State Department, it is subject to export restrictions under the Export Control Act of 1940 and prohibited from trading military items under the Arms Export Control Act of 1968 (AECA). In addition, assistance to these states from the U.S. and international financial institutions is prohibited under the Foreign Assistance Act of 1961, the Bretton Woods Agreement Act of 1945, and the International Financial Institutions Act of 1977. In addition, Normal Trade Relations (NTR) and Generalized System of Preferences (GSP) under the Trade Act of 1974 are denied. Furthermore, commercial export support under the Trade Sanctions Reform and Export Enhancement Act of 2000 is prohibited, as is aid and debt relief provided by the U.S. under the Foreign Operations, Export Financing, and Related Programs Appropriations Act. Besides, the Export-Import Bank of Korea Act of 1945 bans aid, loans, credit, insurance, and guarantees.<sup>138</sup>

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<sup>138</sup> Soo-Ho Lim, ' U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 132.

Looking into U.S. sanctions targeting weapons proliferation and arms trade with North Korea, U.S. Executive Orders specific to North Korea and the Iran, North Korea, and Syria Nonproliferation Act (hereinafter, referred to ‘INKSNA’)<sup>139</sup> authorize the U.S. to impose sanctions targeting activities in North Korean WMD and conventional arms proliferation and the transfer of luxury goods to North Korea. As of 2015, Executive Orders have begun targeting individuals and entities with regards to their ties to North Korea, as focusing on their conduct.<sup>140</sup> Since Executive Order 13810 was adopted by the Trump administration in 2017, the imposition of sanctions on designated persons and entities relating to North Korea has likewise been explicitly authorized, regardless of nationality and base location.<sup>141</sup> Table 1 provides examples of the activities and statuses targeted by the Executive Orders and INKSNA before 2016. For example, agencies, instrumentalities, and controlled entities of the government of North Korea or the Workers’ Party of Korea have all been targeted.<sup>142</sup>

Table 1. Activities and Statuses Targeted by Sanctions Authorized by U.S. Executive Orders and Law Specific to North Korea before 2016<sup>143</sup>

Executive Order (EO) or law	Examples of targeted activities and statuses
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<sup>139</sup> INKSNA was originally enacted as the Iran Nonproliferation Act of 2000 in 2000 and was amended to include North Korea on October 13, 2006, by the North Korea Nonproliferation Act of 2006./ *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 7.

<sup>140</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 7.

<sup>141</sup> W. Stephen Smith and others, 'Terrorism Sanctions Go Secondary - Government, Public Sector - United States' (*Mondaq.com*, 2019) <<https://www.mondaq.com/unitedstates/terrorism-homeland-security-defence/848972/terrorism-sanctions-go-secondary>> accessed 12 August 2020.

<sup>142</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 7.

<sup>143</sup> *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 2015) <<https://www.gao.gov/assets/680/670170.pdf>> accessed 12 August 2020. P. 8.



and effective date	
Iran, North Korea, and Syria Nonproliferation Act (INKSNA) (October 13, 2006)	<ul style="list-style-type: none"> <li>• Transferring to or acquiring from North Korea items listed by multilateral export control regimes, or certain non-listed items that could materially contribute to weapons of mass destruction (WMD) systems or cruise or ballistic missile systems.</li> </ul>
EO 13551 (August 30, 2010)  “Blocking Property of Certain Persons With Respect to North Korea”	<ul style="list-style-type: none"> <li>• Importing, exporting, or re-exporting to, into, or from North Korea any arms or related materiel</li> <li>• Providing training, advice, or other services or assistance, or engaging in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or re-exported to, into, or from North Korea</li> <li>• Importing, exporting, or re-exporting luxury goods to or into North Korea</li> <li>• Engaging in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, narcotics trafficking, or other illicit economic activity that involves or supports the government of North Korea or any senior official thereof</li> <li>• Providing financial, material, or technological support for, or goods or services to or in support of said activities or persons whose property and interests in property are blocked pursuant to this order</li> <li>• Being owned or controlled by, or acting or purporting to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order</li> </ul>

	<ul style="list-style-type: none"> <li>• Attempting to engage in any of said activities</li> </ul>
EO 13619 (July 11, 2012)  “Blocking Property of Persons Threatening the Peace, Security, or Stability of Burma”	<ul style="list-style-type: none"> <li>• Importing, exporting, re-exporting, or selling or supplying arms or related materiel from North Korea or the government of North Korea to Burma or the government of Burma</li> <li>• Being a senior official of an entity that engages in above activities in this order</li> <li>• Providing financial, material, or technological support for, or goods and services to or in support of, above activities or persons whose property and interests in property are blocked pursuant to this order</li> <li>• Being owned or controlled by, or acting or purporting to act for or on behalf of, the government of North Korea</li> </ul>
EO 13687 (January 2, 2015)  “Imposing Additional Sanctions with Respect to North Korea”	<ul style="list-style-type: none"> <li>• Being an agency, instrumentality, controlled entity, or official of the government of North Korea or the Workers’ Party of Korea</li> <li>• Providing financial, material, or technological support for, or goods or services to or in support of, above activities or persons whose property and interests in property are blocked pursuant to this order</li> <li>• Being owned or controlled by, or acting or purporting to act for or on behalf of, the government of North Korea</li> </ul>

Among those sanctions imposed on North Korea by the U.S., the secondary sanctions (or secondary boycotts), which concern trade between North Korea and other states, are the most notable. To be more specific, the Export Administration Act of 1979 requires any foreign company to obtain approval from the U.S. Department of Commerce if it exports products

containing more than 10 percent of U.S. technology or parts to North Korea. If this is violated, the company will be subject to sanctions under U.S. domestic law.<sup>144</sup>

Furthermore, the North Korea Sanctions and Policy Enhancement Act of 2016 stipulates that secondary sanctions, targeting states who conduct trade with North Korea, can be imposed on virtually all involved individuals or businesses. Companies and international financial institutions subject to secondary sanctions are restricted from importing and exporting to the U.S., and are likely to be forced out of the international dollar system and face bankruptcy.<sup>145</sup> To be more specific, the National Committee on North Korea (“NCNK”), which is a U.S.-based non-governmental organization led by persons with significant and diverse expertise related to the DPRK, summarized the most essential parts of the North Korea Sanctions and Policy Enhancement Act of 2016 (“NKSPEA”) as follows: The president of the U.S. is required to sanction individuals/entities determined to have knowingly (1) transferred WMD-related goods and services, or arms and related material, to/from North Korea, (2) transferred luxury goods to North Korea, (3) been responsible or complicit in censorship or human rights abuses by the government of North Korea, (4) engaged in money laundering, counterfeiting, narcotics trafficking, bulk cash smuggling, or other illicit activities that involve or support the government of North Korea, (5) engaged in acts undermining cybersecurity, and (6) sold, supplied, or transferred to/from, North Korea significant amounts of precious metal, graphite, raw or semi-finished metals (including aluminum, steel, and coal), or software, if directly related to WMD production, the Korean Workers’ Party, military/security activities, or forced labor (including labor outside of North Korea).<sup>146</sup>

The NCNK has also emphasized that the NKSPEA would make the imposition of specific sanctions in the Act mandatory rather than discretionary. Even though the U.S. already has had the authority to impose a broad range of North Korea-related sanctions under several

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<sup>144</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 130.

<sup>145</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 Korea and World Politics. P. 130.

<sup>146</sup> James Min, *Summary Of The North Korea Sanctions And Policy Enhancement Act Of 2016* (The National Committee on North Korea 2016) <[https://www.ncnk.org/sites/default/files/content/resources/publications/HR757\\_Summary\\_Final.pdf](https://www.ncnk.org/sites/default/files/content/resources/publications/HR757_Summary_Final.pdf)> accessed 12 August 2020. P. 2.

Acts, the U.S. was ineffective in altering North Korea's behaviors. However, by exercising the NKSPEA, the U.S. has been able to increase the pressure applied on North Korea. In particular, the NCNK has analyzed that the Act's inclusion of sanctions involving the trade of minerals and metals with North Korea has negatively impacted an important source of hard currency for Pyongyang, as such trade involves many Chinese buyers and investors. Moreover, many of the DPRK's mineral rights are ultimately controlled by the Korean Workers' Party, thereby falling under the NKSPEA restrictions even if not WMD related.<sup>147</sup>

Besides, the Executive Order 13810, the most recent order issued by the Trump Administration on September 21, 2017, further served to strengthen secondary sanctions. The Executive Order 13810 authorizes four categories of sanctions. Firstly, it authorizes the Office of Foreign Assets Control (hereinafter, referred to "OFAC") to impose sanctions against any person (i.e., individual or entity) (1) who operates in specified North Korean industries, (2) anyone who owns, controls or operates any North Korean port, (3) anyone who has engaged in at least one significant import from, or export to, North Korea, (4) anyone who is a citizen of, or organized under the laws of, North Korea, (5) anyone who has materially assisted, sponsored, or supported any person blocked pursuant to the executive order, and (6) anyone who is owned or controlled by, or has acted on behalf of, any other person blocked pursuant to the executive order. Designated persons will be added to OFAC's Specially Designated Nationals and Blocked Persons List ("SDN"). U.S. citizens are prohibited from engaging in virtually all transactions with individuals or entities on the Blocked Persons List, as well as any entities which are majority-owned by such persons. Secondly, the Executive Order 13810 prohibits entry into the U.S. to (1) any aircraft that has landed in North Korea, or a vessel that has called on a port in North Korea, or (2) any craft that has engaged in a ship-to-ship transfer with such a vessel, within the past 180 days. Thirdly, all funds that originate from, are destined for, or pass through a foreign bank account that the OFAC determines to be owned or controlled by a North Korean person (or to have been used to transfer funds in which any North Korean person has an interest) are blocked.

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<sup>147</sup> James Min, *Summary Of The North Korea Sanctions And Policy Enhancement Act Of 2016* (The National Committee on North Korea 2016) <[https://www.ncnk.org/sites/default/files/content/resources/publications/HR757\\_Summary\\_Final.pdf](https://www.ncnk.org/sites/default/files/content/resources/publications/HR757_Summary_Final.pdf)> accessed 12 August 2020. P. 2.

Fourthly, the executive order authorizes the OFAC to impose sanctions on any foreign financial institution that either knowingly conducts or facilitates any significant transaction with certain North Korea-related blocked persons, or any significant transaction in connection with trade with North Korea.<sup>148</sup>

The most critical aspect of the executive order 13810 is that the primary targets are non-North Korean individuals and entities that conduct business with North Korea. As described by President Trump, the executive order aims to “cut off sources of revenue that fund North Korea’s efforts to develop the deadliest weapons known to humankind” and to pressure non-U.S. persons to make “a clear choice: do business with the U.S. or facilitate trade with the lawless regime in North Korea.” However, many U.S. companies have relationships with counterparts in China, India, and Russia, all of which are among North Korea’s largest trading partners. In light of the Executive Order, such companies may wish to reconsider the risks associated with doing business with parties that conduct — or may conduct — a business with North Korea.<sup>149</sup>

In the past, China has not demonstrated a willingness to implement sanctions targeting North Korea. However, as the executive order authorizes the OFAC to impose secondary sanctions, China has changed its stance. For instance, according to various news outlets reported on September 12, 2017, the People’s Bank of China -the national bank of the state- instructed Chinese financial institutions “to stop providing financial services to new North Korean customers and to wind down loans with existing customers.”<sup>150</sup>

The Executive Order 13810 authorizes the OFAC to impose sanctions against non-U.S. entities for conduct that is wholly unrelated to the U.S. That is to say, the executive order

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<sup>148</sup> Brendan Hanifin and Emerson Siegle, 'What You Need To Know About North Korea Executive Order' (*Ropesgray.com*, 2017) <<https://www.ropesgray.com/en/newsroom/alerts/2017/09/What-You-Need-To-Know-About-North-Korea-Executive-Order>> accessed 27 July 2020.

<sup>149</sup> Brendan Hanifin and Emerson Siegle, 'What You Need To Know About North Korea Executive Order' (*Ropesgray.com*, 2017) <<https://www.ropesgray.com/en/newsroom/alerts/2017/09/What-You-Need-To-Know-About-North-Korea-Executive-Order>> accessed 27 July 2020.

<sup>150</sup> Brendan Hanifin and Emerson Siegle, 'What You Need To Know About North Korea Executive Order' (*Ropesgray.com*, 2017) <<https://www.ropesgray.com/en/newsroom/alerts/2017/09/What-You-Need-To-Know-About-North-Korea-Executive-Order>> accessed 27 July 2020.

represents a significant expansion of U.S. sanctions targeting North Korea, in that it grants the OFAC increased authority to sanction individuals and entities — including those in major international markets such as China, India and Russia — that do business with North Korea.<sup>151</sup>

As elaborated in detail below in Chapter 6 (“The evaluations of the UN sanctions imposed on North Korea”), since trade volume between North Korea and the U.S. has been scant, the sanctions on North Korea directly imposed by the U.S. have had only a meager effect. However, with the U.S. initiating secondary sanctions, China and Russia have had no choice, but to join the implementation of sanctions on North Korea. Even if UN sanctions are lifted, economic cooperation with North Korea will not be sought unless the U.S. sanctions, especially financial sanctions, are lifted.<sup>152</sup> This has led North Korea to suffer from economic difficulties, and to seriously negotiate with the U.S. regarding denuclearization.

## **5. 2. Three Summits between the U.S. and North Korea**

The U.S. has always been the global leader in imposing sanctions on North Korea. Meanwhile, opportunities for communication on both sides have been rapidly shrinking ever since the deadlocks of the Six-party talks. Particularly, in 2017, the world witnessed the most hawkish pressure in the history of U.S. relations with North Korea, when the U.S. President, Donald Trump, threatened that North Korea would be met with “fire and fury”, resulting in ‘total destruction.’<sup>153</sup>

However, even though North Korea was delisted from its designation as a state sponsor of terrorism on October 11, 2008, the sanctions mentioned above against North Korea have remained in place. These sanctions are imposed not only because North Korea was a state

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<sup>151</sup> Brendan Hanifin and Emerson Siegle, 'What You Need To Know About North Korea Executive Order' (*Ropesgray.com*, 2017) <<https://www.ropesgray.com/en/newsroom/alerts/2017/09/What-You-Need-To-Know-About-North-Korea-Executive-Order>> accessed 27 July 2020.

<sup>152</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 *Korea and World Politics*. P. 130.

<sup>153</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31 *The Korean Journal of Defense Analysis*. P. 400.

sponsor of terrorism, but also because of the security threats it presents, its proliferation of WMD, and its nature as a communist state and command economy.<sup>154</sup> In other words, it is highly unlikely that restrictions on North Korea's external economic activities will be lifted unless all sanctions are lifted at once, since there will always be reasons or relevant Acts for keeping sanctions in place, even if sanctions under a certain law or reason are lifted.<sup>155</sup> As a result, North Korea is currently facing a dire economic situation due to full-fledged sanctions, in particular, since those imposed in 2016 and 2017. Therefore, North Korea has been urgently demanding relief from such sanctions in order to overcome its current economic difficulties.

In this regard, North Korea has no choice but to attempt to communicate with the U.S. There have recently been three summits between North Korea and the U.S. During the first summit, American President Donald Trump met the North Korean leader, Kim Jong-un in Singapore on June 12, 2018. It was historically recorded as the first face-to-face meeting to ever occur between the two parties.<sup>156</sup> However, since signing a declaration with the goal of pursuing more amicable relations between the two states, unfortunately, no progress has been made in terms of nuclear negotiations nor sanction relief.

The second U.S.-North Korea summit was held in Hanoi on February 27-28, 2019. At this summit, the differing perceptions between the U.S. and North Korea over sanctions against the latter were further expressed in detail. While North Korea wanted the lifting of all of the UN sanctions adopted between 2016 and 2017, with the exception of those unrelated to WMD, the U.S. said that additional measures (+α), beyond simply the dismantling of North Korea's nuclear facilities, must be taken in order to lift those sanctions. There are various interpretations of what '+α' entails, ranging from reporting and scrapping non-uranium enrichment facilities to dismantling all WMD, including North Korea's biological and

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<sup>154</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 *Korea and World Politics*. P. 131-132.

<sup>155</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 *Korea and World Politics*. P. 132.

<sup>156</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31 *The Korean Journal of Defense Analysis*. P. 401.

chemical weapons, and medium- and short-range missiles.<sup>157</sup>

Besides, another different perspective was reaffirmed between North Korea and the U.S. at the second summit. The U.S. firmly stands on the CVID (complete, verifiable, and irreversible dismantlement) of North Korea's nuclear program. On the other hand, Pyongyang prefers a step-by-step dismantlement approach after the elimination of sanctions and upon receiving financial compensation from the UN or U.S. government in return for denuclearization. Although Pyongyang has announced an end to its nuclear testing and has furthermore shut down nuclear facilities, the U.S. was not convinced, and did not accept the offer. North Korea has hidden nuclear facilities, and mass quantities of highly enriched uranium and plutonium throughout the state. In addition, denuclearization poses a big challenge when considering the complicated process of verification of facilities and the elimination of nuclear weapons. The situation becomes even more complex when considering North Korea's previous distrustful behaviors, such as violating the agreed terms of denuclearization with the U.S. and the Six parties.<sup>158</sup> Furthermore, the U.S. has no previous experience in completely denuclearizing a nuclear-armed state like North Korea, a task which will present further difficulties if North Korea continues to hide its nuclear technology and information, as well as nuclear warheads. In particular, if North Korea does not declare all of its nuclear programs, and if negotiations continue to be carried out on a facility-level basis, the complete dismantling of North Korea's nuclear program will not be accomplished in any near future. For this reason, a step-by-step approach, which North Korea has advocated, could actually lead to North Korea eventually being recognized as a nuclear-weapon state, a situation that the U.S. cannot risk.<sup>159</sup>

Meanwhile, according to North Korea, the additional request, which was so-called '+α', from the U.S. was taken as a sign of disrespect and distrust of North Korea. Kim Jong-un reaffirmed his compliance with a plan for denuclearization in the Pyongyang Declaration, a

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<sup>157</sup> Soo-Ho Lim, 'U.S. Sanctions on North Korea and Prospects for Economic Normalization of U.S.-DPRK Relations' (2019) 35 *Korea and World Politics*. P. 128.

<sup>158</sup> Edward Kwon, 'Denuclearization Of North Korea: Before And After The Summits' (2019) 31 *The Korean Journal of Defense Analysis*. P. 310.

<sup>159</sup> Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] *Korea Research Institute for National Strategy*. P. 11.



joint statement signed by both North and South Korea's leaders. At their Pyongyang summit on September 18-20, 2018, Kim Jong-un stressed that if the U.S. takes "corresponding measures," Pyongyang would be willing to permanently dismantle the Yongbyon nuclear facilities, the site of a major nuclear weapons program that includes a centrifuge plant for producing highly enriched uranium for nuclear bombs. As a preemptive sign of his willingness to denuclearize, Kim Jong-un offered to destroy the Dongchang-ri missile facilities and Punggye-ri nuclear experiment facilities.<sup>160</sup> However, Experts in the U.S. believe that the closure of the nuclear experiment facilities in Punggye-ri, which is not accompanied by verification, does not imply a "shutdown." In the same context, the Dongchang-ri's case is understood that it is not a "disposal" but a simple "dismantling" level.<sup>161</sup> Anyway, in his 2019 New Year's address, the North Korean leader reaffirmed that Pyongyang "would neither make and test nuclear weapons any longer nor use and proliferate them".<sup>162</sup> Even though Kim Jong-un has explicitly expressed his willingness to comply on different occasions, the U.S. has nonetheless continued to request what we have referred to as 'additional measures (+α)'. As a result, North Korea perceives the U.S. as unreliable and manipulative.

Lastly, after an agreement was not reached during the second summit, Trump and Kim Jong-un met again on June 30, 2019, at the Demilitarized Zone (DMZ) in South Korea some four months later, with the support of Moon Jae-in, the President of South Korea. After a 53-minute meeting between the two leaders at the Inter-Korean House of Freedom, Trump told reporters that he and Kim agreed to restart negotiations over North Korea's nuclear program.<sup>163</sup>

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<sup>160</sup> Edward Kwon, 'Denuclearization Of North Korea: Before And After The Summits' (2019) 31 The Korean Journal of Defense Analysis. P. 316.

<sup>161</sup> Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] Korea Research Institute for National Strategy. P. 12.

<sup>162</sup> Kelsey Davenport and Alicia Sanders-Zakre, 'North Korea Denuclearization Digest, January 11, 2019' (*Armscontrol.org*, 2019) <<https://www.armscontrol.org/blog/2019-01-11/north-korea-denuclearization-digest-january-11-2019>> accessed 29 July 2020; Edward Kwon, 'Denuclearization Of North Korea: Before And After The Summits' (2019) 31 The Korean Journal of Defense Analysis. P. 312.

<sup>163</sup> Chas Danner, 'What We Know About Trump's DMZ Meeting With Kim Jong-Un' (*Intelligencer*, 2019) <<https://nymag.com/intelligencer/2019/06/what-we-know-about-trumps-dmz-meeting-with-kim-jong-un.html>>

However, since June 2019, when the last summit was held, no progress has been made regarding either denuclearization or regarding the relationship between North Korea and the U.S. While the two leaders met in person and tried to resolve the nuclear issue through dialogue, they have nonetheless failed to produce any concrete results. In this regard, North Korea and the U.S. have clearly failed to reach an agreement on multiple occasions.

### **5. 3. The Various Evaluations regarding Three Summits and South Korea's Stance**

Some experts assert that there are two core areas in which North Korea is unlikely to change, even when sanctions are imposed. First, there are political factors to consider within DPRK Politics, most notably: the monarchy and dictatorship, the Kim family cult (the Baekdu bloodline), and gulags and camps. Secondly, in terms of military strategy, the following must be considered: nuclear warheads, missiles, and missile launchers.<sup>164</sup> Experts on the matter, including author Robert E. Kelly, have evaluated that in the political field, there has been no change in these core issues at all since sanctions were initially imposed. Furthermore, since the political factors mentioned above are deeply connected to the current essential identity of North Korea, it is unrealistic to expect them to change. For this reason, they were not even discussed at the summits held between North Korea and the U.S.<sup>165</sup>

When it comes to military strategy, there is a slight possibility to affect their changes. However, even though pressure has mounted and there has been an increase in engagement efforts of relevant parties to create even small changes, no substantial headway has been made. In fact, throughout the Trump presidency, North Korea has continued, to the best of their ability, missile and warhead production, as well as nuclear and missile tests. The U.S. has begun talks regarding non-nuclear WMD with North Korea, with no progress yet achieved.<sup>166</sup> In short, North Korea has not budged on core political or strategic issues. It

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accessed 12 August 2020.

<sup>164</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31*The Korean Journal of Defense Analysis*. P. 403.

<sup>165</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31*The Korean Journal of Defense Analysis*. P. 404.

<sup>166</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?'

remains that the deep ideological and strategic gaps between the DPRK and the rest of the world have not, to date, been overcome by either the threats of the use of armed force or the promise of apex leader summits.<sup>167</sup> It can be summed up that even a strategic field like the military is unlikely to be adjusted by the summit between two leaders, in particular considering that military means are the only remaining resources for North Korea to maintain its core identities, as well as an ‘insurance policy’ for the regime .

Nevertheless, several experts believe that the summits between North Korea and the U.S. will play a pivotal role in solving this deadlock and at least moving (negotiations) in the right direction. This is because lower level talks inevitably flounder due to the need to regularly seek, inter alia, the approval of leaders. Such lower level talks slow down the process of negotiation and encourage leaking information, free-lance advisors, bureaucratic resistance, and other activities that hinder progress. Additionally, multilateral talks such as the Six-party talks or the “Leap Day Deal ” are bogged down in a bureaucratic morass of too many players, independent-minded negotiators, miscommunication, and conflicting agendas. For reference, the “Leap Day Deal”, which actually consisted of two separate agreements between North Korea and the U.S., was established on February 29, 2012. The Deal committed North Korea to put a moratorium on nuclear tests, long-range missile launches, and uranium enrichment activities at the Yongbyon nuclear facility. In addition, North Korea was required to grant the readmission of inspectors from the International Atomic Energy Agency (IAEA). In return, the Obama Administration pledged to supply 240,000 metric tons of “nutritional assistance” to North Korea. However, optimistic views that Kim Jong-un might differ from his father and strive to change North Korea's external policies were demolished when he launched a long-range rocket only two months after the Leap Day Deal was already agreed upon.<sup>168</sup> The Deal was abandoned after Kim Jong-un launched the first nuclear weapons test in February 2013, as well as revised the North Korean constitution, describing it as a “nuclear-armed nation.” in

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(2019) 31 The Korean Journal of Defense Analysis. P. 404.

<sup>167</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31 The Korean Journal of Defense Analysis. P. 404-405.

<sup>168</sup> Emma Chanlett-Avery and Ian E. Rinehart, *North Korea: U.S. Relations, Nuclear Diplomacy, And Internal Situation* (Congressional Research Service 2013) <[https://www.ncnk.org/sites/default/files/content/resources/publications/USNK\\_R41259.pdf](https://www.ncnk.org/sites/default/files/content/resources/publications/USNK_R41259.pdf)> accessed 12 August 2020. P. 8.

the same year.<sup>169</sup>

By contrast, placing the apex leaders face-to-face would encourage direct and bold action and communication. As one Hillary Clinton campaign, foreign policy advisor said, “There is not a whole lot that can be done with North Korea given the limits of the regime and our relationship with South Korea.”<sup>170</sup> For these reasons, direct talks between North Korea and the U.S. are even more necessary.

The relationship becomes more complex when considering that South Korea has expressed a strong interest in acting as a mediator during the bilateral talks between Trump and Kim Jong-un in the event of a stalemate. South Korea believes that it can play a pivotal role in reducing differing perspectives between the U.S. and North Korea.<sup>171</sup> However, the South Korean government leans more towards North Korea’s stance and strategy of denuclearization.<sup>172</sup> It has a slightly different view on the traditional steps of denuclearization, which consists of reporting, verification, and dismantlement, and advocated by the Trump administration. On October 3, 2018, Foreign Minister Kang Kyung-wha, suggested that it was necessary to "delay the demand for the declaration and verification of nuclear weapons against North Korea in order to make denuclearization negotiations progresses", in an interview with the Washington Post. In rejection, the U.S. State Department effectively refuted Kang's suggestion, saying "final and fully verified denuclearization is the U.S.’ ultimate goal”.<sup>173</sup>

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<sup>169</sup> Emma Chanlett-Avery and Ian E. Rinehart, *North Korea: U.S. Relations, Nuclear Diplomacy, And Internal Situation* (Congressional Research Service 2013) <[https://www.ncnk.org/sites/default/files/content/resources/publications/USNK\\_R41259.pdf](https://www.ncnk.org/sites/default/files/content/resources/publications/USNK_R41259.pdf)> accessed 12 August 2020, P. 8-9.

<sup>170</sup> Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31 *The Korean Journal of Defense Analysis*. P. 413.

<sup>171</sup> Edward Kwon, 'Denuclearization Of North Korea: Before And After The Summits' (2019) 31 *The Korean Journal of Defense Analysis*. P. 322-323./ Robert E. Kelly, 'The Persistent Status Quo With North Korea: Why Has So Little Changed Since 2017?' (2019) 31 *The Korean Journal of Defense Analysis*. P. 413/ Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] *Korea Research Institute for National Strategy*. P. 16-17.

<sup>172</sup> Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] *Korea Research Institute for National Strategy*. P. 16.

<sup>173</sup> Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] *Korea Research Institute for National Strategy*. P. 16-17.

The South Korean government has been putting more weight on the “phased and synchronous” approach, in which reciprocal concessions are traded between Washington and Pyongyang in a step-by-step manner, rather than the prior declaration advocated by the Trump administration. In order for North Korea to declare its entire nuclear program to the UN, the South Korean government believes that trust between North Korea and the U.S. must be built first, by maintaining full transparency and allowing North Korea to verify on its own the facilities it has disposed of. In return, the U.S. must implement corresponding measures, in the form of lifting sanctions. To sum up, South Korea and the U.S. agree about the necessity of North Korea’s denuclearization, but South Korea is focusing on conciliatory incentives with North Korea, while the U.S. is employing a more strict approach, by pressuring and emphasizing sanctions.<sup>174</sup>

## **6. The Evaluation of the Sanctions Imposed on North Korea**

### **6. 1. Introduction of Six Conditions for Sanctions to Succeed**

This chapter introduces six conditions for sanctions to be successful, which is suggested by a EUISS Task Force of the EU (European Union Institute for Security Studies, hereinafter referred to ‘the EUISS’) in the report of “On target? EU sanctions as security policy tools”.<sup>175</sup>

**Firstly, Pre-sanctions trade volumes need to be important for economic sanctions to be effective.** The EUISS Task Force of the EU suggests that it is more likely to achieve the sanction’s goal when pre-sanction trade between the sender and the target is important for the effectiveness of the sanctions. This means (a) that the lower the level the pre-sanction trade, the higher the probability of failure, and (b) that boycotts and embargoes of highly-valued products that cannot be replaced, re-sourced or (re)sold have a greater impact.<sup>176</sup> This aspect

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<sup>174</sup> Wongon Park, 'Difference In The Various Perspectives On North Korea's Denuclearization Between ROK And US, And Exploration For The Solutions' [2019] Korea Research Institute for National Strategy. P. 17.

<sup>175</sup> The EUISS suggests seven conditions for sanctions to be successful. However, the seventh element cannot be considered a condition, but rather a consequence or an impact of the sanctions. For this reason, this chapter will illustrate only six conditions for sanctions to be successful.

<sup>176</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security

was also emphasized by the United States Government Accountability Office (“GAO”) in its “report to Congressional Requesters”. GAO pointed out that when targeted states had some existing dependency on or relationship with the U.S., sanctions were associated with a greater impact.<sup>177</sup> The greater the trade flows between the target state and the sender state before sanctions are imposed, the greater the likelihood that such sanctions succeed. In addition to the success of sanctions, GAO suggested that economic dependency usually leads to greater deterrence of nuclear proliferation.<sup>178</sup>

**Secondly**, since adjustment by the target reduces the potential impact of imposed sanctions (in particular, economic sanctions), **sanctions tend to succeed most in the initial years of implementation.** There are two mechanisms operating: the one is that the longer the duration of the sanctions, the better the sanctioned target can adjust to the new situation. This is because the process of reallocation of labor and capital towards other sectors (e.g., from the export sector to the import sector) requires time. The other one is that economic performance will improve during the adjustment process. From a political economy perspective, it is important that this creates the perception that the worst is over. Indeed, while economic activity will remain below pre-sanction levels, growth rates may be positive, fueling the expectation that the sanctions can be overcome. Given that targeted states tend to adjust their economies under sanctions, the damage of sanction is largest before an adjustment can undercut the (potential) costs of sanctions.<sup>179</sup>

**Thirdly, the psychological factors, such as expectations, credibility, and strategic interaction, play a significant role.** This implies, first of all, that sanctions are most effective when they are unanticipated. Sanctions that are expected by the target give rise to activities

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Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 19-20.

<sup>177</sup> *Economic Sanctions: Agencies Assess Impacts On Targets, And Studies Suggest Several Factors Contribute To Sanctions' Effectiveness* (United States Government Accountability Office 2019) <<https://www.gao.gov/assets/710/701891.pdf>> accessed 11 August 2020. P. 19.

<sup>178</sup> *Economic Sanctions: Agencies Assess Impacts On Targets, And Studies Suggest Several Factors Contribute To Sanctions' Effectiveness* (United States Government Accountability Office 2019) <<https://www.gao.gov/assets/710/701891.pdf>> accessed 11 August 2020. P. 22.

<sup>179</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 21.

that reduce their impact, such as stockpiling, setting up import substitution, refocusing exports and imports on non-traditional markets and reducing dependency on foreign capital and trade in general. Therefore, unexpected sanctions can better achieve their goals. It is also notable that the threat of sanctions is more effective than the actual imposition of sanctions. A history of strong sanctions may enhance the sender's reputation and make its threats more credible. However, a threat of sanctions that is not followed up by actual measures that bite undermines the credibility of the use of sanctions in future cases. This means that the use of sanctions should be restricted to cases where the sanctions can be imposed, monitored, and implemented.<sup>180</sup> It is also necessary to consider the risk tolerance of the sanction target leadership. Sanctions are less effective the higher the risk tolerance of targets.<sup>181</sup> Similarly, GAO has stated that sanctions have traditionally been more effective when the target state's per capita income is relatively low, when a sender state's threat of imposing sanctions is deemed credible, or when sanctions result in relatively high costs for the target state.<sup>182</sup>

**Fourthly, sanctions are more likely to succeed if the target is more democratic (less authoritarian).** The effectiveness of international sanctions is often determined by the nature of the political system or political economy in place in the target state. Sanctions will lead to stronger and more effective opposition to the government responsible for the sanctions in democracies as compared to autocracies. Authoritarian regimes also have the capacity to distribute the losses (and gains) from sanctions in ways that penalize their opponents and reward their supporters, thus often strengthening authoritarian rule in the process. Similarly, sanctions may strengthen rather than weaken popular support for the regime (rally-round-the-flag effect). This is particularly the case when the target population approves of the behavior that the sender is opposing and seeking to change. Additionally, targets with a religious goal and with a strong ideological motivation are thus difficult to change. It is because a change in

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<sup>180</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 22-23.

<sup>181</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 23.

<sup>182</sup> *Economic Sanctions: Agencies Assess Impacts On Targets, And Studies Suggest Several Factors Contribute To Sanctions' Effectiveness* (United States Government Accountability Office 2019) <<https://www.gao.gov/assets/710/701891.pdf>> accessed 11 August 2020. P. 20-21.

their behavior might undermine the rationale or basis on which they rely for political legitimization, survival, and support. As a result, they are willing and able to bear very high costs.<sup>183</sup>

**Fifthly, strong multilateral political commitment makes sanctions more effective.** For instance, sanctions imposed by universal member institutions like the UN have more international legitimacy than sanctions imposed by a single state as an instrument of its foreign policy. Sanctions imposed by regional organizations of which the target is a member also have greater legitimacy than sanctions imposed by a regional organization on third parties who are not members of the regional institution.<sup>184</sup> GAO emphasized this point several times in its report with the aim to urge the U.S. to impose sanctions jointly with the UN.<sup>185</sup>

**Sixthly, narrowly defined goals and multiple policy instruments increase the success rate of sanctions.** Some cases handled by the UN show that an even more fine-tuned strategy can effectively constrain targeted actors. When the UN tries to stay neutral and avoids taking sides in a conflict, as it often does when it first becomes involved, its sanctions (typically imposed on ‘all parties to a conflict’) tend to be ineffective. After a peace settlement is negotiated, and the UN uses sanctions to constrain one party (potential spoilers to the transitional arrangement), the sanctions have a higher probability of effectiveness. Since virtually all international sanctions today are targeted, focusing on key regime supporters and core family members is more important than focusing directly on the political leadership of the regime. However, when only one type of targeted sanction is imposed in isolation, it is never effective. On average, the simultaneous application of at least three (and closer to four) different types of targeted sanctions is necessary for effective coercion, constraint or

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<sup>183</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 24-25.

<sup>184</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 25.

<sup>185</sup> *Economic Sanctions: Agencies Assess Impacts On Targets, And Studies Suggest Several Factors Contribute To Sanctions’ Effectiveness* (United States Government Accountability Office 2019) <<https://www.gao.gov/assets/710/701891.pdf>> accessed 11 August 2020. P. 19-22.



signaling. The most common combination of targeted sanctions imposed by the UN is an arms embargo, travel ban, and an asset freeze.<sup>186</sup>

## **6. 2. Overall Assessment on the Sanctions Imposed on North Korea**

This chapter will attempt to provide an assessment of why sanctions imposed on North Korea have inherently been less effective, based on six of the conditions suggested by EUISS.

North Korea has many features embedded in its social and political systems, which allow it to stand up to sanctions. First, North Korea is a state based on strong ideologies and a socialist system. The state has been ruled by the Kim family for over 70 years with little to no change, from the first leader, Kim Il-sung, to the current leader, Kim Jong-un. The Kim family has ruled its people by idolizing themselves as saviors of the nation and even as gods to be revered. As a result, they have controlled and, some might say brainwashed, their citizens to be completely and unconditionally loyal. Targets with an unwavering commitment to a political-economic ideology, to religious extremism, or targets engaged in a struggle for survival and self-determination are difficult to coerce with sanctions.<sup>187</sup> A change in their behavior would signify a complete destabilization of the rationale or basis on which they traditionally rely for political legitimacy, survival, and support. As a result, they are willing and able to sustain their current system at nearly any cost.<sup>188</sup> In this regard, North Korea has a very high tolerance for risk and therefore, imposed sanctions are less likely to succeed in changing the state's behaviors.

In a similar context, it should not be ignored that North Korea is a highly authoritarian target, and such regimes have the capacity to distribute the losses (and gains) from sanctions in ways

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<sup>186</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 26.

<sup>187</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 24-25.

<sup>188</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 25.

that penalize their opponents and reward their supporters, often strengthening authoritarian rule in the process.<sup>189</sup> The North Korean regime also knows how to mobilize popular support through their control of the media and their ability to depict the sanctions as targeted not against the proscribed activities of the regime in power, but against the entire nation.<sup>190</sup>

Besides, insufficient pre-sanction trade volume between North Korea and the rest of the world (except China) has caused UN sanctions to be less effective. In addition, since North Korea's economy has not traditionally depended on the U.S., those sanctions imposed by the U.S. did not affect North Korea. However, once secondary sanctions by the U.S. were put in place to limit trade between other states and North Korea, the results changed.

Furthermore, the UN has offered sufficient time for North Korea to mitigate any potential impacts produced by the sanctions. Sanctions that are expected by the target give rise to activities that reduce their impact, such as stockpiling, setting up import substitution, refocusing exports and imports on non-traditional markets, and reducing dependency on foreign capital and trade in general.<sup>191</sup> For ten years, only meager sanctions were imposed, from the time the first UN sanctions were adopted in 2006, to when more comprehensive ones were put in place in 2016. In addition, the UN focused on imposing sanctions only after North Korea tested its new nuclear weapons and ballistic missiles. In short, North Korea has been able to anticipate and, more or less, choose its response when new sanctions are adopted. It has kept North Korea on guard and fully prepared for whatever sanctions come.

Considering all the points mentioned above, the imposed sanctions on North Korea have various features that mitigate their effects. These instead strengthen the reference point of North Korea, which makes it stand firm against the imposed sanctions. It can be said that these factors are what have led to the current situation, where the rest of the world has

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<sup>189</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 24.

<sup>190</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 24.

<sup>191</sup> Iana Dreyer and others, *On Target? EU Sanctions As Security Policy Tools'* (EU Institute for Security Studies 2015) <[https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_25\\_EU\\_Sanctions.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_25_EU_Sanctions.pdf)> accessed 13 August 2020. P. 22.

constantly been provoked by North Korea.

### **6. 3. A Criticism Concerning Imposed Sanctions against North Korea - Adverse Humanitarian Consequences**

Meanwhile, one bitter criticism regarding the sanctions imposed on North Korea is that even though they were called targeted sanctions, they were not actually limited in terms of population or scope. In short, there is increasing evidence that the sanctions against North Korea have adverse humanitarian consequences.

Lisa Schlein points out that the imposed sanctions on North Korea are having a devastating impact on the general population, especially on women and children, in her article “Report: Sanctions on N. Korea Not Working; Harming Civilian Population”. She says sanctions are adversely affecting humanitarian aid and economic development in the state. She cites UN reports that 40 percent of North Korea’s population is going hungry and in desperate need of assistance, that six out of 10 people do not have access to safe drinking water, and that malnutrition among children is increasing.”<sup>192</sup>

As cited in the same article, Christine Ahn, the founder of “Women Cross DMZ”, says the sanctions are barring the import of essential items, including medical equipment, agricultural material essential for food production, and components for water and sanitation programs. She emphasized: “*nearly 4,000 people died in 2018 as a result of the delays caused by the sanctions of materials and aid coming into North Korea, as well as the funding shortfalls.*”<sup>193</sup>

Similar aspects were confirmed by the UN Panel of Experts once again. As cited in “The Human Costs And Gendered Impact Of Sanctions On North Korea” written by Henri Féron and others, the UN Panel of Experts has claimed that the “[UN] sectoral sanctions are affecting the delivery of humanitarian-sensitive items” and that their implementation “has had

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<sup>192</sup> Lisa Schlein, 'Report: Sanctions On N. Korea Not Working; Harming Civilian Population' *Voice of America* (2019) <<https://www.voanews.com/east-asia-pacific/report-sanctions-n-korea-not-working-harming-civilian-population>> accessed 12 August 2020.

<sup>193</sup> Lisa Schlein, 'Report: Sanctions On N. Korea Not Working; Harming Civilian Population' *Voice of America* (2019) <<https://www.voanews.com/east-asia-pacific/report-sanctions-n-korea-not-working-harming-civilian-population>> accessed 12 August 2020.

an impact on the activities of international humanitarian agencies working to address chronic humanitarian needs in the country.” The UN Panel detailed prohibited items under UNSCR 2397 (2017), which included medical appliances, such as ultrasound machines and orthopedic appliances for persons with disabilities, as well as any item with a metallic component, including “screws, bolts, nails, staples”.<sup>194</sup> While the relevant UN resolutions have enabled the 1718 Sanctions Committee on North Korea to grant case-by-case humanitarian exemptions, the UN Panel has noted that there have been significant delays in the delivery of humanitarian-sensitive goods, which has “resulted in increased mortality”<sup>195</sup> Additionally, sanctions disproportionately impact the most vulnerable parts of the population, who do not have alternative sources of fuel or other essential goods, nor a means to deal with rising prices of the aforementioned.<sup>196</sup>

Moreover, as cited in the same report, the UN Committee on the Elimination of Discrimination against Women concluded that “the economic sanctions imposed by the international community as a consequence of the State party’s policies have a disproportionate impact on women.”<sup>197</sup> In this regard, the use of sanctions, even when not comprehensive, has negatively impacted the realization of the human rights of vast sectors of the population, in particular children, women, the elderly, and persons with disabilities.<sup>198</sup>

It means that the imposed sanctions against North Korea have caused the opposite effects as originally intended. It is necessary to remember that the issue of adverse humanitarian

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<sup>194</sup> Henri Féron and others, *The Human Costs And Gendered Impact Of Sanctions On North Korea* (2019) <<https://koreapeacenow.org/wp-content/uploads/2019/10/human-costs-and-gendered-impact-of-sanctions-on-north-korea.pdf>> accessed 13 August 2020. P. 1.

<sup>195</sup> Henri Féron and others, *The Human Costs And Gendered Impact Of Sanctions On North Korea* (2019) <<https://koreapeacenow.org/wp-content/uploads/2019/10/human-costs-and-gendered-impact-of-sanctions-on-north-korea.pdf>> accessed 13 August 2020. P. 1-2.

<sup>196</sup> Henri Féron and others, *The Human Costs And Gendered Impact Of Sanctions On North Korea* (2019) <<https://koreapeacenow.org/wp-content/uploads/2019/10/human-costs-and-gendered-impact-of-sanctions-on-north-korea.pdf>> accessed 13 August 2020. P. 2.

<sup>197</sup> Henri Féron and others, *The Human Costs And Gendered Impact Of Sanctions On North Korea* (2019) <<https://koreapeacenow.org/wp-content/uploads/2019/10/human-costs-and-gendered-impact-of-sanctions-on-north-korea.pdf>> accessed 13 August 2020. P. 2.

<sup>198</sup> Henri Féron and others, *The Human Costs And Gendered Impact Of Sanctions On North Korea* (2019) <<https://koreapeacenow.org/wp-content/uploads/2019/10/human-costs-and-gendered-impact-of-sanctions-on-north-korea.pdf>> accessed 13 August 2020. P. 2.

consequences is an inevitable consequence of the use of sanctions to change the target's behavior. Furthermore, it should not be forgotten that while targeted sanctions are normatively more acceptable than comprehensive sanctions, they are by no means superior in every aspect.

## **7. Conclusion**

North Korea responded to both military threats and economic pressure by accelerating its pursuit of nuclear weapons, most notably in early 2003, in 2006, in 2009, and again during the missile and nuclear tests in 2016 and 2017 as well as more recently. This implies that most strategies and sanctions put in place to pressure North Korea were not only futile, but counterproductive. Contrary to general expectations, the imposed sanctions against North Korea do not necessarily sway its dictatorial regime, but rather consolidate the Kim family's control by strengthening the resistance of both the ruling class and the general public. In any case, North Korea is good at manipulating and inciting public opinion. It often shifts the blame for economic problems caused by sanctions for its prohibited activities, to external factors, including the U.S., by using censorship of thought and media control.

Furthermore, in controlled and repressive regimes such as North Korea, even targeted sanctions can have unintended consequences on the broader population, without necessarily having the intended political effects. Otherwise put, the imposed sanctions against North Korea have brought about adverse humanitarian consequences, particularly for the most vulnerable populations, including women, the elderly, and children.

There are several reasons why the imposed sanctions on North Korea have not been as effective as expected, but this thesis would like to emphasize the following reasons: the authoritarian nature of North Korea and the idolization of the Kim family, the support and involvement in North Korea of states such as China, South Korea, and Russia, combined with the hostile relationship with the U.S., and indeed, an increase in the target's resistance due to constantly anticipated sanctions. Not only have sanctions possessed inherent weaknesses, but they have also instead resulted in adverse humanitarian consequences. These have eventually led North Korea to mount a strong resistance to imposed sanctions and other pressure from

the international community.

However, as of 2016, the UN sanctions have changed from targeted sanctions to more comprehensive ones, and the U.S. has begun to apply the secondary sanctions on North Korea-related individuals or entities. In addition, the majority of Member States have been participating in imposing sanctions against North Korea. These have led North Korea to face severe economic difficulties due to its isolation. In order to overcome these difficulties, Kim Jong-un had repeatedly expressed a strong commitment to denuclearization, and further, he has met President Trump for three separate summits. Even though North Korea has begun to verbally attack the U.S. once again after both states failed to reach an agreement during the second summit, the UN and the U.S. sanctions have nonetheless at least allowed conversations to begin between the two states and put negotiation on the table. Namely, sanctions against North Korea imposed by the UN and the U.S. have a meaning to let North Korea take its place at the negotiation table along with the U.S. and the rest of the world. Yet, it seems that more time is still required for the world to witness fruitful results.

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## **Title:** Why Imposed Sanctions Have Little Effect on North Korea

Sunhee Cho

**Abstract (English):** Ten rounds of sanctions by the UN since 2006, and several sanctions from the U.S., as well as other states, have been imposed on North Korea. However, these sanctions have proven ineffective and have not stopped North Korea's constant ambition to develop nuclear weapons and ballistic missiles. Namely, the UN sanctions for almost 15 years have failed to produce the desired effect. This thesis delves into the concept of both comprehensive and targeted sanctions, and their respective strengths and weaknesses. It then focuses on UN sanctions imposed on North Korea in chronological order, in particular, the impacts after implementing the UNSCR 2270 (2016). In addition, it presents the factors that explain the limited effects of these sanctions on North Korea. The nature of the Kim family regime, North Korea's supportive external relationship with China, Russia and South Korea are fundamental reasons for the sanctions having had limited effects. This thesis highlights the prior sanctions imposed on North Korea by the U.S., including secondary sanctions, along with providing an in-depth summary and analysis of the recent summits between North Korea and the U.S. It furthermore introduces South Korea's perception on the aforementioned subjects. Lastly, the thesis evaluates the meaning and impacts of previously imposed sanctions as well as ongoing sanctions against North Korea. In conclusion, sanctions have become (relatively) more comprehensive and widened in both scope and extent. As a result of this shift, along with additional secondary sanctions imposed by the U.S., North Korea has begun to take its place at the negotiation table along with the U.S. and the rest of the world. However, more time is still required for the world to witness fruitful results.

**Keyword:** comprehensive sanctions, targeted sanctions, secondary sanctions, North Korea, summits between North Korea and the U.S., the ineffectiveness of sanctions.

## **Titel: Warum Sanktionen wenig Wirkung auf Nordkorea haben**

Sunhee Cho

Seit 2006 wurden zehn Runden von Sanktionen der UNO und mehrere Sanktionen der USA sowie anderer Staaten gegen Nordkorea verhängt. Diese Sanktionen haben sich jedoch als unwirksam erwiesen und Nordkoreas ständiges Bestreben, Atomwaffen und ballistische Raketen zu entwickeln, nicht aufgehalten. Diese Arbeit befasst sich mit dem Konzept umfassender und gezielter Sanktionen und deren jeweiligen Stärken und Schwächen. Im Mittelpunkt stehen die UNO-Sanktionen gegen Nordkorea in chronologischer Reihenfolge, insbesondere die Auswirkungen nach der Umsetzung der UNSCR 2270 (2016). Darüber hinaus werden diejenigen Faktoren der Sanktionen vorgestellt, welche die Wirkungen auf Nordkorea schwächen. Die Natur des Familienregimes von Kim und die unterstützenden Außenbeziehungen Nordkoreas zu China, Russland und Südkorea werden als die wesentlichen Gründe für die begrenzten Wirkungen der Sanktionen vor Augen gebracht. Diese Arbeit hebt die früheren US-Sanktionen gegen Nordkorea, einschließlich der sekundären Sanktionen, hervor, zusammen mit einer vertieften Zusammenfassung und Analyse der jüngsten Gipfeltreffen zwischen Nordkorea und den USA. Darüber hinaus wird die Einstellung Südkoreas zu den oben genannten Themen vorgestellt. Schließlich werden Sinn und Wirkung von früher verhängten sowie aktuell laufenden Sanktionen gegen Nordkorea bewertet. Abschließend wird gesagt, dass die aktuellen Sanktionen im Vergleich zu den früheren sowohl dem Umfang als auch der Intensität nach (relativ) umfassender geworden sind. Wegen dieses Wandels der UN-Sanktionen, zusammen mit den zusätzlichen sekundären US-Sanktionen, hat Nordkorea begonnen, sich zu den USA und dem Rest der Welt an den Verhandlungstisch zu setzen. Allerdings ist noch mehr Zeit erforderlich, bis die Welt fruchtbare Ergebnisse beobachten können wird.

**Schlagworte:** umfassende Sanktionen, gezielte Sanktionen, sekundäre Sanktionen, Nordkorea, Gipfeltreffen zwischen Nordkorea und den USA, Unwirksamkeit gezielter Sanktionen.