

Implementation Handbook for United Nations Sanctions on North Korea

Compliance challenges faced by public and private sector professionals in Latin America

June 2021



Implementation Handbook for UN sanctions on North Korea for Latin America Stakeholders

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Introduction

Why UN sanctions on the DPRK?

The global struggle against the burgeoning arsenal of weapons of mass destruction, ballistic missiles, and conventional arms by the Democratic People's Republic of Korea, as North Korea is officially called (or DPRK), continues to be the top international threat to peace and security. The United Nations Security Council, as the only body in the world with a universally accepted mandate to protect international peace and security has responded to this threat by:

- ◆ adopting a series of UN sanctions resolutions,
- ◆ establishing a sanctions committee consisting of representatives of each of its 15 member states,
- ◆ mandating a panel of experts to monitor and report compliance with its sanctions provisions and report any suspected violations.

With resolution 1718 it adopted on 14 October 2006 its first sanctions measure in order to respond to North Korea's:

- ◆ 10 January 2003 withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons,
- ◆ Claim to have conducted a test of a nuclear weapon on 9 October 2006.

Evidence accumulated that North Korea is, in fact, building a nuclear arms arsenal, as well as developing chemical and perhaps also biological weapons, along with sophisticated delivery systems that include short-, medium-, long-range and seaborn ballistic missiles, in addition to its ongoing exports of conventional arms and related services. Therefore the Security Council gradually adopted commensurate sanctions measures with resolutions 1874 in 2009, 2087 and 2094 in 2013, 2270 and 2321 in 2016, and 2371, 2375 and 2397 in 2017.

Consequently, UN member states are now obliged to implement a complex web of UN sanctions measures as well as ensure that their private sector complies with these provisions. Understanding and following all technical complexities of the UN sanctions on the DPRK is not a trivial task.

Purpose and structure of this handbook

This handbook is intended to provide public and private sector implementation and compliance professional succinct and complete guidance to avoid embarrassing due diligence failures. The following chapters provide:

- ◆ An overview of UN sanctions on the DPRK
- ◆ The military threats and human rights consequences that result from the policies and actions of the DPRK's leadership.
- ◆ The DPRK's deployment of cyber aggressions in support of its proliferation endeavors
- ◆ Recognizing risk indicators
- ◆ Step-by-step guidance for governments' implementation of sanctions measures on the DPRK
- ◆ Guidance for instituting whole-of-enterprise UN sanctions compliance

Instead of an index, this book offers a very detailed table of contents, in order to facilitate quick searches for content that hopefully answer readers' specific information needs.

Authors

Enrico Carisch is the cofounder- of CCSI, co-author of several sanctions implementation manuals and the Best Practices Guide for Chairs and Members of UN Sanctions Committees, and has led various sanctions and strategic trade control trainings, as well as UN sanctions reform process, after having served on 11 sanctions monitoring mandates in four sanctions regimes over as an eight-year period and led capacity building programs.

Dr. Jelena Plamenac is an international humanitarian lawyer with over 12 years' experience in practicing humanitarian and human rights law in international criminal justice systems and humanitarian organizations. She is specialized in providing legal advice and building capacity of governments, international organizations, and civil society to implement and enforce international law in their work.

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Maiko Takeuchi has just concluded a 5-year term as UN sanctions monitor on DPRK during which time she focused her investigations on the development and

arsenal of weapons of mass destructions. She has also led the Panel's work on the DPRK's overseas workers and violations of embargo. Prior to her UN work, Ms. Takeuchi served as an official of the Ministry of Defense of Japan, and covering multiple fields including strategic trade control policy. She also served as a First Secretary in Japanese Embassy in Seoul where she handled defense-exchange and political affairs.

Captain (ret.) Neil Watts was a 30-year veteran officer and Captain with the South African Navy before serving as a member of the UN Panel of Experts on the DPRK for five years. Mr. Watts has first-hand experience of boarding North Korean vessels. In nearly 20 years of service at sea, he also held positions on the South African National Maritime Security Advisory Committee, the Priority Committee for Maritime Security, and as a member of the Southern Africa Development Community (SADC) Counter-piracy Assessment Group.

Ashley Taylor is a first-generation entrepreneur in the blockchain industry, who has witnessed how evolving cyber technologies are weaponized to disrupt public and private sector networks. She co-founded a business-to-business credit protocol using blockchain, ReSource, where she currently leads compliance and business development. Ms. Taylor is actively researching how the illegal development and acquisition of proliferation technologies is supported by cyber aggressions. She has mapped both perpetrators and cases that resulted in the DPRK illicitly gaining crypto assets and technologies. She is also compiling case files to understand the DPRK's methodology of disrupting digital networks to undermine implementation and compliance by legitimate authorities, international organizations, as well as corporate trade, transport, and finance.

North Korea – a threat to international peace and security

Latin Americans may believe that North Korea and its proliferation of nuclear arms and ballistic missiles, perhaps also chemical and biological weapons, is a problem that is remote and does not touch South America. Over the past two years the sanctions monitoring specialists of the United Nations Security Council sanctions committee on North Korea has investigated and reported incidences of non-compliance cases, some of them occurring also in Latin American countries (see Table 1).

Table 1 - Latin American cases of non-compliance with the UN North Korea sanctions

Country	Issue
Ecuador	Acupuncturists and three translators working at facility in Pichincha provincial government: repatriation has not confirmed yet.
Cuba	Havana University is listed as "sister university" by Kim Il Sung University
Peru	San Marco University is listed as "sister university" by Kim Il Sung University
Panama	Panama University is listed as "sister university" by Kim Il Sung University
Honduras	Honduras University is listed as "sister university" by Kim Il Sung University
Dominican Republic	Santo Domingo Autonomous University is listed as "sister university" by Kim Il Sung University
Colombia	Trade data indicates import of iron and iron ore, textiles, electrical equipment, and machinery from DPRK in 2018 and 2019. Colombia replied evidence of import from DPRK was not found.
Brasil	Trade data indicates import of iron and iron ore, electrical equipment, and machinery from DPRK in 2018 and 2019. Trade data also indicates export of metals in 2018 and 2019. Brazil replied these data were incorrect
El Salvador	Trade data indicates import of iron or steel products and machinery from DPRK in 2018 and 2019. El Salvador submitted a reply explaining its effort to implement resolutions
Guatemala	Trade data indicates import of iron and steel products and machinery from the DPRK and export of metals to the DPRK. Guatemala replied no trade has taken place in 2018 and 2019.
Uruguay	Trade data indicates import of textiles and machinery from the DPRK in 2018. Uruguay explained these goods were imported through third countries. The Panel has not found evidence that these imports originated from the DPRK.

Admittedly, staying fully compliant is a challenge that can be overwhelmingly complex for many individual governments, and as a consequence, government agencies may not have adequate instructional material at hand to guide their private sector’s compliance professionals. These complexities are the consequence of North Korea’s leader Kim Jong Un and his leadership cadre to drive mercilessly the development of a fearsome arsenal of weapons of mass destruction. To achieve this objective, North Korea has woven a tight political, economic, and military net around the world, testing every country for its willingness to trade arms and military equipment, commodities, or manufactured products.

Because of the highly resourceful violations of international norms of peace and security, the UN Security Council who is charged to maintain peace and security is left with no choice but to impose an ever-growing net of sanctions measures. These measures create challenges for states, companies, and even academic institutions because they too have to observe restrictions for example against North Korean students deliberately sent by their government to learn proliferation sciences and technologies such as nuclear engineering, physics, and metallurgy.

This handbook will guide professionals from the public and private sectors to pragmatic answers for each of the pertinent North Korean sanctions measures.

North Korea’s nuclear weapons program

Following the adoption of resolution 1718 in October 2006, the sanctions measures were tightened and focused proportionally to the DPRK’s increasing belligerence and public display of disregard for its obligations under international law.

These threats are best exemplified by the DPRK’s development and testing of nuclear arms capabilities as well as ballistic missile technologies.

Each of the six nuclear tests that North Korea has undertaken, represents a violation of the Nuclear Non-Proliferation Treaty.

Table 2 – North Korea’s nuclear tests

Date	Test site	Delivery	Explosive yiel in kilotons *
9 October 2006	Punggye-ri Test Site	Underground	2 to 7
25 May 2009	Punggye-ri Test Site	Underground	2 to 5,4
12 February 2013	Punggye-ri Test Site	Underground	6 to 16
6 January 2016	Punggye-ri Test Site	Underground	7 to 16,5
9 September 2016	Punggye-ri Test Site	Underground	15 to 25

* For comparison purposes: The nuclear device that exploded over Hiroshima had an explosive yield of 12 to 18 kilotons, and the bomb for Nagasaki was 18 to 23 kilotons.

After the fifth nuclear weapons test, the government of the DPRK announced that it had succeeded in miniaturizing the nuclear detonation technology that it reportedly was not capable of mounting in a warhead onto a ballistic missile. Delivery systems for weapons of mass destruction is another area where the DPRK has become a serial violator of international norms. The following list of ballistic missile tests (Table 3) are merely those that may indicate important technological breakthroughs, but any development and launch activities of ballistic missile violates UN sanctions and the framework of the MTCR.

Table 3 – Important North Korean ballistic missile tests

Date	Name and type of ballistic missile	Range and payload	Region of test
1984	Scud-B		
1990	Rodong		
29-30 May 1993	Nodong		
1998	Unha-1/Taepodong-1		Musudan-ri in North Hamgyong Province
1999	North Korea agrees to a moratorium on long-range missile tests		
5 July 2006	Taepodong-2		
13 April 2012	Unha-3	Satélite Kwangmyongsong-3	Space (failed attempt)
12 Decembre 2012	Three-stage missile	Kwangmyongsong-3 or Unidad 2 Satellite	Space
March 2014	Nodong and others	Multiple	Multiple locations
9 May 2015	Unkonwn		Submarine
7 February 2016	Unknown	Kwangmyöngsöng-4 Satellite	Space
24 August 2016	Pukkuksong-1	Potential to reach the United States	Submarine-launched ballistic missile
11 February 2017	Pukkuksong-2 (KN-15)	Intermediate range	Sea of Japan
4 April 2017	KN-15	Intermediate range	
13 May 2017	Hwasong-12	Intermediate range	
4 July 2017	Hwasong-14	ICBM with 500 kg payload	Panghyon Aircraft Factory, landing in Japan's exclusive economic zone

28 Novembre 2017	Hwasong-15	ICBM	Sea of Japan
25 July to 24 August 2019	Short range missile (some similar to Iskander, Russia)	Short range, solid-fuel and road-mobile	Various
2 Octobre 2019	Pukguksong-3	Submarine-launched ballistic missile (SLBM)	Various
25 March 2021	K-23	Short range	Wonsan region

Additional threats

The DPRK's sprawling proliferation network enables the rapid development of nuclear arms and ballistic missile arsenals by operating international networks of:

- ✓ North Korean parastatal enterprises
- ✓ Foreign subsidiaries
- ✓ Friendly companies
- ✓ North Korean diplomats
- ✓ Intelligence agents
- ✓ Overseas North Korean nationals working on behalf of the government
- ✓ Friendly foreign agents
- ✓ Friendly foreign governments.

Closely coordinated by North Korea's Worker's Party, its intelligence agencies, military-industrial complex the DPRK sells and procures conventional arms and related dual use goods, and training services; WMD technologies, commodities, luxury items. They often use cover-companies, disguised as trading companies or other local businesses. Part of the DPRK proliferation networks also involves many different licit and illicit means to secure foreign currencies, and increasingly cyber assets.

These activities frequently violate not only UN sanctions and international law, but also national laws and regulations. For example, each act of smuggling arms or WMD technologies almost in all cases requires supporting criminal acts, such as forgeries and falsifications of passports, bank fraud, false customs declarations, or many other forms of smuggling and in the case of cyber assets, DPRK hackers have been able to steal hundreds of millions of US Dollars' worth of cyber currencies. They are reportedly under control of UN designated entities, and some disguise as a third country's national and work through internet platform.

Human rights costs of the illegal proliferation

While not subject to UN sanctions, the devastating human rights situation in the DPRK under which many North Koreans are suffering results indirectly from the disproportionate allocation of the state's resources to the proliferation projects and to

the military industrial complex. It is estimated that 23 percent of the country's Gross National Product is spent on the military, proliferation, and related elite endeavors.

The current Security Council regime excludes serious human rights violations as a designation criterion for the imposition of sanctions against individuals or entities implicated in such violations in the context of the DPRK situation. Yet, in Resolution 2397 the Security Council emphasized the DPRK's obligation to respect and ensure "the welfare, inherent dignity, and rights of people in the DPRK," and condemned it "for pursuing nuclear weapons and ballistic missiles instead of the welfare of its people while people in the DPRK have great unmet needs."

The DPRK is responsible to comply with human rights obligations under international treaties, to which it is a State Party:

- ◆ [International Covenant on Political and Civil Rights](#) (ICCPR)
- ◆ [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR)
- ◆ [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW)
- ◆ [Convention on the Rights of the Child](#) (CRC) and its [Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography](#)
- ◆ [Convention of the Rights of Persons with Disabilities](#).

The DPRK is also legally bound by human rights norms and principles that are part of customary international law and general principles of law recognized by civilized nations, including most of the provisions of the [Universal Declaration of Human Rights](#) and the [Slavery Convention](#).

Relevant UN bodies have repeatedly reported that the responsible DPRK authorities have grossly violated human rights of the DPRK nationals and foreign nationals in their jurisdiction protected under the above applicable international law. Sanctions sceptics should be aware of the harmful nexus where proliferation contributes to human rights violations. If for no other reason, this deadly calamity in itself should justify full adherence to UN sanctions measures.

Understanding UN sanctions

Most government or corporate officers with responsibilities to implement and comply with UN and other sanctions will seek to maximize all available implementation resources. The most important resource is the institutional architecture of UN sanctions actors and related legal instruments and organizations that the international community has established.

UN sanctions actors

While sanctions are adopted by the Security Council, their implementation is delegated to sanctions committees and their chairpersons. Committees are assisted by UN expert monitoring groups, and both receive substantive and administrative support by a team from the UN Secretariat, led by a committee secretary.

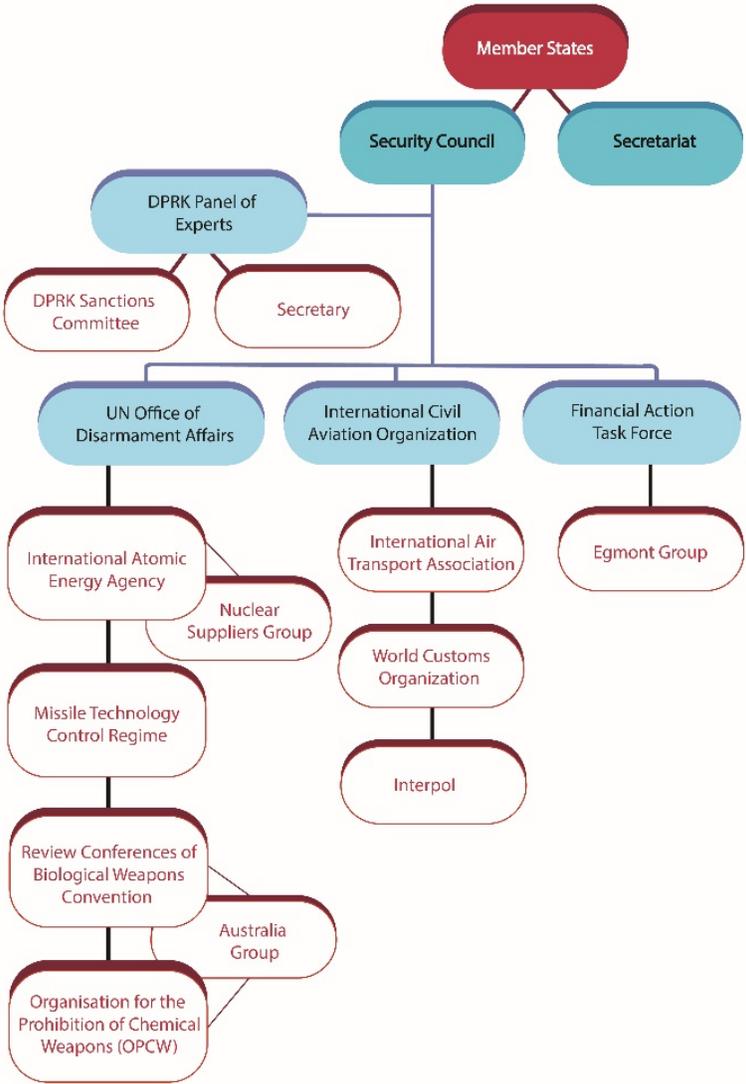


Diagram 1 – UN sanctions ecosystem

Related international legal instruments

International peace and security related issues are not only addressed with sanctions, but also with processes rooted in other international legal instruments. Nevertheless, many of these conventions, laws or arrangements may contain sanctions-relevant guidance. For example Article 6 of the [Arms Trade Treaty](#) that came into force on 24 December 2014 directly addresses sanctions-specific prohibitions.

Similar sector-specific guidance can be obtained here:

- ◆ Dual-use military items: [The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies](#)
- ◆ Non-proliferation of nuclear weapons: [Nuclear Non-proliferation Treaty](#) (NPT)
- ◆ Non-proliferation of ballistic missiles: [Missile Technology Control Regime](#) (MTCR)
- ◆ Non-proliferation of chemical weapons: [Chemical Weapon Convention](#)
- ◆ Non-proliferation of biological weapons: [Biological Weapon Convention](#)
- ◆ Prevention of illegal trade with wildlife and wildlife products: [Control of endangered species](#)
- ◆ Regulations of the maritime domain: [IMO, Convention on Facilitation of International Maritime Traffic](#)
- ◆ Container transport security: [Container Security Initiative](#)
- ◆ International aviation security: [ICAO, FAL Convention](#) (Annex 9 of Chicago Convention)
- ◆ Financial integrity and anti-money laundering: [Financial Actions Task Force's 40 Recommendations](#).

Sanctions committee and panel of experts

Once the Security Council adopts a sanctions regime, it establishes with a resolution a sanctions committee and a sanctions monitoring expert group, often also called group or panel of experts. For the North Korea regime, the implementation of sanctions measures are coordinated by the so-called 1718 Committee, which is another term for the sanctions committee that the Security Council established with resolution 1718 in 2006. The panel of experts for North Korea was established via resolution 1874 in 2009.

It currently comprises 8 individuals with pertinent expertises, who serve usually for the duration of their annual mandates. The panel is required to provide to the Security Council a mid-term and a final report, that contains the experts findings in

regards to North Korea's compliance with the sanctions. They also report about any other state, company, or individual for which they found evidence for non-compliance.

Exposure to sanctions issued by the UN and others

States have a primary and indisputable implementation obligation with regard to United Nations sanctions. But states can be exposed to UN and other sanctions in multiple ways, as the graphic below explains.

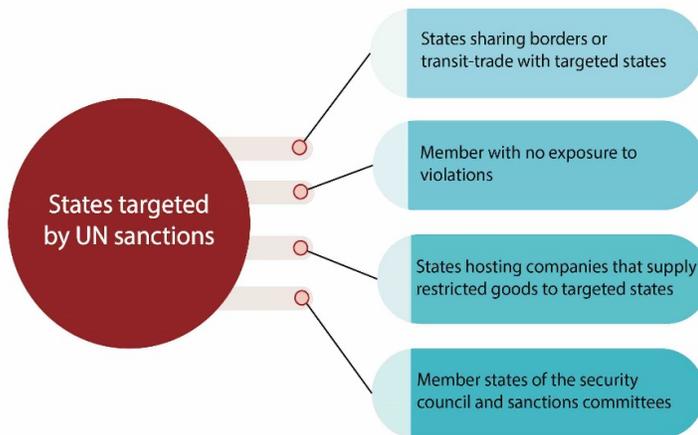


Diagram 2 - Member states exposures to UN sanctions

Multiple sanctions actors

The international sanctions architecture involves more challenges for individual states or companies, as the next graph shows.

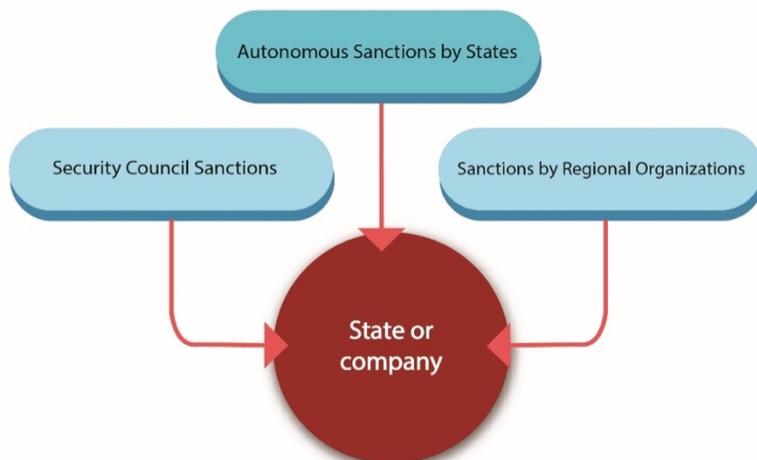
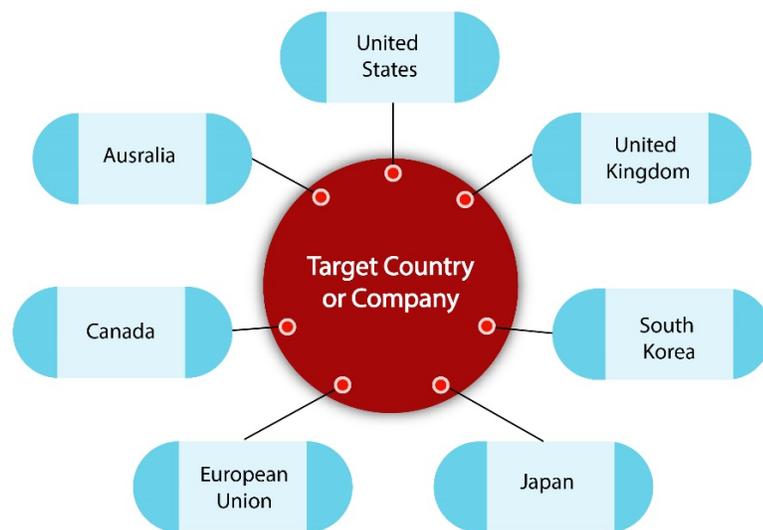


Diagram 3 - Multiple sanctions regimes

In addition to UN sanctions a state, company, entity or individual often faces multiple other sanctions issuers that according to their implement obligation but also as a matter of their independent security interests apply their sanctions as well. Typically, regional, and subregional organizations, such as the European Union, the African Union, or the Economic Community of West African States (ECOWAS) adopt sanctions along with unilateral, or autonomous sanctions issuers such as Canada, United States or the United Kingdom, and dozens of other countries. Sanctions by other issuers can act as effective multipliers of UN sanctions – but sometimes they are imposed for reasons of national and not international peace and security interests.

Diagram 4 – Multiple sanctions issuers



Legal obligations

The implementation of UN sanctions, adopted under Chapter VII of the UN Charter is not a choice but an obligation under international law. UN sanctions are the only sanctions that enjoy global preeminence and member states' laws, and regulations must allow the full implementation and enforcement of all UN sanctions measures.

Consequences of UN sanctions violations

While the consequences of UN sanctions violations are primarily severe reputational costs with designation for the temporary blocking of assets or personal travel privileges, states' prosecutorial powers can lead to considerable financial impacts.

Prerequisite for national constitutional, legal and regulatory instruments

Because under international law the implementation of UN sanctions adopted under Chapter VII of the UN Charter is a legal obligation and enforceable as any other international law it should require, in theory, no other national, regional or international laws, conventions, or customary rules. However, most states have constitutional or other barriers that force the creation of national instruments to enable the full implementation by national authorities.

Two models have been observed of how a state government enables itself to implement UN sanctions while staying consistent with its constitutional and legal, and regulatory requirements:

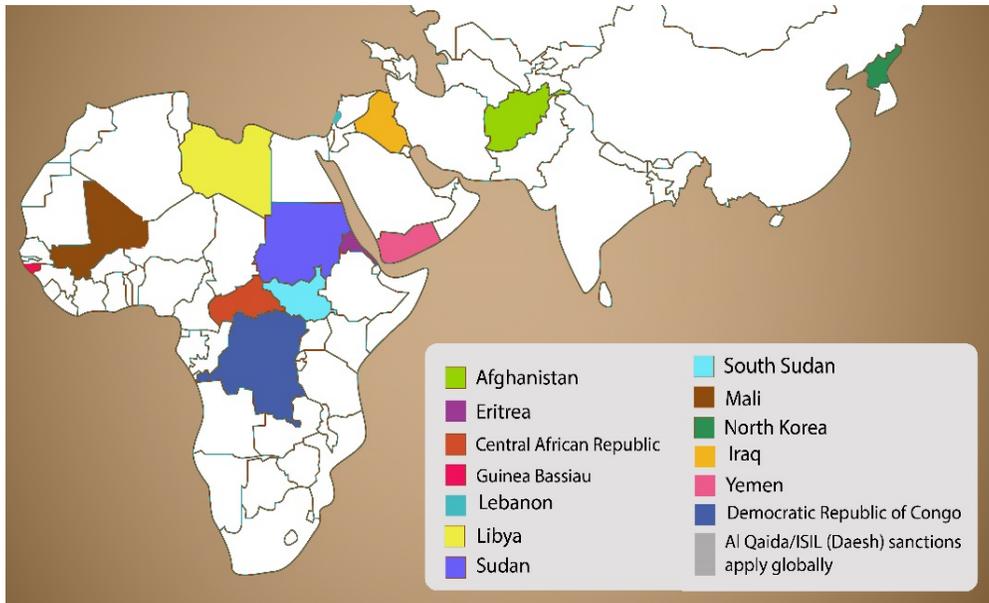
One builds upon special laws that conform to UN Charter requirements. Under such laws, UN sanctions immediately become national law.

What is the decision-making process that makes the adoption of a list possible? Who comes together to decide whether to go forward with drafting a list? What level of authority is usually necessary to get sufficient buy-in from all relevant agencies?

Most States adopt, however, specific rules and regulations to empower their trade control authorities, financial regulators, or border controls. These instruments can also be supportive of national sanctions implementation.

Sanctions regimes currently in force

The United Nations applies targeted sanctions to the following conflicts and risk actors:



There is frequently a nexus between North Korea and countries that are also subject to UN sanctions. North Korea tends to supply to or obtain prohibited military goods or commodities from states that are either under sanctions, or which manifest strong skepticism towards any sanctions, as is the case with Syria or Iran.

To maximize sanctions against each of these conflicts and their risk-actors, individual combinations of embargoes, restrictions, and blockages are applied, usually in incremental steps, to leverage supporting mediation and other diplomatic conflict resolution efforts. Similarly, when mediations succeed, individual sanctions measures are lifted in order to reward the cooperating parties. The core idea of sanctions measures is to impact those who wield power for illegitimate purposes, or as it is often described, to undermine internationally accepted norms of peace and security.

An example of a successful application of sanctions is Iran's proliferation of nuclear and ballistic missile technologies. With resolution 2231 the Iran sanctions regime was terminated in 2015. However, during the implementation of resolution 2231 some restrictions continue to be enforced in accordance with the Joint Comprehensive Plan of Action (JCPOA).

Structure of sanctions measures

With very few exceptions among the 30 (approx.) sanctions regimes the UN has ever adopted, the arms embargo is the core measure. Embargoes on arms are typically and with almost the same frequency followed by individual travel bans to inconvenience those most responsible for threats to peace and security. Individual assets freezes and a growing number of other economic constraints or conditionalities are imposed too, often

with restrictions impacting transportation or the free use of sovereign spaces, as is the case with no-fly zones.

No other UN sanctions regime was fortified with as many sanctions measures as those imposed on North Korea (see diagram 6). This regime not only far surpasses any previous UN sanctions practices, it is also a regime where the Security Council tends to spell out individual measures in great detail.

Most sanctions regimes include exemptions from the arms embargoes, assets freezes, and individual travel bans. They are granted because the Security Council wishes to offer relief either for humanitarian purposes, or as part of its' "stick versus carrot" mediation approach. Limited exemptions, for example by relaxing the arms embargo to allow non-lethal personal protection equipment when a state is rebuilding legitimate police forces, can act as a strong incentive to adhere to the terms of mediation



agreements and conflict resolution efforts.

Temporary relief from an asset freeze or travel ban serves to protect humanitarian and religious values, or to allow the participation of certain individuals in judicial and mediation proceedings.

Illustration 5 - Current line-up of UN sanctions measures on North Korea

Obviously, recalcitrant risk-actors such as proliferators of WMDs, homicidal non-state actors, terrorists, militias and perpetrators of atrocities or violators of human rights should not gain access to ammunition, mercenaries, dual use material, or be able to market and sell commodities in order to gain revenues that they will convert into weapons.

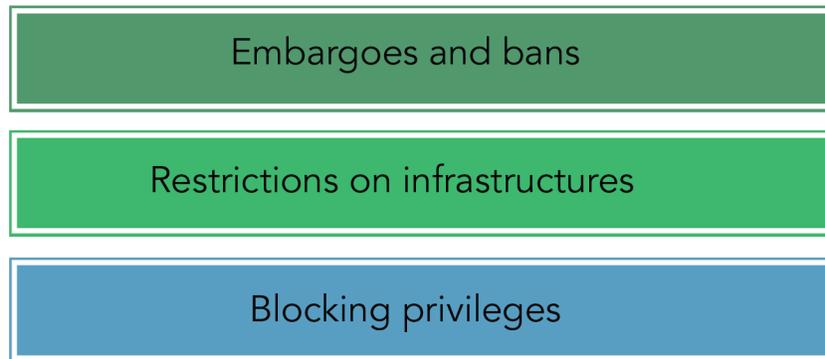
Strategic trade controls

No UN sanctions resolution has ever addressed national strategic trade controls as an important supporting national tool. However, in the practical application of UN sanctions by states, instituting a comprehensive control regime that is consistent with international norms is the most effective way of adhering to UN embargoes on conventional arms, and related dual-use goods, embargoes on nuclear, biological, and chemical weapons or ballistic missile technologies, as well as certain commodities and other goods.

Of course, strategic trade controls only make sense if a state also adopts a well-defined munitions and dual-use goods lists, and enforces its controls with a competent licensing mechanism.

UN sanctions on North Korea

The Security Council has built over nine consecutive UN sanctions resolutions, starting in October 2006, an elaborate sanctions architecture to curtail North Korea's proliferation of nuclear arms and ballistic missile technology and other actions that undermine peace and security. The sanctions measures can be categorized thus:



Embargoes and bans

Implementing prohibitions against the trade in defense equipment presents challenges over and above restricting international commerce in commodities, luxury goods, or any other economic activities. Many governments and the international community tightly regulate and control the manufacturing, brokering, export and import as well as the transport of arms, related technologies and services. That is not the case with commodities and consumer goods whose trade in most cases is allowed to flow freely across international borders.

For most governments and major companies, the implementation of all UN embargoes is administered through their trade control authorities, in collaboration with other specialized agencies.

Definitional issues

Within the UN system there is no singular document that provides clear technical definitions for what is included under the terms "arms" or "weapons." For example, the United Nations Office for Disarmament Affairs maintains under the [UN Register of Conventional Arms](#) (UNROCA) an annual voluntary reporting mechanism for member

states that wish to disclose their arms transfers. It has established these seven categories for conventional arms:

1. Battle tanks
2. Armored combat vehicles
3. Large-caliber artillery systems
4. Combat aircraft and unmanned combat aerial vehicles (UCAV)
5. Attack helicopters
6. Warships
7. Missiles and missile launchers

But the [Arms Trade Treaty](#), that entered into force on 24 December 2014 includes an additional category:

8. Small arms and light weapons.

Other voluntary, but more detailed reporting systems are maintained by the Stockholm International Peace Research Institute. In contrast, regional organizations or national definition lists such as the [EU Common Military List](#) or the [US Munitions List](#) offer much more refined technical characteristics.

In 2017 the Security Council did, however, for the UN sanctions on North Korea adopt a [list of conventional arms-related items, materials, equipment, goods and technology under S/2017/829](#).

Consequently, there are no definitional issues regarding the conventional arms and related technologies that are under embargo



Embargo on conventional arms

Imposing a UN embargo on a state is a distinct restriction of sovereign rights of a state that only the Security Council has an international mandate to

carry out with the confidence that all 193 members of the UN will respect. As with all UN sanctions measures, an arms embargo is not intended as permanent limitations of sovereign rights such as those that can result, for example, from bi- or multilateral disarmament agreements.

Two-way conventional arms embargo

To prevent countries that have a viable defense industry from earning foreign currency by selling their arms to clients abroad, a UN arms embargo can prohibit two-way trade. This is a rare circumstance. Currently, it only applies to North Korea, whose long-standing “military-diplomacy” has helped to create strong diplomatic relations with governments from the global South. But it has also opened important sources of revenues and with these funds where one means with which the regime of the Kim dynasty was able to develop its proliferation projects.

After the imposition of resolution 1718, defense equipment, related dual-use goods and services can neither be exported from nor imported to North Korea.

What is covered by the conventional arms embargo?

UN sanctions resolutions offer traditionally incomplete and imprecise information about what falls under an embargo. Sanctions resolutions typically use wording such as “arms and related materiel of all types meant to include:

- ⇒ Weapons and ammunition,
- ⇒ Military vehicles and equipment,
- ⇒ Paramilitary equipment,
- ⇒ Spare parts for the aforementioned,
- ⇒ Technical assistance, training, financial or other assistance, related to military activities or the provision of maintenance for arms and related materiel
- ⇒ Armed mercenary personnel.

Additionally, the [list of conventional arms-related items, materials, equipment, goods and technology under S/2017/829](#) provides good definitions for embargoed conventional military technologies.

Embargo on conventional dual-use items

A restriction of the supply of conventional arms would be ineffective if it were not to include materials that may be used for both military and civilian purposes. Many civilian goods can be modified easily for military purposes. Examples include



North Korea converting multi-axle logging vehicles into Transporter Erector Launchers (TELS) to launch ballistic missiles and adapted civilian radars for naval vessels. Civilian airplanes or boats are other prominent examples that, with the expansion of fuel tanks, or load spaces, sometimes also with the installation of protective armament and machine guns, turn into war-making machines.

Many more goods and spare parts have dual usage potential. Cell- and satellite phones, computing equipment, along with encryption or distributed ledger technologies (blockchain), and tires for automobiles, trucks, lorries, or airplanes, are frequently sourced from civilian stocks for combat use.

Achieving a consensus on the items that should be restricted because of their dual-use potential often proves to be politically too challenging for the sanctions committees. Therefore, resolutions usually contain little or no descriptive language that provides implementing states with guidance about dual-use restrictions. Effectively, these omissions leave the decision to the interpretation of implementing states.

They, in turn, will frequently consult the Wassenaar Arrangement's [List of Dual-Use Goods and Technologies and Munitions List](#) that is compiled on behalf of approximately 40 industrialized supporting democracies.

North Korea and dual-use issues

The sanctions committee on North Korea has adopted a list of dual-use items relevant to conventional arms pursuant to paragraph 5 of resolution 2371 (2017), with [S/2017/760](#), as well as a ban on the transfer of new helicopters, and new or used vessels. Notably there is added complexity to enforcement when it comes to identifying commercial items of slightly "below military threshold" specifications that are procured as a strategy to evade the dual-use restrictions.

Embargo against weapons of mass destruction (WMD)

The DPRK nonproliferation measures include a two-way embargo, prohibiting both the import to and export from North Korea of any components that could have applications for developing or maintaining weapons of mass destruction.



What falls under the embargo?

Nonproliferation sanctions offer far more specific technical definitions about restricted goods, components, or technologies thanks to the so-called control lists. They are compiled by groups of interested states that the Security Council references, and endorsed as a vital definitional element of its embargoes. The UN has adopted non-proliferation lists based on those developed and reviewed periodically by international groups of interested states listed under Related international legal instruments (see page xx). The following table shows the North Korea sanctions committee's control lists that must be implemented by states to ensure compliance by their private sector.

Table 4 - Applicable WMD control lists according to the North Korea sanctions committee

Document	Date of Issue	Technical data
S/2017/829	2 October 2017	List of additional conventional arms-related items, materials, equipment, goods, and technology pursuant to paragraph 5 of Security Council resolution 2375 (2017)
S/2017/822	29 September 2017	List of additional WMD-related dual-use items, materials, equipment, goods, and technology pursuant to paragraph 4 of Security Council resolution 2375 (2017)
S/2017/760	5 Septembre 2017	List of conventional arms dual-use items pursuant to paragraph 5 of resolution 2371 (2017)
S/ 2017/728	22 August 2017	List of additional goods pursuant to paragraph 4 of resolution 2371 (2017)

S/2016/1069	15 December 2016	List of conventional arms dual-use items pursuant to paragraph 7 of resolution 2321 (2016)
Annex III (S/RES/2321) - Items, Materials, Equipment, Goods and Technology	30 Novembre 2016	List of items, materials, equipment, goods, and technology pursuant to paragraph 4 of resolution 2321 (2016)
S/2016/308	8 April 2014	List of items, materials, equipment, goods, and technology related to ballistic missile programs pursuant to resolution 2087 (2013)
S/2014/253	8 April 2014	List of items, materials, equipment, goods, and technology related to ballistic missile programs pursuant to resolution 2087 (2013)
INFCIRC/254/Rev.13/Part 1	8 Novembre 2016	Pursuant to paragraph 5 (b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006)
INFCIRC/254/Rev.8/Part 2	8 Novembre 2016	Pursuant to paragraph 5 (b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006)
NFCIRC/254/Rev.10/Part 2	12 Novembre 2012	Pursuant to paragraph 5 (b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006)
NFCIRC/254/Rev.11/Part 1	12 November 2012	Pursuant to paragraph 5 (b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006)
INFCIRC/254/Rev.8/Part2	30 June 2010	Pursuant to paragraph 5 (b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006)
S/2006/853/CORR.1	14 Novembre 2006	Corrigendum to the list of chemical and biological items, materials, equipment, goods and technologies related to other weapons of mass destruction programmes subject to the provisions of paragraph 8(a), 8(b) and 8 (c) of resolution 1718 (2006) (S/2006/853*)
S/2006/853	1 Novembre 2006	Pursuant to a Committee decision, list of chemical and biological items, materials, equipment, goods and

		technologies related to other weapons of mass destruction programmes subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006).
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Catch-All Provisions

In addition to clearly identified defense and proliferation equipment, any other item, regardless of how innocuous it might appear to be, can be subject to the embargo under the catch-all provisions. It imposes on exporters the obligation to report and seek an export authorization from the respective trade control authority for items that are not generally subject to export controls if there are restricted parties (or end-users) or restricted end-uses, involved in export transactions, such as for ballistic missiles (including drones and other types of missiles), or if there is reason to believe that such items will benefit North Korea's:

- ✓ WMD development including nuclear, biological, and chemical components.
- ✓ Ballistic missile development.
- ✓ Military capabilities, except for food and medicine

Examples of specific types of materials and equipment that are commonly diverted for use in North Korea's ballistic missile or nuclear program are:

- ⇒ Multi-axle heavy vehicles, such as 8 or 9-axle forestry vehicles, used as Transporter Erector Launchers (TELs) for ballistic missiles
- ⇒ Steels, aluminum, and specialty materials containing titanium
- ⇒ Filament winders and winding equipment
- ⇒ Carbon fiber for composite motor cases
- ⇒ Solid propellant, including aluminum powder and ammonium perchlorate, to the scale of 100 tons over the next 10 years *Vacuum equipment,*
- ⇒ *Computer control systems*
- ⇒ *Epoxy resin*
- ⇒ *Pressure transducers*

What are the non-proliferation sanctions implementation obligations of a state?

All member states are required to:

- ! prevent any type of delivery of proliferation-relevant items designated under the above-referenced lists from entering North Korea.
- ! allow only nuclear and ballistic missile technology related items permitted by the Security Council on a case-by-case basis and in advance to enter Iran.
- ! prevent any item that may fall under the "Catch-All Provisions" from entering North Korea.
- ! ensure that any individual, company, or entity already designated under the 1718 sanctions regime, or any other sanctions, does not benefit from, originate, or facilitate the transfer of any restricted item.

Regardless of whether pre-approval is required, states should observe at a minimum these due diligence practices:

- ! List of restricted items, see Table 3: North Korea sanctions control lists
- ! Verify end use and end user.
- ! Comply with notification requirements to the Security Council and, where applicable, to the IAEA (within ten days of the supply, sale, or transfer).
- ! Obtain a guarantee that items will not be used for building nuclear weapon delivery systems.

Commodity embargoes

Banning the export from or import to targeted states or regions of raw materials can serve as an important economic and strategic amplification of UN sanctions. UN commodity bans undercut vital sources of belligerents' revenues and thus, their combat capacity.



What falls under the embargo?

Currently the Security Council has imposed the following restrictions on North Korea's trade:

← Exports	⇒ Imports
<ul style="list-style-type: none"> ← Provision of fuel for bunkering services. ← Export of natural resources: coal, iron, iron ore, gold, titanium ore, vanadium ore, copper, nickel, silver, zinc, rare earth minerals, lead, lead ore, earth, stone, magnesite, magnesia, and wood ← Export of agricultural products (HS codes 08 ,07 and 12), ← Export of seafood (including fish, crustaceans, mollusks, and other aquatic invertebrates in all forms). Selling fishing rights. ← Export of textiles (including but not limited to fabrics and partially or completed apparel products). ← Export of machineries, electrical equipment 	<ul style="list-style-type: none"> ⇒ Import of iron, steel, other metals, condensates, natural gas liquids, refined petroleum products (in excess of the aggregate amount of 500,000 barrels during periods of 12 months beginning on 1 January 2018), crude oil (that exceeds the aggregate amounts of 4 million barrels or 525,000 tons per -12month periods from 22 December 2017, plus a reporting obligation to the sanctions committee), aviation fuel, jet fuel and rocket fuel. ⇒ Import of industrial machinery, vessels, new helicopters, transportation vehicles. ⇒ Import of luxury goods

For North Korea sanctions, cargo that is within or in transit through the territory of states, whether directly or indirectly, must be inspected to ensure that no prohibited items are transferred. Cargo within seaports and free trade zones, whether it is destined for or originates from North Korea, is included. In addition, cargo that is brokered or facilitated by North Korea, or its nationals, or by

individuals or entities acting on their behalf, or entities owned or controlled by them, or by designated individuals or entities, or transported on North Korean vessels, is also included.

Prohibited cargoes fall into two categories:

- ! Imports and exports to and from North Korea of conventional arms, nuclear, other WMD and ballistic missile technologies, related dual use and catch-all items, as well as shipments to North Korea of luxury goods.
- ! A range of commodities, agricultural and fisheries products, and manufactured goods are prohibited for either exports from or import into North Korea.

Box 1: Harmonized System Codes

To assist global trade and national border control and law enforcement agencies, the World Customs Organization (WCO) developed the "Harmonized System" (HS) to categorize 5,000 commodity groups with the harmonized commodity description and coding system. Each commodity group is identified with a six-digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification.

The Harmonized System is governed by "The International Convention on the Harmonized Commodity Description and Coding System" and is used by more than 200 countries and economies to classify over 98 % of the merchandise in international trade.

Monitoring exports and imports to and from North Korea by "HS" codes can be a useful search methodology to support other sanctions evasion monitoring approaches. Annex 1 summarizes prohibited goods and corresponding HS codes.

o In 2020, the UN Panel of experts for North Korea reported the following violations of export bans based on reported trade

concerning prohibited goods and commodities according to the Harmonized System (HS):

- ◆ Industrial machinery (HS 84 - 85): Honduras;
- ◆ Metals (HS 72 - 83): Honduras, Guatemala;
- ◆ Electrical equipment (HS 85): Bolivia, Colombia, Costa Rica, Honduras;
- ◆ Machinery (HS 84): Bolivia, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Uruguay;

- ◆ Iron, iron and steel products (HS 72; 73): Colombia, El Salvador, Guatemala, Honduras; and
- ◆ Textiles (HS 50 - 63): Colombia, Uruguay

Commodity Embargo Violation: Petroleum

The sanctions measures also include a ban on supply, sale, or transfer of all refined petroleum products to North Korea if the aggregate amount exceeds 500,000 barrels during a period of 12 months.



Despite the ban, North Korea has illicitly imported refined petroleum products through ship-to-ship transfers and through direct deliveries by foreign-flagged vessels. It has increasingly procured more petroleum through a notable increase of larger foreign-flagged

tankers directly delivering to the country on multiple occasions.

Despite the COVID-19 pandemic, illicit shipments of refined petroleum during the period from 1 January to 30 September in 2020 exceeded the annual aggregate 500,000-barrel cap by at least 5-8 times. The massive sanctions contraventions were facilitated partly due to North Korea either acquiring or availing itself of previously owned and larger foreign-flagged tankers.

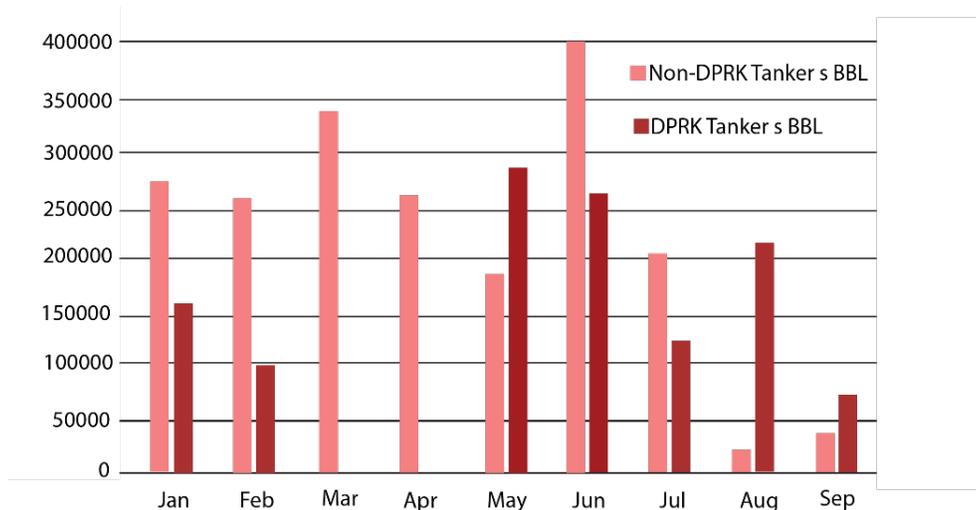


Diagram 8 - Unreported petroleum deliveries from January to September 2020

Foreign-flagged tankers alone had made a total of 64 deliveries, amounting to between 560,000 and 1.531 million barrels of refined petroleum products. Some of the vessels conducting direct deliveries to the Democratic People’s Republic of Korea changed ownership only months prior to such deliveries. Furthermore, during the same period, North Korean vessels called at ports of North Korea at least 157 times to deliver refined petroleum products illegally procured via ship-to-ship transfers. One documented example for a ship-to-ship transfer involving a North Korean and a foreign-flagged tanker occurred between the *Myong Ryu 1* and the Panama-flagged *Infinite Luck*, as illustration9 shows.

Illustration 9 - Ship-to-ship transfer between Myong Ryu 1 and Infinite Luck



Vessels involved in ship-to-ship transfers may or may not have known that the petroleum was intended for North Korea. Ship-to-ship transfers between foreign-flagged vessels in international waters is a relatively new phenomenon compared to direct deliveries to North Korea. North Korean actors involved in embargo violations continue to advance, adapt and develop their evasion techniques to avoid detection, identification, and monitoring of activities prohibited by UN sanctions.

For instance, a relatively new practice involves vessels seeking to avoid tracking by moving into the territorial waters of countries, knowing that they cannot be followed.

All the vessels reveal gaps in their automatic identification system (AIS) transmissions, lasting from several days to several months.

The following foreign-flagged vessels continued to deliver refined petroleum to North Korea in violation of UN sanctions in 2020:

1. *Bonvoy 3* (IMO No. 8714085), former Sierra Leone-flagged

2. *Diamond 8* (IMO No. 9132612), formerly Sierra Leone-flagged
3. *Hokong* (IMO No. 9006758), unknown flagged
4. *New Konk* (IMO No. 9036387), unknown flagged
5. *Subblic* (IMO No. 8126082), unknown flagged
6. *Unica* (IMO No. 8514306), unknown flagged
7. *Yun Hong 8* (maritime mobile service identity No. 413459380), China-flagged.

Vessel owners, operators, charterers, and commodity brokers must take all possible verification steps to prevent transfers of refined petroleum to these vessels.



Commodity Embargo Violation: Coal

States are prohibited from supplying, selling or transferring coal to North Korea. They are also prohibited from procuring coal from North Korea or its nationals, regardless of whether it originates from North Korea or not.

Despite the coal ban, North Korea illicitly exported at least 2.5 million tons of coal from January to September 2020 in at least 400 shipments within Chinese waters. Most of these shipments went to the Ningbo-Zhoushan area, where North Korean vessels offload the illicit coal via ship-to-ship transfers.

Ship-to-ship transfers in the Gulf of Tonkin have decreased substantially in favor of increased deliveries to the Ningbo-Zhoushan and Lianyungang port areas in China. These locations are closer to North Korean ports than the Gulf of Tonkin, which most likely decreases the turnaround time for coal deliveries. This makes deliveries more cost-effective for North Korea, and likely contributes to reducing the country's vessels' exposure to scrutiny.

Common sanctions evasion methods for North Korean coal exports

- ◆ Self-propelled barges over 100 meters in length undertaking ocean-going voyages to export banned commodities. In late May 2020, 52 China-flagged

coastal barges were observed on the Taedong River or at anchorage just outside the Nampo lock gate. At least 155 shipments were made by these coastal barges - approximately 1.63 million tons of coal. This is a relatively new method. These barges have maritime mobile service identity numbers but no IMO numbers. Most are not AIS fitted. North Korea is not known to possess such barges as part of its fleet.

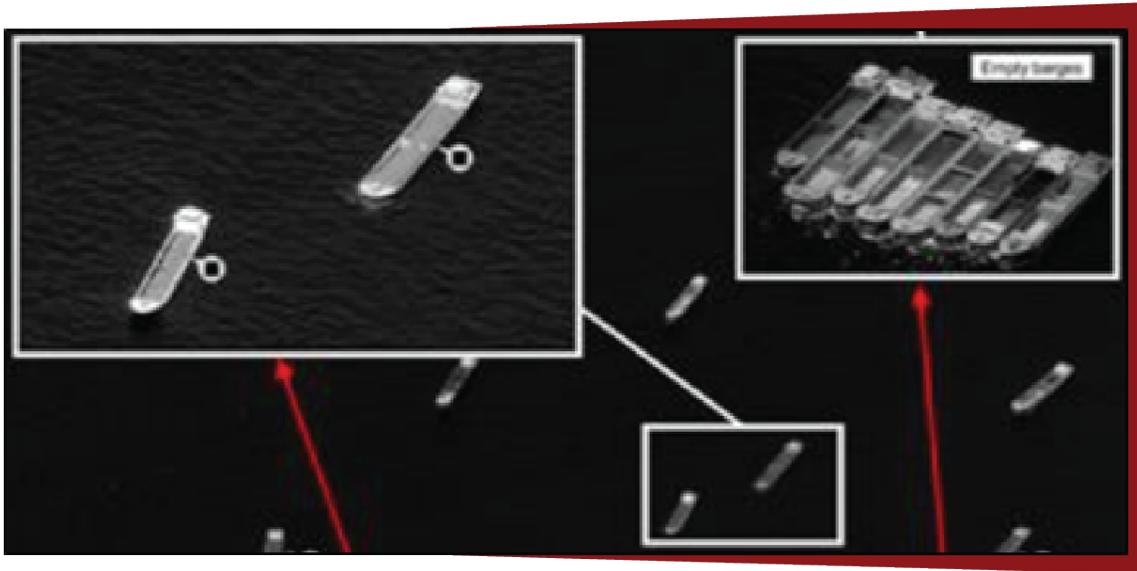


Illustration 10 - China-flagged coastal barges at the Nampo lock gate in June

- ◆ The use of larger foreign-flagged bulk carriers to deliver coal from North Korean vessels as opposed to the transfer of coal to smaller, lighter vessels for delivery. Larger carriers have a capacity 2-3 times that of the North Korean vessels, implying that much larger quantities of illicit coal can be transhipped on each voyage.
- ◆ The (suspected) acquisition by North Korea of a bulk carrier, destined for scrap, to illicitly export coal. North Korea had reportedly also illicitly acquired several other vessels in 2019 and 2020 , such as the (then Togo-flagged) *Enterprise* (IMO No. 9153331), the formerly China-flagged *Ming Zhou 6* (IMO No. 8602763) and previously reported unknown-flagged *Ri Hong* (IMO No. 9162318).
- ◆ Using indirect routing, detours, loitering and false documentation when transporting commodities originating from North Korea. These tactics serve

to obfuscate actual routes, conceal port calls and give the impression that the banned commodities (coal) were loaded in ports outside the country.

China-flagged coastal barges also illegally exported vehicles, heavy machinery and equipment to North Korea - the supply, sale and transfer of which are prohibited under paragraph 7 of resolution 2397 of 2017.



Commodity Embargo Violation: Sand

Substantial amounts of sand have been exported from North Korea to other countries with over 100 illicit shipments of sand originating in North Korea.

Chinese-flagged and other foreign-flagged vessels were reported to have been loading sand in or near areas in North

Korea - Haeju, Hwanghae Province, and in the Sinchang Workers' District, Pukchong County, South Hamgyong Province. These shipments are estimated to be at least one million tons of sand and worth at least \$22 million. The sand, originating in North Korea and obtained from river dredging, has been shipped to Chinese ports.



Illustration 11 - Self-propelled barges carry coal and sand loaded in North Korea

What are the implementation obligations regarding UN commodity restrictions for states or companies?

A member state or a company must prevent the acquisition, sometimes also the delivery of specified commodities from or to the target country, entity or individuals. In most cases, however, a commodity's origin from a state or region under sanctions is not inherently visible.

Some UN sanctions committees have instituted heightened due diligence requirements for anybody processing, trading and importing specified commodities that have been identified as sources of funding of conflict actors. This measure is intended to prevent negative actors from benefitting from "conflict commodities." The necessity to provide clear and verifiable identification of origin for such commodities is meant to make it harder to mask the origin with false customs declarations, usually combined with trans-shipments through third states.

Practicing heightened due diligence to accurately source the origin of commodities suspected to be exported from North Korea is integral to enforcing the ban on commodity trade.

Restrictions extend also to commodities that are often acquired as souvenirs or "gifts," such as garments, statues, and agricultural products. The resolution forbids North Korea to "supply, sell, or transfer, directly or indirectly" any banned items. According to the Panel of Experts, several travel agencies advertised prohibited commodities on their websites.



Luxury goods embargo

Sanctions on luxury items have so far been applied only to North Korea and with remarkably little specific guidance on luxury goods and their definition. For over 10 years of the existence of these unique sanctions measures, resolutions would describe various examples of what luxury goods might constitute without

offering a definitive definition or a binding list of luxury items.

Leaving interpretive latitude to member states has added a strong element of uncertainty among North Korean clients and suppliers. This effect is desired since the intended targets are North Korean elites, their ostentatious life-style and their reputation.

What falls under the embargo?

Consistent with the intended ambiguity, member states are encouraged to act on their own national definition of luxury. The selection of luxury items to be

blocked should not affect the supply of ordinary goods needed by the general population. In addition to their affordability only to elites, luxury goods are specially designed, manufactured, or otherwise associated with brands whose names are known for premium goods and intended for a select group of consumers. They also stand out because of special features, durability, and functionality.

The following items are either singled out resolutions as examples, or have been widely recognized to meet these characteristics because states have actually prohibited their export to North Korea:

- ! Jewelry with pearls, gems, precious and semi-precious stones (including diamonds, sapphires, rubies, and emeralds), jewelry of precious metal or metal clad with precious metal.
- ! Transportation items such as yachts, luxury automobiles and motor vehicles including limousines, armored vehicles station wagons, and racing cars.
- ! Luxury watches: wrist, pocket, and other, with a case of precious metal or of metal clad with precious metal
- ! Items of lead crystal
- ! Recreational sports equipment
- ! Rugs and tapestries (valued greater than USD 500.00)
- ! Tableware of porcelain or bone china (valued greater than \$100)
- ! Alcohol beverage such as vodka, wine, and international beers

What are implementation obligations concerning UN luxury sanctions for states or companies?

As the item lists on the relevant resolutions are non-exclusive, states must first define what it considers a luxury item. Subsequently, the government must determine who, among its manufacturers, wholesalers, brokers, and retailers actually meets this definition and therefore should be informed about the restrictions concerning North Korea.

The effective enforcement of its own national luxury ban must now be implemented through its export control regimes in collaboration with border control agencies and transportation industries. Verification of passports at duty-free sales points are also part of such prevention efforts.

A more challenging task is the monitoring of likely trans-shipments. Senders of luxury goods who identify a legitimate receiver in a third country may knowingly or unknowingly participate in a circumvention attempt, perhaps using smugglers that operate from the third country.

Member states are required to report violations of the luxury goods ban, regardless of whether its authorities have successfully prevented it or not. These incidence reports are not published.



UN sanctions on overseas income earning

Concerns over the North Korean government's export of laborers has caused the Security Council to issue specific sanctions against this scourge. The immediate concern is that this practice represents another source on foreign exchange income that benefits the proliferation projects.

With increasingly more detailed information about the dire working and compensation conditions, serious human rights concerns arise as well. Even if they work under some form of voluntary arrangement, there is no evidence that these laborers are free to choose to return home, or their salaries are actually paid to their families. Therefore, beyond the need to curtail foreign exchange income to North Korea, the question should also be asked whether these laborers have accepted their foreign work assignments voluntarily, or whether they are in fact forced laborers.

What overseas income earnings are covered by UN resolutions?

There is a general prohibition against hiring North Koreans abroad. North Korean workers are supervised by the government safety oversight officer. North Korean embassies are reportedly involved in the business of exporting workers to acquire their salaries. Their dispatch is sometimes through bilateral agreements with

foreign businesses or governments. Working conditions tend to be severe and often even life-threatening. Accommodations are poor, and even their food supplies are so minimal that North Korean laborers—for example in Gulf countries—have been arrested for shop-lifting food. Bags of food-aid (as shown in the picture above) have been found on North Korean vessels, used as a source of food for crews.



North Korean workers can be found in a wide range of industries, including apparel, construction, footwear manufacturing, hospitality, IT services, logging, medical, pharmaceuticals, restaurant, seafood processing, textiles, and shipbuilding. Furthermore, some are high-income workers such as medical doctors, football players, artists, or scholars.

Non-government organizations have reported that 70-90 percent of wages are withheld from these workers and are transmitted to the North Korean government. These accumulated revenue from wages are estimated to amount to \$500 million annually from approximately 100,000 workers that are sent to work abroad.

In 2017, the UN Security Council prohibited North Korean nationals from earning income overseas and obliged states to repatriate such nationals and government safety oversight attaches by December 2019.

The sanctions against foreign workers mainly target work visas but other visas are equally problematic such as those for students, interns, entertainers, visitors, or technicians—used as a pretext to source North Korean workers. Member states should note that the obligation of repatriation applies regardless of visa categories or title of income. North Korea exploits such exemptions, particularly for technical interns.

After the UN ban on employing these workers, multiple countries have reported that they have discovered North Korean nationals working without appropriate visas. Furthermore, during 2020, many North Korean workers used the international travel ban and border closure for COVID-19 as an excuse to stay and continue working overseas despite the Security Council repatriation deadline of December 2019.

The largest contingents of North Korean overseas workers are found in Russia and China. Reportedly, the following countries also host North Korean workers: Algeria, Angola, Bangladesh, Cambodia, Equatorial Guinea, Ethiopia, Guinea, Kyrgyzstan, Laos, Malaysia, Mali, Mongolia, Mozambique, Nepal, Nigeria, Oman,

Poland, Qatar, Republic of the Congo, Senegal, Syria, Tanzania, Thailand, the United Arab Emirates, Vietnam, Zambia, and Zimbabwe.

In addition to these mostly industrial workers, North Korean football players have been discovered with engagements in Austria, Italy, Qatar, Japan, and the Republic of Korea, as well as artists working in China

What are the implementation obligations of sanctions against overseas workers and employment for states?

- ! Member states are prohibited from extending work authorizations to North Koreans, and any identified individuals must be repatriated together with their government overseers.
- ! Repatriation must occur within a 24-month period, beginning from the date when this measure became operative on 22 December 2017, as well as the reporting of implementation actions.
- ! Due to the border closure to address COVID-19, repatriation has been suspended. Therefore, Member states should monitor activity of overseas workers to prevent them from earning an income. Once the border closure is lifted, member states should swiftly take action to repatriate workers.
- ! It is also important for the member states to make sure the workers are repatriated to North Korea. The UN Panel of Experts pointed out multiple cases in which workers exit to a third country, and not directly to North Korea.

Infrastructure Restrictions

Restrictions such as assets freezes, individual travel bans, or curbing the free use of maritime-, aviation-, and land-transportation infrastructure, help to amplify embargoes but also serve as powerful coercive tools on their own strength.

Their effective implementation strongly depends on collaboration with the private sector, specifically the financial and transportation service industry along with their intermediaries. Member states must have the capacity to define and enforce specific implementation requirements. While Security Council sanctions resolutions provide some instructions, they rarely offer sufficiently detailed and pragmatic guidance to governments of states.



Assets freeze

The purpose of a UN assets freeze is to temporarily disable a target's ability to engage in any financial transactions beyond those exempted for very specific purposes. The intended effects of an assets freeze are to impair the economic freedom as well as the ability to finance the activities of those most responsible for conflicts or atrocities. Member States are required to freeze the assets of any entity, company, or individual designated by the UN.

While the implementation of an assets freeze is an obligation of member states, it would not be effective without the full cooperation of the financial and many other industries. This, however, imposes on banks and other financial service providers, as well as many other companies, steep compliance burdens. Without instituting due diligence procedures, companies would otherwise be risking exposure to reputational costs.

Over the past two decades, the Financial Action Task Force (FATF) has developed helpful guidance as part of its 40 Recommendations. (see also Chapter: Recognizing risk indicators)

What is covered by an assets freeze?

In general terms, UN assets freezes authorize the blocking of:

- ✓ Any funds or economic resources that are already directly or indirectly owned or controlled by a designated individual, company, or other entity.
- ✓ Any funds or financial resources that are being made available to a designated individual, company, or other entity.

Whether assets held by a designated party are used—or are intended—for activities that are subject to sanctions, is irrelevant.

UN assets freezes are always a temporary measure. They are not equivalent to a confiscation, or transfer of assets, or to ownership rights. They should also not lead to a degrading of the value of an asset, and to prevent a negative impact of a freeze, expenditures of funds required to maintain the asset are permitted.

The types of assets that should be blocked varies from one sanction regime to another. Under the North Korea sanctions regime, the term “economic resources” includes assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, which potentially may be used to obtain funds, goods or services.

The following items/services could be included:

- ◆ Land, buildings or other real estate;
- ◆ Equipment, including computers, computer software, tools, and machinery;
- ◆ Office furniture, fittings and fixtures, and other items of a fixed nature;
- ◆ Maritime vessels, aircraft, and motor vehicles;
- ◆ Inventories of goods;
- ◆ Works of art, cultural property, precious stones, jewelry, or gold;
- ◆ Commodities, including oil, minerals, or timber;
- ◆ Arms and related materiel, including training or recruitment;
- ◆ Raw materials and components that can be used to manufacture improvised explosive devices or unconventional weapons, including, but not limited to, chemical components, detonating cord, or poisons;
- ◆ Patents, trademarks, copyrights, trade names, franchises, goodwill, and other forms of intellectual property;
- ◆ Internet hosting or related services;
- ◆ Data or information;
- ◆ Advertisement or exhibit of restricted items or designated companies;
- ◆ Any other assets.

On the strength of these definitions, Namibia froze two lots of land as they had been owned by Mansudae’s subsidiary “M.O.P. Architectural & Technical Service (NAMIBIA)” which was designated for the UN assets freeze.

Special asset freeze provision for North Korea

The North Korea sanctions committee has decreed that an asset freeze can also extend to associates or affiliates (persons or entities) that act on behalf of, at the direction of, or those owned or controlled by already designated individuals, companies, or entities.

Furthermore, they include maritime vessels that are designated for sanctions to be treated as an asset.

States must ensure that their financial institutions freeze all assets held by individuals, companies, or entities designated under the UN assets freeze for North Korea, or under any other UN sanctions regime.

Most states' financial regulators adopt these lists and communicate them to all financial institutions, including supporting industries such as accountants, real estate agents, financial and securities brokers, insurance agents, currency traders, or investment advisors.



Denial of financial services

To further strengthen economic sanctions, the Security Council has introduced restrictions on the purposes for which financial services can be provided and whole categories of banking and related intermediary services.

What is covered by the denial of financial services?

Providing financial services to a designated individual, company or entity is interpreted as a violation of UN sanctions, and presents the service provider with the serious risk of being also designated for an assets freeze or other sanctions measures.

Specific actions are defined within the North Korean sanctions regime. States are required to ensure that their financial service industry comply by denying the:

- ! Transfer of any financial or other assets or resources, including bulk cash, and the clearing of funds and gold, including through cash and gold couriers;
- ! Opening and operation of new branches, subsidiaries, or representative offices of North Korean banks, including the establishment of new joint ventures, acquiring ownership interests in, or establishing or maintaining correspondent banking services;
- ! Continuation of operations of existing branches, subsidiaries and representative offices, joint ventures or ownership interests, and correspondent banking relationships;
- ! Opening of new representative offices or subsidiaries, branches or banking accounts in North Korea;
- ! Continuation of operations of existing representative offices, subsidiaries, or banking accounts in North Korea ;
- ! Public and private financial support for trade with North Korea such as export credits, guarantees, or insurance.
- ! New commitments for grants, financial assistance, or concessional loans to North Korea.

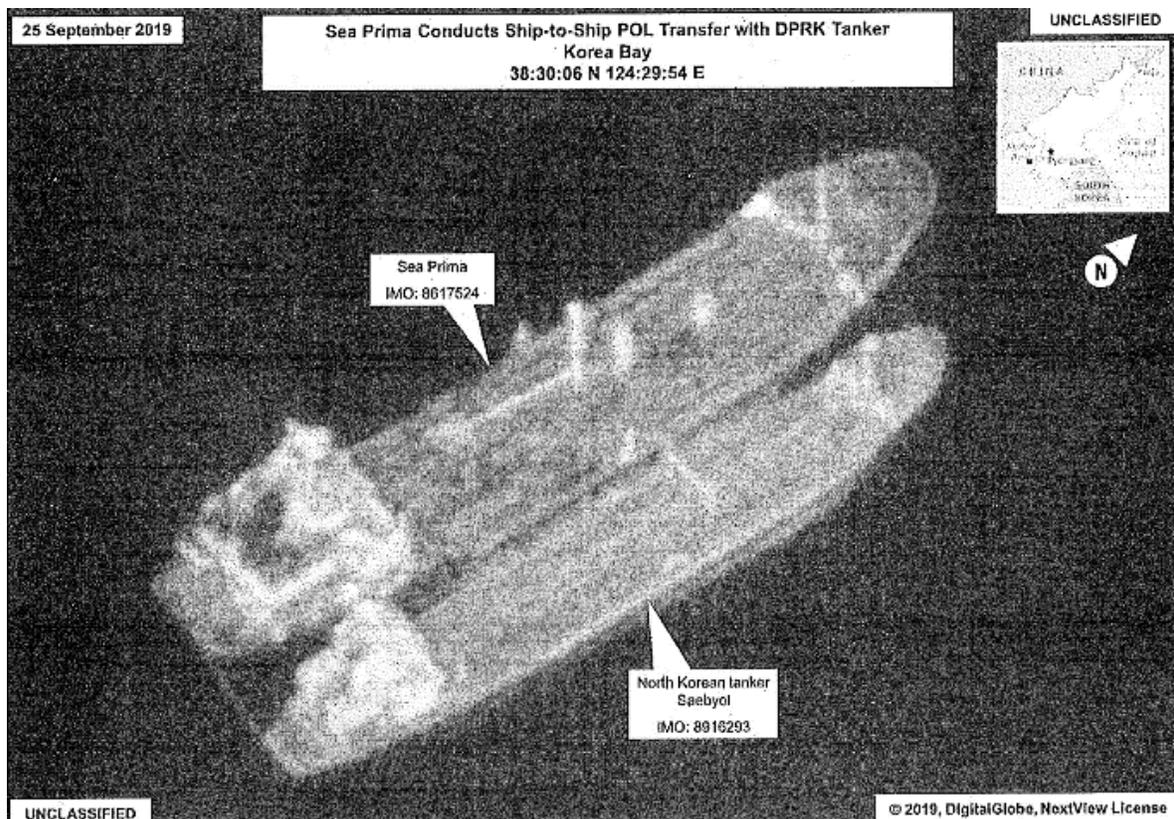
Offshore jurisdictions, front companies, and money laundering

In a recent case that demonstrates how North Korea exploits offshore jurisdictions to evade formal financial channels and operate illicit networks, the vessel *Courageous* was detained by Cambodia in 2020. The vessel sailed from Taiwan in February 2020 and anchored in Cambodian waters the same month. The 16 crew on board were charged by Cambodian authorities for violating North Korean sanctions. Records indicated that it was operating under the name *Sea Prima*, and registered in St Kitts and Nevis.

Regarding its illicit ship-to-ship transfers, a Mr. Kwek Kee Seng, a Singaporean national, was charged with conspiring to violate sanctions and with money laundering. According to the criminal complaint, he and his co-conspirators tried to hide their illicit activities by operating a series of shell companies, making false statements to international shipping authorities about the vessel's dealings with North Korea, and falsely identifying *Courageous* as another tanker in order to evade detection. They arranged for a number of payments (in US dollars), through

US correspondent accounts to procure oil, including more than \$1.5 million to be transferred to the North Korean tanker, Saebyol.

Illustration 12 - The Sea Prima/Courageous doing an illicit transfer to the Saebyol



In addition, more than \$500,000 was transferred to purchase the Courageous, and thousands more dollars changed hands for services related to the Courageous and another vessel. These included registration fees, ship materials, and crew salaries. They attempted to hide these transactions by using front companies to disguise the nature of the transactions, concealing the location of the vessels carrying illicit cargo by switching off the AIS, and for conducting illicit ship-to-ship fuel transfers at sea to circumvent sanctions.

Maritime records indicated that the vessel was owned and operated by the company New Eastern Shipping, but investigation revealed that the ownership structure was created to make the Belize-registered company, Courage Maritime S.A., as the "front owner" of the vessel.

Implementation obligations of states regarding sanctions against financial services

As a rule, financial services for transactions of arms, dual use items, nuclear or ballistic missile technologies, and any other clearly specified activity, goods or services that are embargoed, banned, or blocked are prohibited.

The following financial services that support North Korea's proliferation project apply under this provision:

- ⇒ The transfer of any financial or other assets or resources, including bulk cash, and the clearing of funds or gold, including through cash and gold couriers, and cryptocurrency;
- ⇒ The opening and operation of new branches, subsidiaries, or representative offices of North Korean banks, including the establishment of new joint ventures, as well as acquiring ownership interests in or establishing or maintaining correspondent banking services;
- ⇒ The continuation of operations of existing branches, subsidiaries and representative offices, joint venture or ownership interests and correspondent banking relationships;
- ⇒ Opening new representative offices or subsidiaries, branches, or banking accounts in North Korea;
- ⇒ The continuation of operations of existing representative offices, subsidiaries, or banking accounts in North Korea;
- ⇒ Public and private financial support for trade with the DPRK such as export credits, guarantees, or insurance; and
- ⇒ New commitments for grants, financial assistance, or concessional loans to North Korea.

In general, member states should institute the due diligence and compliance guidance provided in the Financial Actions Task Force's 40 Recommendations.



Travel ban

Over time, the purpose of the UN travel ban has greatly varied. It used to be a measure to prevent those responsible for conflicts from acquiring arms or mercenary services, or to hand-carry funds to off-shore locations. Because international travel also signifies privilege, the ban tarnishes the reputation of those targeted.

What is covered with a UN travel ban?

All individuals designated under the UN sanctions regimes are covered by the UN travel ban. It restricts their ability to travel across international borders, except to return to their country of citizenship.

Under the travel ban, the UN sanctions regime on North Korea targets not only the designated individual, but also:

- ! their family members;
- ! those that act on behalf of the designated individuals;
- ! employees of designated entities or companies; and
- ! any individual whom a state determines is working on behalf of individuals assisting the evasion of sanctions or violating the provisions of the North Korea sanctions resolutions.

Implementation obligations of states with regards to the UN travel ban

States are required to repatriate individuals designated for the UN travel ban to their home country. Member states should also prevent these individuals from entering or transiting through their country. This restriction includes the use of international airport transit terminals.

For implementation of the North Korea travel ban, Member States must repatriate any individual identified as:

- ! Acting on behalf or at the direction of a designated individual or entity;
- ! Violating the provisions of the resolutions;

- ! Assisting the evasion of sanctions:
- ! An employee of designated entities or companies; and
- ! Traveling for the purposes of carrying out activities related to the shipment of prohibited items to or from North Korea for repair, servicing, refurbishing, testing, reverse-engineering, and marketing.



Restrictions on maritime, aviation, and land transportation

The North Korea sanctions measures authorize rare restrictions on sovereign rights of states by limiting the right to freedom of navigation of maritime and aviation transportation when reasonable doubt exists that a vessel may carry goods that are under the UN embargo. This particular UN sanctions measure even authorizes states to conduct law enforcement against vessels, including their seizure, boarding, and inspection. When embargoed goods are found, the owners of both cargo and the vessel can be forced to de-register any North Korean-owned or operated vessel. Ultimately, even the ownership rights to the vessel and the cargo can be denied by a state.

Specific restrictions under North Korean sanctions

North Korea's sovereign rights over its transportation corridors and companies are restricted with the following provisions:

- ◆ The right to block a vessel suspected of having transported prohibited cargo;
- ◆ The right of the flag state to de-flag the vessel(s);
- ◆ Directing by the flag state of the vessel(s) to a port identified by the UN sanctions committee (in coordination with the port state);
- ◆ Denying vessel(s) access to ports;

- ◆ Denying bunkering services, including fuel, supplies, or other services to DPRK vessels where there are *reasonable grounds to believe* that the vessel was involved in the transport of prohibited cargo;
- ◆ Inspections of suspicious cargo transported by ships, aircrafts, trains, trucks, and individual passengers through any transit points, or in the case of maritime transports, on the high seas;
- ◆ Prohibitions against leasing, chartering, or registering under the North Korean flagged vessels, any aircraft and crewing services;
- ◆ An obligation to de-register any North Korean-owned or operated vessel, or any vessel believed to have been used for the transport of prohibited cargo, and an obligation not to re-register anywhere in the world;
- ◆ Prohibitions against certification and/or associated services, insurances, or re-insurances offered to DPRK-flagged, owned, controlled or operated vessels, or for vessels where there are reasonable grounds to believe that they were involved in the transport of prohibited cargo;
- ◆ Denying permission to aircraft to take off or land, or overflight rights where there are reasonable grounds to believe that they were involved in the transport of prohibited cargo;
- ◆ Denying vessels permission to enter port where there are reasonable grounds to believe that a vessel was involved in the transport of prohibited cargo or is owned, controlled, directly or indirectly, by a designated individual and/or entity.

What are the implementation obligations of states regarding the UN restrictions on transportation?

Member states' naval forces, maritime and airport authorities, border controls over their ports, train and road crossings, as well as bunkering service providers at maritime ports, ship insurance companies, crewing agencies, and fleet owners are obliged to:

- ! Inspect the freight of any vessel suspected of transporting prohibited or embargoed items, and if confirmed, seize the items, block the vessel under the assets freeze provision, and request the flag state to de-flag and deregister the vessel;

- ! Direct any vessel suspected of transporting prohibited or embargoed items, in coordination with the flag state, to a port identified by the sanctions committee for full inspections;
- ! Deny any vessel designated for targeted sanctions, or suspected of transporting prohibited or embargoed items access to ports, and if already docked at a port, deny bunkering services;
- ! Deny vessels permission to enter port where there are reasonable grounds to believe that a vessel is owned or controlled directly or indirectly by a designated individual, company, or entity.
- ! Deny take off, landing, or overflight permission to any aircraft where there are reasonable grounds to believe that they are involved in the transport of prohibited cargo;
- ! Conduct inspections of any vessels on the high seas, in coordination with the flag state and the sanctions committee, if suspected of transporting prohibited or embargoed items;
- ! Conduct inspections of aircrafts, trains, trucks, and individual passengers on any transit point, if suspected of transporting prohibited or embargoed items;
- ! Prohibit leasing, chartering of, or registering under the North Korean flagged flag, any vessels, aircrafts, and crewing services;
- ! De-register any North Korean owned or operated vessel believed to have been used for the transport of prohibited cargo, and prevent any attempt to re-register or re-certify; prevent underwriting of insurances or re-insurances for such vessels;
- !

Designated vessels

Vessels that are designated by the UN for sanctions evasion or designated entities can be subject to an asset freeze, port entry denial and denial of services, in addition to being deregistered by their flag state. One such example is the 4,355-ton vessel *Jin Teng*, flagged to Sierra Leone, which was seized by the Philippines on 4 March 2016, as it was listed as designated under resolution 2270 (2016). The vessel turned out to be owned by a company based in the British Virgin Islands and managed by a Chinese company. It was released on 24 March 2016, after the crew of 21 North Koreans were removed and deported and the vessel removed from the list.



Illustration 13 - New Regent doing a ship-to-ship transfer with the Kum Un San 3

Flags of convenience

The registration and flagging of vessels such as the *Jin Teng*, trading or associated with North Korea, often occurs via companies registered offshore, that are based outside of sanctions enforcement zones such as Hong Kong and the British Virgin Islands. Such maritime industry practices have served to shield beneficial (true) owners from potential taxation, pollution, or environmental liabilities, also contribute to obscuring the true identity of the foreign nationals who may have ultimately profited from prohibited activities or illicit ship-to-ship transfers of petroleum products to North Korean tankers. Countries with registered flagged

vessels that have engaged in ship-to-ship transfers or direct deliveries from or to North Korea have included Belize, Honduras, Panama, and St Kitts and Nevis.

This obfuscation tactic frequently involves creating a “registered owner” for a single vessel, to an offshore shell company that has been established in territories such as Belize and the British Virgin Islands. Two such examples include Panama, as the flag-of-convenience State for the tanker Shang Yuan Bao caught doing ship-to-ship transfers to North Korean vessels in May and June 2018, and the New Regent in 2018. The New Regent's operator and manager was Ocean Grow International Shipmanagement Consultant Corporation of Taiwan and the registered owner, Mega Glory Holding Ltd, was registered in the British Virgin Islands.

Restricting diplomatic and educational activities or trade in artworks



Ban on abuse of diplomatic privileges by North Korea

UN sanctions have never restricted a country's diplomatic activities until well-documented cases were presented to the Security Council about North Korean diplomatic staff having contravened the Vienna Convention on Diplomatic Relations. The diplomats were shown to have pursued commercial

activities on behalf of North Korean business conglomerates, or to acquire or sell sensitive technologies and military goods or services.

In 2013, Panama interdicted a North Korean vessel, the Chong Chon Gang, for its illicit cargo of 124 tons of arms and related materiel, hidden under thousands of bags sugar, from Cuba. The vessel communicated via secret codes with a satellite office in Vladivostok, Russia, and the North Korean Embassy staff in Cuba who were

commercial activities to generate revenues, or from hosting commercial enterprises on premises officially designated as embassies or consulates.

Because bank accounts of diplomats are sometimes also used for such commercial or illicit activities, the North Korea sanction measures require states to limit the number of bank accounts to one per diplomat and one per embassy or consular office. To implement this obligation, information of diplomats is shared with competent authorities.



Restricting educational services

Because of the importance of educational services, it is unlikely that any blanket sanctions against education will ever be adopted. However, in the context of North Korea, such hesitations had to be abandoned when universities

and technical schools around the world were found to host North Korean students that clearly were focusing their studies only on military training or highly specialized proliferation sciences such as nuclear physics.

What is covered by UN restrictions against educational services?

The UN sanctions prohibit instructions in technical fields that could contribute to North Korea's nuclear or space program, specific weapons systems and general military training. North Korean nationals are not allowed to receive specialized teaching covering advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering, and advanced industrial engineering.

What are the implementation obligations of states with regards to UN sanctions against educational services?

The prohibition against educational and training services in sensitive disciplines have been enforced in the case of Angola's presidential guard, and against the training of Uganda's pilots, police and tank crews. Individual universities have, however, rejected a number of North Korean students who requested sensitive educational services.

! Member states must prevent North Koreans from benefiting from education services on advanced courses in materials science, chemical engineering, mechanical engineering, electrical engineering and industrial engineering, and any other training that is required for the development of nuclear weapons or ballistic missile technologies. This includes workshops and conferences related to these fields.

! All member states are required to suspend scientific and technical cooperation involving persons or groups officially sponsored by or representing the DPRK except for medical exchanges. If the subject is related to a nuclear or missile-related field, the member state should request the Sanction Committee's prior approval, and if the subject is in other

research field, the member state should notify it to the Sanction Committee. This includes workshops and conferences related to these fields.

! Member states are to prevent any type of military training of or technical advice being given to individuals or benefitting companies or entities in North Korea. They are prohibited from



receiving military training from North Koreans in countries to which an arms embargo is applied.

Restricting trade in statues and artworks

The restriction against the trade in statues and artwork is another approach to denying North Korea access to revenues. This measure became necessary when

it was discovered that government-run art studios generated significant income with the sale or trade in statues and cultural or artistic goods.

Mansudae Overseas Project Group of Companies (Mansudae) was designated to generate revenue for the Government of North Korea by dispatching workers for construction of statues, monuments and buildings. However, the UN Panel of Experts also pointed out that Mansudae's subsidiary is still active in Senegal after having changed its name to "Corman Construction & Commerce Sural."

Another North Korean State-run company "Korea Paekho Trading Corporation" (Paekho Trading) is involved in the construction of statues in the Democratic Republic of Congo using a cover company "Congo Aconde SARL." Paekho Trading is reported to have been involved in construction projects in multiple African countries.

What is covered by UN restrictions against the trade in statues and artworks?

Under the DPRK sanctions, the supply, sale, and transfer of statues is prohibited. Member states must prevent any North Korean supply of statues.

The maintenance of such statues and related monuments or structures by North Korea or its nationals is also prohibited.

Furthermore, as Mansudae is designated, member states are obliged to seize artworks belonging to Mansudae. The UN Panel of Experts further states the risk of showcasing Mansudae artworks, as well as visiting the Mansudae studio in Pyongyang which could facilitate sale of artworks by Mansudae.

Supporting implementation guidance from the UN Security Council

The often succinct but elementary operative paragraphs in UN sanctions resolutions offer little practical implementation guidance. In addition, relevant resolutions are adopted at least once per year. It is not unusual for UN sanctions measures to escalate over 5 to 10 years in the form of 5 to 10 resolutions without ever reiterating all sanctions measures previously adopted. The burden of piecing together all measures, exemptions, and reporting obligations is left to those who have implementation and compliance responsibilities.

Implementation Assistance Notices

Interpretative guidance is released once the 15 member states of the Security Council succeed in hard-wrought compromises. Currently, the North Korean sanctions are elaborated with the following implementation assistance notices (IANs):

[Implementation Assistance Notice No. 1](#) Provides contextual information under the following subheadings:

- ◆ Examine and Take Appropriate Action on Alleged Violations
- ◆ Panel of Experts (POE): Gather, Examine and Analyze Information
- ◆ Special Considerations: Facilitating Cooperation

[Implementation Assistance Notice No. 2](#) Guidelines on the Preparation and Submission of National Implementation Reports, including an Optional Checklist Template

[Implementation Assistance Notice No. 3](#) Guidelines for the Implementation of Measures Regarding "Luxury Goods"

[Implementation Assistance Notice No. 4](#) The "Catch-All" Provisions - Implementation of Paragraphs 8 and 27 of resolution 2270 (2016)

[Implementation Assistance Notice No. 5](#) A Sanctions Evasion Case Study - the M/V Chong Chon Gang Incident

[Implementation Assistance Notice No. 6](#) Sanctions and Diplomatic Missions in the Democratic People's Republic of Korea

[Implementation Assistance Notice No. 7](#) Guidelines for Obtaining Exemptions to Deliver Humanitarian Assistance to North Korea

Implementation Assistance Notice
measures

Fact sheet compiling all sanctions

The human rights consequences that result from the policies and actions of the DPRK's leadership

The extensive list of reported violations of human rights in the DPRK includes cases that infringe on the:

- ◆ Freedom of thought, expression, and religion
- ◆ Freedom of movement and residence
- ◆ Freedom of peaceful assembly and association
- ◆ Right to life
- ◆ Right to liberty and security of the person
- ◆ Right to a fair trial
- ◆ Prohibition of discrimination, and in particular on social origin, birth, gender, and disability grounds
- ◆ Prohibition of torture and other ill-treatment
- ◆ Full range of economic, social and cultural rights, including the rights to food, health, and work.

This deplorable human rights situation has taken place within the context of the DPRK leadership's maintenance and imposition of the totalitarian political system in the country.

Crimes against humanity under the Rome Statute

The UN human rights mechanisms have found that there are reasonable grounds to believe that identified human rights abuses have been committed in a systematic and widespread manner pursuant to a state policy, constituting crimes against humanity under the Rome Statute of the International Criminal Court (ICC).

The underlying acts of these crimes include:

- | | |
|-----------------|---|
| ⇒ Murder | ⇒ Forced abortion |
| ⇒ Extermination | ⇒ Other forms of sexual violence of comparable gravity |
| ⇒ Enslavement | ⇒ Persecution on political, religious, and gender grounds |
| ⇒ Torture | ⇒ Forcible transfer of population |
| ⇒ Imprisonment | ⇒ Enforced disappearances |
| ⇒ Rape | ⇒ Inhumane act of knowingly causing prolonged starvation |

Human rights abuses that are a direct consequence of DPRK's proliferation activities targeted under the UN sanctions regime—the diversion of State resources and the acquisition of remittances from overseas employments for the benefits of the proliferation projects, include the grave violations of:

- ◆ **The right to food of North Korean citizens** under article 11 of the ICESCR, amounting to mass starvation, and **the right to life** under article 6 of the ICCPR, in cases of starvation deaths.

- ◆ **The right of North Korean overseas workers not to be subjected to forced or compulsory labor** under article 8(3) of the ICCPR, and article 6 of the ICESCR. The coercive conditions under which the DPRK has employed the overseas workers have also violated their other human rights, including **the freedom of movement** under article 12 of the ICCPR, and **the right to work in decent working conditions** under article 7 of the ICESCR.

Overall, the DPRK's proliferation projects and related activities of developing, producing, and testing nuclear weapons and ballistic missiles systems, which by their very nature are able to cause mass destruction of human life, are incompatible with the DPRK's obligations under international human rights law and in particular the right to life under article 6 of the ICCPR.

Serious violations of the right to food and related aspects of the right to life

The DPRK violated its obligation under the ICESCR to utilize the maximum of the available State resources to feed the hungry and undernourished population at risk of dying from starvation. Instead, the State diverted a large amount of its resources in order to:

- ⇒ Develop nuclear and ballistic missiles programs and other weapons systems prohibited under Security Council Resolution 1718 (2006)
- ⇒ Purchase and import luxury goods for the benefits of the government officials, prohibited under the same resolution, as explained in the section "Luxury Goods Embargo"

⇒ Maintain the stability of the political regime and the cult of the Supreme Leader.

This obligation is closely inter-related with the right to life under article 6 of the ICCPR. States have the primary duty to protect the right to life, notably by adopting adequate measures to address widespread hunger and malnutrition, and by ensuring without delay that persons in need have access to essential goods such as food.

The United Nations Office for the Coordination of Humanitarian Assistance reported that 10.1 million people (40% of the population) in North Korea are food insecure and in urgent need of food assistance.¹² According to the 2020 Global Hunger Index, the country has a score of 27.5, classified as “serious.” This devastating famine has intensified with the collapse of the public distribution system of food rations in 1990s. External factors such as natural disasters, infertile land, and the adverse humanitarian impact of the sanctions measures have affected the food situation in the country to some extent.

The UN reports, however, attribute the primary responsibility for serious violations of the right to food to the DPRK Government. Reportedly the North Korean leadership has knowingly ignored, marginalized or intentionally disregarded the people’s need to access the basic food items indispensable for their survival, as a means of control and for the purpose of sustaining the current political system. Its

Box 3: Accountability for mass starvation

Serious violations of the right to food that result in severe and prolonged starvation of the population may amount to the crime against humanity of “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” under article 7(1)(k) of the ICC Rome Statute.

Box 2: States’ obligations on the right to food

Article 11 of the ICESCR: “States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food,” and have the primary responsibility to take the necessary measures to ensure the fundamental right of everyone to be free from hunger. States are obliged to respect, protect, and fulfil the right to food in full compliance with the principle of non-discrimination.

unlawful actions and omissions include adopting discriminatory and poor economic and agricultural policies in the public distribution system that exclude or gravely disfavor particular social, religious, and political groups; denying and politicizing access to humanitarian food aid;

and impeding the access to food delivered to affected regions and to the most vulnerable groups, in favor of high-level state and military officials, and the capital

Pyongyang. As a result, over half of the population, including a large number of pregnant women and young children, continues to face food insecurity, malnutrition, and severe health issues.

Forced Labor of North Korean overseas workers

The Security Council has explicitly prohibited the employment of North

Box 4: Prohibition of forced labor under international human rights law

International human rights law explicitly prohibits forced or compulsory labor under article 8(3)(a) of the ICCPR. Forced or compulsory labor could be defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” The involuntary nature is central to the conduct. This unlawful form of labor is, however, distinct from permissible forms of labor under the ICCPR, such as hard labor of convicts under a court sentence, compulsory military service, or labor necessary during emergency situations.

Korean nationals outside the DPRK. This sanction measure is further elaborated in the section “UN sanctions on overseas income earning.”

The available information suggests that the DPRK government has complete control over the employment system in the DPRK. It assigns jobs to North Koreans, often under conditions that are

discriminatory and manifestly contrary to human rights standards of humane treatment and decent working conditions. These conditions include paying

minimum or no wages, assigning extensively long working hours, disregarding work safety, and demonstrating threats of severe punishment for non-compliance with imposed employment requirements. According to the Special Rapporteur, this compulsory State-assigned employment system is based on coercive

Box 5. Forced labor as a form of enslavement

Under specific conditions, acts of forced or compulsory labor could qualify as the crime against humanity of enslavement under article 7(1)(c) of the ICC Rome Statute. Indicative factors that may inform that forced labor amounted to enslavement include the control of the person’s freedom of choice or freedom of movement, threat or use of coercion, absence of consent of the individual, duration and socio-economic conditions of forced labor, often without remuneration and with the accruing of some gain to the perpetrator, and psychological control.

State legislation and policies that violate the DPRK's obligations under international human rights law.

People in the DPRK have often been mobilized to perform unpaid compulsory work for State-owned projects. This is the case of workers whom the DPRK authorities have employed through State-owned entities overseas to earn wages in foreign currency. Based on the information available, the form of their employment amounts to forced or compulsory labor, in violation of article 8(3)(a) of the ICCPR and article 6 of the ICESCR. In addition, the coercive employment conditions that the DPRK has systematically imposed on overseas workers violate their right to freedom of movement under article 12 of the ICCPR, and the right to work in decent working conditions under article 7 of the ICESCR.

Reported indicators of these violations include:

- ⇒ Physical and psychological compulsion of workers: any non-compliance with the State employment would result in penalty. The means that the DPRK authorities apply to maintain people in forced labor encompass physical violence, imprisonment and other forms of deprivation of liberty, deprivation of food and other necessities, and other detrimental actions against the workers.
- ⇒ Strict measures of movement control that the DPRK exercises over its citizens who want to travel abroad. Their residence and movement to travel abroad are under the complete control of the DPRK authorities. Any attempt to leave the country without the State's authorization is punishable under the law. Moreover, the DPRK authorities have often arranged with the foreign employers to extend the complete control of workers' movements extraterritorially through surveillance and other measures of constant monitoring through assigned State agents.
- ⇒ Harsh living and working conditions that result in the DPRK nationals being overworked and having to report to work under the threat of punishment or retaliation against their family members in the DPRK.
- ⇒ Retained remittances from the North Koreans' work abroad by their State employers are channeled to supply the State parallel funds for proliferation activities and other benefits of State leadership.

Responsibility of third States towards North Korean overseas workers

The UN members states are obliged to repatriate North Korean nationals who earn income in their respective jurisdictions, as of the adoption of the Resolution 2397 on 22 December 2017 and no later than within two years period. The exceptions to this obligation are envisaged under the non-refoulement principle.

Some states have entered into formal or informal bilateral agreements with the DPRK to legally regulate and otherwise facilitate the employment of North Korean nationals in their jurisdictions. In addition to violating the UN sanctions regime by these arrangements, states may be responsible under the law of state responsibility for aiding and assisting the DPRK in committing human rights violations against employed North Korean nationals.

Such responsibility exists if the state organ or agency has aided or assisted another state in committing an international wrongful act with the knowledge of the circumstances of the act, and the act would be internationally wrongful if committed by that state. The aid or assistance in this case includes the issuance of work permits, visas and other administrative documentation, the provision of infrastructure, resources and logistical assistance, financial and other support that would allow North Korean nationals to generate income on their territory and the DPRK to access the remittance of the wages that the workers earn within their jurisdiction.

The requirement of the “knowledge” entails that the State had actual knowledge, or at least deliberately disregarded credible evidence of the unlawful conduct from reliable sources. Since such sources include the findings of the UN Commission of Inquiry, it would be hard to argue that the state had not deliberately avoided the knowledge of the said illegalities.

Finally, the receiving state must be bound by the provisions of the ICCPR and the ICESCR guaranteeing the violated human rights. Although these treaties do not regulate the subject of aid or assistance for their breaches, they impose a positive duty on states to proactively take protective measures to prevent human rights violations by private actors in their jurisdiction.

Box 6: Non-refoulement principle

International refugee law and international human rights law require states to determine if there are substantial grounds to believe that persons to be repatriated are at real risk of serious human rights violations upon their return to the DPRK, including torture and other ill-treatment, persecution and arbitrary deprivation of life. Should such grounds exist, a state must refrain from repatriation. This assessment should be made on a case-by-case basis.

Private sector compliance obligations

Although private enterprises with whom the DPRK authorities have also concluded employment agreements are not subjects of international law, the illegality of their conduct falls within the state's legal obligation to exercise due diligence in order to prevent the employment of North Koreans.

If the said human rights violations are proved to constitute underlying acts of crimes against humanity, there may also be individual liability for state agents and private business actors under international criminal law.

State implementation obligations

Third states may take preventive measures to avoid unwanted legal consequences of aiding and abetting international wrongful acts and violating other legal obligations under international human rights law in relation to the employment of North Korean workers by public or private entities in their jurisdiction. These measures include adopting appropriate legislative acts or amendments to the applicable domestic legislation, including in relation to sanctions for non-compliance by public and private employers and enterprises, enacting administrative restrictions related to increased border control, visa issuance and similar law enforcement measures, and complying with the requirements of the UN Security Council resolutions.

The DPRK's deployment of cyber aggressions in support of its proliferation endeavors

The highest political decision-making body of North Korea, the Central Committee of the Worker's Party oversees and directs the country's cyber warriors, and ensures that its elite hacker guerillas are fully integrated into the country's sprawling military-industrial complex, including its intelligence organizations and proliferation enterprises.

Kim Jong-Un famously boasted that North Korea's "cyber prowess is an all-purpose sword that guarantees the North Korean People's Armed Forces ruthless striking capability, along with nuclear weapons and missiles." Hackers not only extort or steal billions of US Dollars'-worth of crypto assets, they also launch cyber-infiltration campaigns to disrupt international shipping, national defenses, and law enforcement, and even UN sanctions enforcement

institutions and their data tools. A special concern for the Security Council is Kim's second claim that his "army could penetrate any sanctions."

South Korea's National Intelligence Service estimates that North Korea's cyber warfare unit is 1,000 active professional hackers strong. The systematic recruitment of the most talented students from its universities, "cyber warriors" are undergoing rigorous training, whether attending computer science courses taught by international experts at Pyongyang University of Science and Technology (PUST), or learning abroad at Chinese and Russian schools and training facilities.

Central Committee of the Worker's Party of Korea



Known North Korean Cyber Warrior Groups:

Lazarus	Bluenoroff
Bureau 121	Apt 38
Andariel	TEMP.Hermit
Hidden Cobra	Others

Intelligence organizations

2nd National
Science Institute

2nd Academy of
National Sciences

2nd Economic
Committee

Office 39

Reconnaissance
General Bureau

General Bureau
of Atomic Energy

Munitions
Industry Department

Arms manufacturing

1st General Bureau (light
firearms, amm unitions
general equipment)

2nd General Bureau
(tanks, armored vehcles)

3rd General Bureau
(rockets, missiles)

4th General Bureau
(nuclear, chemical,
biologicalz)

5th General Bureau
(nuclear, chemical,
biological weapons)

6th General Bureau
(unknown)

7th General Bureau (aircraft, telecommunication)

Illustration 12 - North Korea military-industrial complex with its cyber warrior groups



Circumventing Asset Freezes with Cyber Exploits

Box 7 – FASTCash attack on ATMs

Hired criminals from across the world were furnished with debit cards coded to force ATMs to dispense money. The crime campaigns netted North Korea tens of millions of dollars. A single campaign carried out during 2017 extracted withdrawals in 30 countries in one day, and a repeat attack in 2018 in 23 countries. The hacker team “BeagleBoyz” had developed the malicious code.

Box 8: “BeagleBoyz” hack Bangladesh Central Bank

After successfully spearphishing email accounts of employees of the Bangladesh Central bank, the hackers were able to install backdoors in order to closely observe bank internal procedures. After 10 months of preparations, they sent fraudulent instructions via SWIFT to the bank’s account at the US Federal Reserve, requesting a series of transfers with total value of \$1 billion. In the end, \$ 81 million ended on accounts in the Philippines that North Korean agents quickly laundered, using casino chips.

Box 9: Stealing cybercurrencies from exchanges and individual accounts

DPRK hackers were responsible for three-quarters of all cryptocurrency exchange attacks during the cryptocurrency bull run of 2017-2018. In one campaign they stole over \$600 million, and UN experts reported another \$316 million worth of cryptocurrency thefts during the 2019-2020 period. The North Korean hackers, with the help of Chinese front-actors, tend to steal lesser-known cryptocurrencies such as Proton, Playgame, and IHT Real Estate protocol tokens which they convert into more widely circulated currencies like Bitcoin and Ether.

Box 10: Cryptojacking

Cryptocurrency mining is an energy-intensive but lucrative strategy to quickly amass highly fungible wealth without leaving any traces. Rather than fuel their own cryptocurrency mining computers with their coal deposits, North Korean hackers have mastered the ability to break into and hijack foreign crypto-mining factories for their own benefit. “Cryptojacking” was particularly popular with North Koreans hacking Monera mining operations, a cryptocurrency known for a high degree of privacy protection.

Box 11: E-commuting North Korean IT specialists

A separate branch of North Korea’s cyber force sells information technology experts to clients abroad in order to generate foreign currency income. The IT development force is estimated to encompass at least 1000 technicians who earn \$20 million per year. Distinct from North Korea’s hackers, these IT specialists are hired in many countries by software companies or they establish their own enterprise. Sometimes, they also disguise their true location in North Korea by e-commuting, charging their fees in cryptocurrencies.

Box 12: Wannacry ransomware

The Wannacry ransomware campaign targeting networks in America, Europe, and Asia, including the British Health Ministry, Boeing and Germany’s federal railway is likely the DPRK’s most notorious cybercrime. The malware is estimated to have affected more than 200,000 computers across 150 countries, with total damages ranging from hundreds of millions to billions of dollars. Infected digital networks of enterprises locked up until a ransom in Bitcoins was paid. New variants of the ransomware still circulate around the world and continue to cause damage.

Box 13: Circumvention Opportunities Accelerate with ‘DeFi’ Innovations

Part of the frontier of cryptocurrency technologies involves “DeFi” for decentralized finance. Defi is a code that helps to perform specific financial functions— usually without KYC processes—such as acting as a lender to decentralized cryptocurrency exchanges, which act as financial service providers to owners of cryptocurrencies. In other words, the pre-programed functions that a Defi performs enable non-compliant transactions that are much harder to track. Among the advantages of Defi transactions is low transactional fees and the ability to generate new cryptocurrencies through “liquidity mining,” a process in which cryptocurrency providers earn a new cryptocurrency in exchange for providing cryptocurrency funds to these Defi exchanges. When Defi facilitate an easy convertibility of cryptocurrencies, they enable cryptocurrency laundering—a fact that North Korean actors discovered and made use of very quickly. Two attacks on cryptocurrency exchanges netted a total of \$304 million for the alleged North Korean perpetrators.



Circumventing arms embargoes with cyber thefts

Box 14: Stealing blueprints for advanced weapon systems and military operations

In 2016, North Koreans hacked into the databases of Daewoo Shipbuilding & Marine Engineering Company, a South Korean defense contractor. The hackers stole blueprints for an Aegis-class vessel and submarines, along with over 60 classified documents and over 40,000 other documents.

Among the stolen data were classified military documents, including South Korea/U.S. operational war plans.

Box 15: Hacking investigative data of the UN panel of experts

North Korean hackers have attacked members of the DPRK sanctions monitoring panel and UNSC representatives in several ways over the past few years, both to conduct reconnaissance and to inhibit their research, and even to delay the release of their reports. In Spring 2020 they targeted at least 28 UN officials, including at least 11 individuals representing six countries of the UN Security Council. They contacted targets by email and WhatsApp with communications designed to look like UN security alerts or requests for interviews from the press with the goal of stealing their log-in credentials or downloading malicious software to give access to their devices.

Managing cyber infrastructure threats

Many enterprises have come to assume that their productivity is significantly increased by processing all data on online networks, by fully networking all branches of the entire enterprise, and building redundancies with backup systems. Cybersecurity specialists always assure those responsible for a public or private enterprise that the data can be protected, and perhaps can be protected even more efficiently if stored on off-site servers, or so-called clouds.

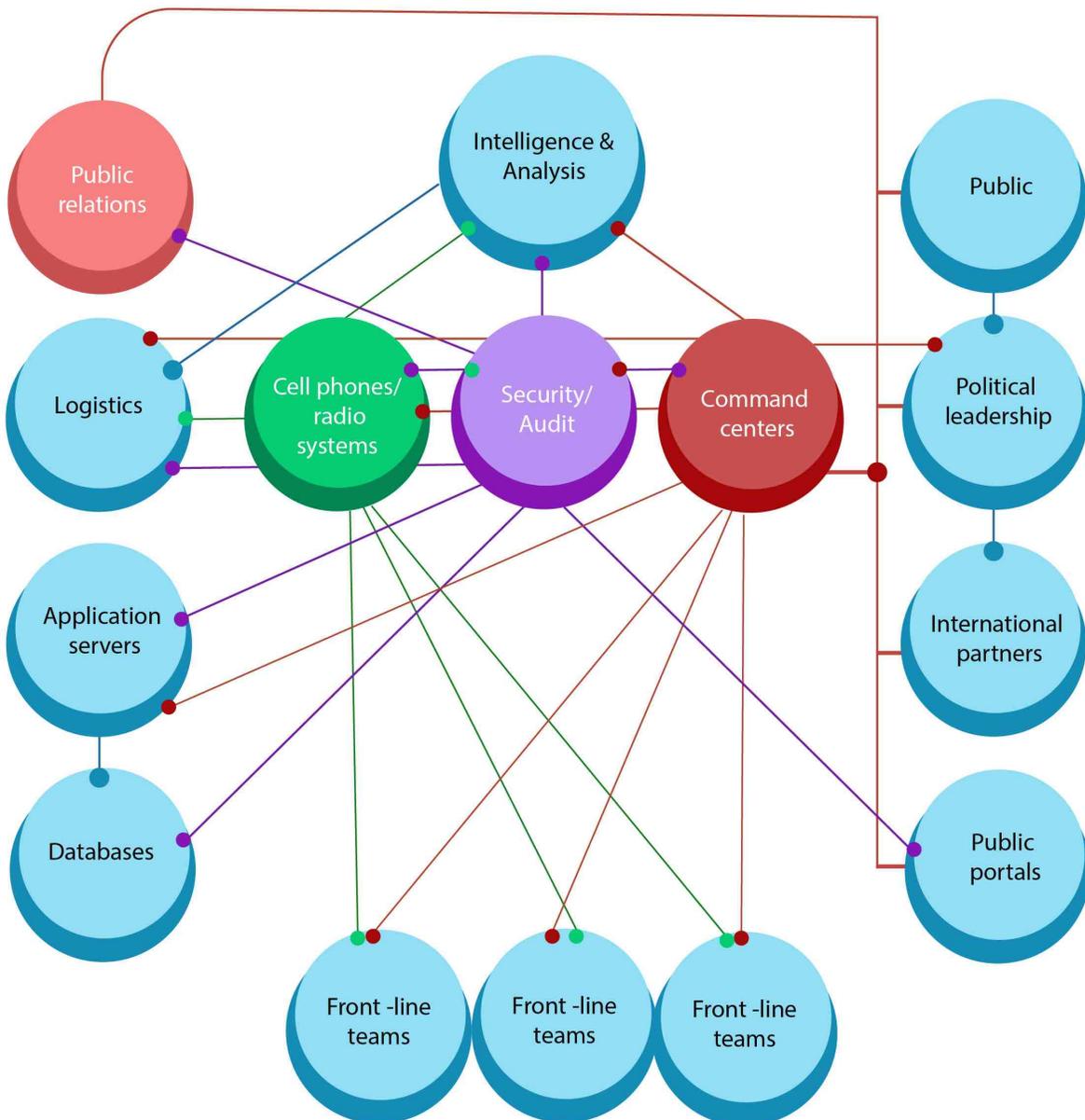


Diagram 13 - Typical digital communication and data network

However, several decades of practical experiences have shown that virtually no enterprise and not cyber security architecture is immune against hostile attacks. For North Korea's cyber warriors, who have honed their skills to be now one of the fiercest cyber threats in the world, the blind obsession to digitize entire enterprise data processing is an ideal battlefield. With each successful attack, they drive up the costs of protecting enterprise data, and yet they still succeed with their next innovative attacks.

Senior management of public or private enterprises should, therefore, as a security task of highest priority, review their data and digital network architecture and decide on information that should be taken offline.

Skilled professionals should further undertake risk assessments structured on the following principles that have to be modified according to the unique circumstances of the at-risk enterprise.

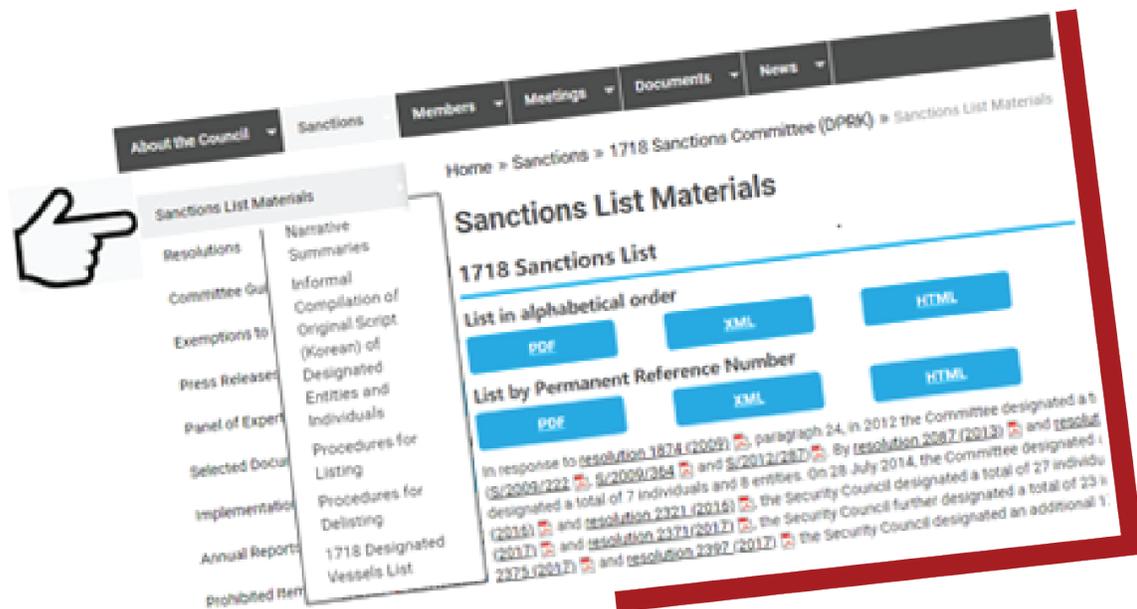
- ! Identify cyber threat actors and the typology of cyber-attacks an enterprise faces by analyzing aggressions already enacted towards other enterprises of the same industry. For example, banks would look into the methodology applied to the North Korean hacking of Swift, finding that a campaign of spearphishing many individual accounts of bank employees led to the theft of log-in credentials and, ultimately, illicit transfers of funds.
- ! Engage/Contract IT system analysts and white hat hackers in their region who have experience with this process and ideally of working with organizations facing similar threats.
- ! Fully map IT infrastructure (see law enforcement network example) to prioritize communications of strategically important data, and to identify security gaps in the network. Work with cybersecurity team to assess vulnerabilities and map their ranked priorities to the particular network. Identify at least three target priorities of attack vectors
- ! Undergo a white hacking process with a trusted group who can assess the vulnerabilities of IT networks, as well as the cyber hygiene competence of the administrators and authorized users of the works. Deliver white hacker reports on these vulnerabilities, identify the fixes needed, and outline the steps to take in order of priority.
- ! Develop a plan of action for addressing all documented vulnerabilities, including timeline, and scope of engagement with budgeted items from all third parties, which will include developing alternative system architectures, work practices and training designed to protect against all types of exploitations.

- ! Present report for buy-in from stakeholders and adopt measured plan of addressing priorities from overall engagement scope.
- ! Implement prioritized plan, likely including the following:
 - a. Tackling major vulnerabilities in a phased approach, e.g., changing a system architecture to be more defensive
 - b. Employee training programs to recognize signs of spearphishing and malicious attachments which are the most common entry points for hackers, run on a regular basis
 - c. Incident monitoring and response solution
 - d. Training risk managers in IT departments and other relevant officers to continue monitoring the network. Stay abreast of cybersecurity vulnerabilities, updates, and standards, and lead regular cybersecurity meetings with corporate officers and staff

Recognizing risk indicators

North Korea designations

For each instance where the UN Security Council has decided to impose measures in response to a specific threat or act of evasion or non-compliance, a Security Council Committee manages the sanctions regime.



Each sanctions committee established by the United Nations Security Council publishes the names of individuals and entities listed in relation to that committee as well as information concerning the specific measures that apply to each listed name. In the case of North Korea, the Security Council established a committee through resolution 1718 of 2006, referred to in the resolutions as “the Committee,” to review reported violations and to take action when and as appropriate, including designating entities and individuals subject to the relevant measures. These are listed on the committee website at <https://www.un.org/securitycouncil/sanctions/1718/materials>

General risk awareness

Government implementation and private sector compliance officers represent the front line in the effective application of UN sanctions measures. These measures may target the:

- ! Actual transfer of prohibited goods and services;
- ! Use or management of financial assets for acquiring goods or services under UN embargoes, or for purposes that are other subject sanctions, or which benefit those already designated under UN sanctions regimes;
- ! Travel by individuals designated under UN sanctions regimes because their activities are prohibited.

Industry should be watchful for “red flags” indicating potential illicit activities. Exporting companies should take into account these risks even when dealing in products that are widely commercially available and not generally subject to export controls. Companies that are not sufficiently vigilant could potentially face civil enforcement actions or administrative sanctions, even if they do not have actual knowledge of an unlawful end-use, if they do not act appropriately upon these “red flags.”

Companies are advised to put risk-based export and import compliance measures in place for this purpose. In particular, the following fact red flags should immediately prompt heightened scrutiny:

- ◆ A new client places an unexpected and/or high-value order for sophisticated equipment.
- ◆ The client is a reseller or distributor—you should always inquire about the end-user’s identity.
- ◆ The customer has no website or social media presence and is not listed in online business directories.
- ◆ The client’s address is similar to a designated or listed entity, or the address indicates that the customer is located close to end-users of concern, including co-located with an entity listed the UN consolidated designation lists.
- ◆ Your client places an order and makes all shipping arrangements through a freight forwarding service. In such cases, ask the freight forwarder to provide you with a copy of his client’s documentation provided to verify that the information is valid.

The role of the Financial Actions Task Force in North Korea sanctions

Over the course of more than three decades the Financial Action Task Force (FATF) has increasingly contributed towards the standardization of implementation and compliance efforts that in some cases are also relevant to UN sanctions measures.

FATF's recommendation 7 on implementation on nonproliferation financing was the second effort to directly speak to UN sanctions implementation and compliance efforts. The previous effort occurred after the 9/11 Al Qaeda attacks and resulted in nine special counter-terrorism financing recommendations. In the interim they have been absorbed into the traditional 40 FATF recommendations.

FATF has also released an interpretive note [Guidance on Counter Proliferation Financing](#).

FATF Recommendation 1: Applies to financial and designated non-financial businesses and professions (DNFBPs)

Countries should:

- ⇒ Identify, assess, and understand the money laundering and terrorist financing risks of a country
- ⇒ Take action to assess risks
- ⇒ Apply resources to mitigate risks effectively
- ⇒ Apply a risk-based approach (RBA)

Additionally, important principles should be considered for application by all sanctions implementation and compliance professionals, beginning with:

FATF Recommendation 10: Specific Due Diligence Implications for Financial Institutions

- ◆ Do not accept accounts with anonymous or fictitious names
- ◆ Customer due diligence required as follows:
 - ⇒ New accounts/new business relations
 - ⇒ Transactions exceed USD/EUR 15,000.00
 - ⇒ Enhance traceability of wire transfers by recording
 - ⇒ Name, address, national identity number, date and place of birth of originator
 - ⇒ Originator account number used to process the transaction (or transaction number)
 - ⇒ Name of the beneficiary
 - ⇒ Beneficiary account number used to process transaction (or transaction number)
- ◆ Suspicions of money-laundering/terrorism financing
- ◆ Doubts about customer identification data

If due diligence does not result in satisfying results, do not accept or terminate customer relationship

- ◆ The following principles of customer due diligence should be enshrined in national law:
 - ⇒ Identification of a customer to be based on reliable, independent source documents, data, or information.
 - ⇒ Identification of a beneficial owner to be based on reasonable verification measures, including ownership and control structures.
 - ⇒ Information on the purposes and nature of relevant business relationships.
 - ⇒ Due diligence on the business relationships, nature of transactions, customer's businesses, and risk profile, and sources of funds to be ongoing.

If due diligence does not result in satisfying results, do not accept or terminate customer relationship

Furthermore, FATF is classifying Iran together with North Korea as a high-risk jurisdiction because:

- ! Significant strategic counter money-laundering deficiencies
- ! Terrorist financing



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High-Risk Jurisdictions subject to a Call for Action – 21 February 2020

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High-risk jurisdictions have significant strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation. For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence, and in the most serious cases, countries are called upon to apply counter-measures to protect the international financial system from the ongoing money laundering, terrorist financing, and proliferation financing (ML/TF/PF) risks emanating from the country. This list is often externally referred to as the "black list". ^

FATF recommendations regarding high-risk jurisdictions

- ! Financial institutions should be required to apply enhanced due diligence measures to business relationships and transactions with natural and legal persons, and financial institutions, from countries for which this is called for by the FATF. The type of enhanced due diligence measures applied should be effective and proportionate to the risks.
- ! Countries should be able to apply appropriate countermeasures when called upon to do so by the FATF. Countries should also be able to apply countermeasures independently of any call by the FATF to do so.
- ! Such countermeasures should be effective and proportionate to the risks.

The FATF continuously releases new calls for action, addressing the latest risk assessments for many jurisdictions around the world. Compliance professionals should keep a close eye on these releases and adjust their practices accordingly.

Combining list-based and activity-based compliance approaches

Two methods exist that help professionals to recognize risks that should trigger heightened due diligence:

1. The first and most widely practiced approach is focused on ensuring that those already designated under UN and other sanctions lists are denied trading privileges, accessing their assets, or travelling across borders.
2. The second approach is focused on recognizing at-risk behaviors. It requires advanced understanding of the following:

Table 5 - Prerequisites for list-based or activity-based compliance

Prerequisites for list-based compliance	Prerequisites for activity-based compliance*
Accurate and updated lists of designated individuals, companies and entities. For the UN designations under the DPRK sanctions regimes, check the official list here frequently for updates, plus the list of designated maritime vessels	Understanding the methodologies of violations/violators. This approach requires an intense study of individual cases of DPRK sanctions violations to determine typologies, objectives, and complicit network of sanctions violators.
Enhanced due diligence to detect misleading identification data	Ability to identify restricted goods, machines, components, and knowhow (see page xx for accessing control lists)
Technical data matching of specifications transfer goods with official designation lists	Ability to distinguish normal from aberrant business practices.
Where available, apply and integrate commercially available compliance tools (Worldcheck, Fircosoft, others)	Detecting behavioral patterns of negative actors

*In FATF language activity-based compliance means "risk-based approach"

Typologies that assist in activity-based compliance

Typologies of sanctions violators or violations are necessarily evolving as those that contravene sanctions will always attempt to better conceal their true

intentions. Consequently, their strategies and networks will change as soon as they have been found out by UN monitors.

Compliance professionals must, therefore, use the observations and risk indicators under the following categories with caution and be prepared to update them frequently:

1. Potentially suspicious behaviors and characteristics
2. Aberrations in trade practices
3. Identity Issues
4. Industry-specific challenges
 - ◆ Transport services
 - ◆ International maritime transport
 - ◆ Financial services
 - ◆ Digital technology services
 - ◆ Freeport and free trade zones

1. Potentially suspicious behaviors and characteristics

These characteristics are fairly obvious but it bears reminding that individuals and entities displaying them are likely to be engaged in sanctions violations:

- ⇒ Senior officials working in the North Korea's aerospace, finance/trade, or defense industry
- ⇒ Senior officials who were former professors/scientists
- ⇒ Shipments of items to conflict-affected areas; military travel to these areas
- ⇒ Trade/financial transactions with companies in MENA region
- ⇒ Frequent trade of dual-use goods below thresholds with unusual end-use purpose
- ⇒ Ghost companies—do not match with official company register
- ⇒ Networks: Does the individual or entity have a history of working with individuals, companies or entities formerly or currently designated under UN or other sanctions? (Syria and Iran are the two most frequent countries that attract North Korean operatives).

2. Aberrations in trade practices

A frequently observed trade or shipping strategy to obfuscate UN sanction violation is to send potentially embargoed items marked in commercial invoices and customs declarations for "evaluation," or for "diagnosis," and frequently also for

"repair." None of these comments should dissuade compliance professionals because restricted items remain restricted regardless of the circumstances under which they are shipped.

Other frequent smuggling strategies involve shipping terms that are inconsistent with observed industry norms, such as:

- ⇒ Lack of specific delivery dates
- ⇒ Refuses standard post-sale services
- ⇒ Uncertainty of end-use or end-user
- ⇒ Inconsistency between technical characteristics of products/services—and the corresponding technical competence a purchaser should have to make effective use of these products/services
- ⇒ Purchaser is clearly unfamiliar with the products' properties or technology
- ⇒ In a more profound due diligence compliance professionals may also find mismatches of:
 - ⇒ Physical dimensions and weight of packaging with actual dimensions of goods identified in commercial invoices or customs declarations;
 - ⇒ Trade documents, including items' technical specs, Harmonized System Codes, data on invoices, letter of credits, customs declarations, pre-shipment inspections, etc.

3. Identity Issues

Sanctions violators frequently attempt to conceal critical identifying information about the good they want to ship, the shipping method and routing or their own identity. Accordingly, special attention should be paid to:

- ⇒ Questions about authenticity of identification and travel documents
- ⇒ Confusing or mismatching data on identification and shipping documents
- ⇒ Attempts of concealing affiliations with governments, organizations, or business entities, particularly when they are subject to UN or other sanctions
- ⇒ Significant delays or refusal to provide beneficial ownership information for financial transactions
- ⇒ Use of post office box address by purchaser, buyer, or any other participants
- ⇒ Partial match with data contained in designation lists (UN Consolidated Lists)

4. Industry-specific challenges: transport services

- ⇒ Trading or transportation companies named as consignees to front for actual recipient who may be subject to UN sanctions
- ⇒ Use of unusual transportation routes for export, or unusually remote destinations, or unnecessary transshipment routing
- ⇒ Concealing embargoed items in shipments of bulk commodities
- ⇒ Mismatch of insurance provisions with actual cargo lists and overall weight of cargo
- ⇒ Temporary switching off the automated identification system (AIM) of a maritime vessel, concealing its whereabouts
- ⇒ False list of ports of call
- ⇒ False pre-stowage plan for cargo

5. Industry-specific challenges: international maritime transport

Despite the World Customs Organization's Standards to Secure and Facilitate Global Trade—the so-called [SAFE Pillars](#)—that are intended to harmonize improved border control management procedures, certain gaps persist worldwide. Customs experts are targeting these gaps:

- ⇒ Corruption of public officials undermines the consolidation of technological innovations with advance electronic information screening, deployment of large-scale X-ray and gamma-ray machines and radiation detection devices
- ⇒ Developing countries consider border control authorities to be revenue collection agencies, not national security enforcement tools
- ⇒ Customs-Private Sector relations supported by authorized economic operators (AEO) system are undermined and require special attention to:
 - ◆ Poor due diligence that can occur even among the most prominent shipping companies, as a recent example of a Chinese subsidiary of DAMCO of Maersk Group has shown
 - ◆ Multiple changes of destination of cargo while on the high sea
 - ◆ Falsifications of electronic filings
 - ◆ Trade-based money laundering

6. Industry-specific challenges: financial services

In the financial services industry, many actions may exist for perfectly legitimate reasons even if, at first glance, they may seem suspicious. Nevertheless,

compliance professionals should consider a heightened risk that requires deeper due diligence if one of the following conditions are present:

- ⇒ Requester of export/import licenses for defense or WMD equipment that has been declined, or that has a history of being previously denied
- ⇒ Trade financing, where the supporting documentation deviates from customary procedures
- ⇒ A client who is dealing with counterparts in jurisdictions under sanctions
- ⇒ Any service that justifies the filing of a suspicious financial transaction with the national financial intelligence unit

However, financial services must be declined for

- ⇒ Any transaction involving already blocked assets or embargoed activities
- ⇒ Assets belonging to individuals, companies or entities designated under any UN sanctions resolution
- ⇒ Individuals, companies or entities likely acting on behalf of designees

7. Industry-specific challenges: digital technology services

- ⇒ Institute “KYC” verification for all shareholders, employees, customers, subscribers, or beneficiaries to avoid sanctionable abuses of digital services
- ⇒ Block cyber assets connected with designees of UN sanctions lists
- ⇒ Block cyber assets connected with activities prohibited under UN sanctions
- ⇒ Ensure IT system protocols are in pace with cybersecurity industry standards, including staying up to date with recent cyber-attacks to recognize malicious actions or intentions
- ⇒ File suspicious activity reports with national authorities if prohibited-use digital or information services is suspected

8. Industry-specific challenges: freeport and free trade zones

The establishment of privileged trade zones can be powerful promoters of national economic activities. But if they are poorly regulated, they tend to become significant risk factors, as UN sanctions monitoring experts consistently report. Due to wildly varying standards of supervision, applicability of laws and regulations in these zones can serve for:

- ⇒ Trade and re-exportation without export control authority approval
- ⇒ Trans-shipment to destinations of heightened compliance concerns

- ⇒ Unchecked assembly of sub-components with dual-use potential
- ⇒ Breaking up of original consignments into multiple smaller shipments to multiple destinations
- ⇒ Prolonged storage of goods, and technologies as stores of value (with eventual transfer to third parties) present a money laundering and proliferation finance concern

Annex 1 – HS codes applicable to UN sanctions on North Korea

Items that are prohibited from being exported to North Korea

Item	HS Codes	Description	Resolutions
Condensates and natural gas liquids	2709	Oils; petroleum oils and oils obtained from bituminous minerals	Para. 13 of res. 2375 (2017)
	2711	Petroleum gases and other gaseous hydrocarbons	
Industrial machinery	84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	Para. 7 of res. 2397 (2017)
	85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers; television image and sound recorders and reproducers, parts and	
transportation vehicles	86	Railway; tramway locomotives, rollingstock and parts thereof railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signaling equipment of all kinds.	Para. 7 of res. 2397 (2017)
	87	vehicles; other than railway or tramway rolling stock. and parts and accessories thereof	
	88	aircraft, spacecraft and parts thereof	
	89	ships, boats and floating structures	
Irons, steel and other metals	chapters 72 -83		Para. 7 of res. 2397 (2017)
	72	Iron and steel	
	73	Articles of iron or steel	
	74	Copper and articles thereof	

	75	Nickel and articles thereof	
	76	Aluminum and articles thereof	
	77	Reserved for possible future use	
	78	Lead and articles thereof	
	79	Zinc and articles thereof	
	80	Tin and articles thereof	
	81	Other base metals; cermets; articles thereof	
	82	Tools, implements, cutlery, spoons and forks of base metal; parts thereof of base metal	
	83	miscellaneous articles of base metal	

* Paragraph 30 of resolution 2321 (2016) and paragraph 14 of resolution 2397 (2017)

** Does not apply with respect to the provision of spare parts needed to maintain the safe operation of North Korean commercial civilian passenger aircraft – Air Koryo

Items that are prohibited from being imported from North Korea

Item	HS Codes	Description	Resolutions
Coal	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	Para 8 resolution 2371 (2017)
Iron Ore	2601	Iron ores and concentrates, including roasted iron pyrites	
Iron	chapter 72	Iron and steel products (7201- 7229)	
Iron and steel products	Chapter 73	Iron and steel products (7326 - 7301)	
Gold	261690	Gold ores and concentrates	Para. 30 of resolution 2270 (2016)
	7108	Gold (incl. put plated). unwrought, semi-manufactured forms or powder	
	710811	Gold powder, Unwrought	
	710812	Gold in other Unwrought forms	
	710813	Gold in other Semi-manufactured forms	
	710820	Monetary Gold	
Titanium	2614	Titanium ores and concentrates	
Vanadium	2615	Vanadium ores and concentrates	
Rare Earth Minerals	2612	Uranium or thorium ores and concentrates [261210 and 261220]	
	2617	Ores and concentrates, [Nesoi code 261790 - Other Ores and concentrates]	
	2805	Alkali metals etc., rare-earth metals etc., mercury.	
	2844	Radioactive chemical elements & isotopes etc.	

Copper	chapter 74	Copper and articles thereof (7401 - 7419)	Para. 28 of resolution 2321 (2016)	
	2603	copper ores and concentrates		
Zinc	chapter 79	Zinc and articles thereof (7901 - 7907)		
	2608	zinc ores and concentrates		
Nickel	Chapter 75	Nickel and articles thereof (7501 - 7508)		
	2604	Nickel ores and concentrates		
Silver	2616100 7106 , 7107	Silver ores and concentrates siver unwrought or semi manufactures forms or in powdered forms; base metals clad with silver not further semi-manufactured		
	7114	Articles of goldsmith s or silversmiths wares or parts thereof, of silver, whether or not plated or clad with other precious metal		
Seafood (incl fish, crustaceans, mollusks, and other aquatic invertebrates in all fortms	Chapter 3	Fish and crustaceans, Molluscs and other Aquatic Invertebrates (0301 - 0308)		Para. 9of resolution 2371 (2017)
	1603	Extracts and juices of meat, fish or crustaceans, mmolluscs or other aquatic invertebrates)		
	1604	Prepared or preserved fish; caviar and caviar substitute prepared from fish eggs		
	1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved		
Lead	Chapter 78	Lead and articles thereof (7801 - 7806)	Para. 10of resolution 2371 (2017)	
Lead ore	2607	Lead ores and concentrates		

Textiles (including but not limited to fabrics and partially or fully completed apparel products)	Chapters - 50 63		Para. 16 of resolution 2375 (2017)
	50	Silk, including yarns and woven fabrics thereof	
	51	Wool and fine or coarse animal hair, including yarns and woven fabrics thereof; horsehair yarn and woven fabric	
	52	Cotton, including yarns and woven fabrics thereof	
	53	vegetable textile fibers nesoi; yarns and woven fabrics of vegetable textile fibers nesoi and paper	
	54	Manmade filaments, including yarns and woven fabrics thereof	
	55	Manmade staple fibers, including yarns and woven fabrics thereof	
	56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	
	57	Carpets and other textile floor covering	
	58	Fabrica; special woven fabrics, tufted textile fabrics, lace, tapestries, trimmings, embroidery	
	59	Textile fabrics; impregnated, coated, covered or laminated; textile articles of a kind suitable for industrial use;	
	61	Apparel and clothing accessories; knitted or crocheted;	
	62	Apparel and clohing accessories; not knitted or crocheted;	
	63	Textiles, made up articles; sets; worn clothing and worn textile articles; ragsv	

agricultural products	07	Vegetables and certain roots and tubers; edible	Para. 6 of resolution 2397 (2017)
	08	Fruit and nuts, edible; peel of citrus fruit or melons	
	12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit, industrial or medicinal plants; straw and fodder	
Machinery	84	Nuclear reactors, Boilers, machinery and mechanical appliances; parts thereof	
electrical equipment	85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers; television imae and sound recorders and producers, parts and accessories of such articles	
Earth and stone including magnesite and magnesia	25	Salt; sulphur; earths, stone; plastering materials, lime and cement	
Wood	44	Wood and articles of wood; wood charcoal	
Vessels	89	ships, boats and floating structures	

For paragraphs 4 and 5 of resolution 2397 (2017), the UN Panel of Experts applies the following HS codes and annual caps imposed on the following:

- HS 2709: crude oil (cap: 4 million barrels or 525,000 tons)
- HS 2710, HS 2712 and HS 2713: refined petroleum products (cap: 500,000 barrels)