

A DECADE OF NORTH KOREA'S NUCLEAR TESTS AND THE FAILURE OF SANCTIONS REGIME

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North Korea's underground nuclear test on 9 September 2016 marks its fifth since 2006, and the first time that it conducted two in the same year. This is in addition to the country's series of test launches of mid-range surface-to-air and submarine-launched missiles, although with mixed successes. The growing frequency of these activities indicates North Korea's steady progress in its nuclear and missile programs, including the miniaturization of a nuclear weapon that could fit into an intercontinental ballistic missile (ICBM). *More importantly, it highlights how a decade of sanctions imposed by the international community has failed to induce any meaningful change in the behavior of the North Korean regime toward abandoning its nuclear weapons program.*

Sanctions and the cycles of provocation

As the Korean Peninsula remains a flashpoint where armed conflict could erupt and where strategic interests of major powers directly intersect, the imposition of sanctions appears to be the most prudent response by the international community in managing the nuclear and missile provocations by North Korea. Given the failure of diplomacy and engagement to yield results (i.e. the Six Party Talks have not resumed since 2008), the international community has instead relied on economic penalties to compel the Kim Jong Un regime to stop further provocations. Every nuclear test by North Korea, in its continued disregard for international agreements on nuclear non-proliferation, has been met with strong condemnation and economic sanctions by the UNSC through the following resolutions: 1718 (2006), 1874 (2006), 2094 (2013), and 2270 (2016). The sanctions center on placing trade restrictions on conventional arms and materials related to the illicit nuclear and missile programs; freezing the financial assets and travel bans for North Korean nationals and officials involved in proliferation activities; and prohibiting export of luxury items.

Following the fourth nuclear test in January 2016, the UNSC passed Resolution 2270 which expanded the sanctions to include mandatory inspections by UN Member States of cargo going to and originating from North Korea which are transiting in their respective territories; bans on sale of aviation fuel to, as well as purchase of coal, iron ore, and other minerals from North Korea; and updating the list of North Korean entities that will be targeted by assets freeze.¹ But as with all previous resolutions and rounds of sanctions, North Korea continued with another nuclear test in September –which is also believed to be its strongest yet. This raises anew the question: Why are sanctions failing to stop North Korea?

Gaps in implementation

A commonly held view is that China (and to some extent Russia) ensures that any international response would not severely cripple the North Korean economy and risk the collapse of the Kim regime. While China also prefers denuclearization of the Korean Peninsula and is displeased with the nuclear provocations, it views the issue as secondary to preserving the stability of North Korea. China fears that a regime collapse would put its own domestic and geopolitical interests at risk: massive refugee flows to the Chinese border and the possibility of a unified Korean Peninsula aligned to the United States. Thus, aside from providing cover in the UNSC, China is also perceived as not being committed enough in implementing the sanctions. China is the main economic partner of North Korea, with USD 6.39 billion in bilateral trade in 2014;² and amounting to as high as 90 percent of total North Korean trade.³ While there have been episodic dips in trade of oil and food which hint possible discontent by China about North Korea's behavior, it is unlikely that the relationship will be fundamentally changed.

While China's cooperation is crucial, the efficacy of the sanctions against North Korea also hinges on the actions by the rest of the international community. The 2016 report of the UN Experts Group created under Resolution 1718 reported several gaps that render the sanctions regime ineffective.⁴ It identified the means through which the North Korean government avoids the sanctions, such as linking with foreign companies, use of vessels under flags of convenience, and tapping its own diplomats to facilitate illicit activities including arms transfers. But equally critical are the gaps noted by the Experts Group on the implementation by other UN

Member States. Apart from low rate of submission of national reports, several of the reports submitted are not clear on how Member States will enforce the resolutions.⁵ Several countries also lack the domestic legal and institutional frameworks and capabilities to carry out their obligations under UNSC resolutions. There is also low awareness on how North Korea evades the sanctions; while some countries simply place little priority in implementing the UNSC resolutions.

The Philippines' experience

The Philippines has been a strong advocate of nuclear nonproliferation and has actively participated in the discussions not only in the UN but also in other international regimes including the Nuclear Non-Proliferation Treaty (NPT) and Comprehensive Nuclear Test Ban Treaty Organization (CTBTO). It has also expressed, either unilaterally or through ASEAN and the UN, its support for the denuclearization of the Korean Peninsula. The Philippines has also submitted national implementation reports to the UNSC in which it noted the role of different agencies such as the Bureau of Immigration (BI), Bureau of Customs (BOC), and the Philippine National Police (PNP) in enforcing sanctions against North Korea.⁶

In March 2016, shortly after UNSC resolution 2270 was passed, the Philippine Coast Guard (PCG) reported that it impounded and inspected MV *Jin Teng*, a Sierra Leone-flagged vessel but with known links to North Korea's Ocean Maritime Management (OMM). No illicit material was found and the ship was eventually released after China requested the UNSC to de-list the vessel in the resolution. The action by the PCG demonstrates that even though the nuclear weapons issue in the Korean Peninsula is not a direct and imminent threat to the country—in fact impounding the vessel may only risk getting the ire of the North Korean regime—the Philippine government dutifully complied with the obligations set by the UNSC resolution. Although far from being a model, the Philippines showed how each country can contribute to the implementation of UNSC resolutions.

The situation in the Korean Peninsula will largely be shaped by the interactions among regional powers —“a shrimp among the whales” as an old Korean saying describes it. However, achieving progress toward denuclearization also depends on the level of commitment by all members of the international community. Beyond the customary statements of condemnation and calling on the North Korean government to embrace international treaties on non-proliferation, all UN Member States should show diligence and undertake concrete steps in complying with the UNSC resolutions. Member States should cooperate with the UN and with each other in monitoring compliance and in enhancing each other's capability to enforce the sanctions. Upholding international rules and preserving order, whether it is in the maritime space or on the issue of nuclear and missile non-proliferation regimes, is therefore a collective commitment and responsibility. 🌸

Endnotes

¹ Security Council Imposes Fresh Sanctions on Democratic People's Republic of Korea, Unanimously Adopting Resolution 2270 (2016), 2 March 2016, <http://www.un.org/press/en/2016/sc12267.doc.htm> (accessed 28 September 2016).

² National Bureau of Statistics of China, *China Statistical Yearbook 2015*, Table 11-6 <http://www.stats.gov.cn/tjsj/ndsj/2015/indexeh.htm>, (accessed 28 September 2016).

³ Ruediger Frank, “North Korea's Foreign Trade,” *38North*, 22 October 2015, <http://38north.org/2015/10/rfrank102215/>, (accessed 29 September 2016).

⁴ Report of the UN Panel of Experts established pursuant to Resolution 1874 (2009), UN Security Council S/2016/157, 24 February 2016, http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/157_p.4 (accessed 29 September 2016).

⁵ *Ibid*, p. 10.

⁶ Note verbale dated 1 April 2014 from the Permanent Mission of the Philippines to the United Nations addressed to the Chair of the Committee pursuant to Resolution 1718.

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