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North Korea's Second Nuclear Test: Implications of U.N. Security Council Resolution 1874

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Summary

The United Nations Security Council unanimously passed Res. 1874 on June 12, 2009, in response to North Korea's second nuclear test. The resolution puts in place a series of sanctions on North Korea's arms sales, luxury goods, and financial transactions related to its weapons programs, and calls upon states to inspect North Korean vessels suspected of carrying such shipments. The resolution does allow for shipments of food and nonmilitary goods. As was the case with an earlier U.N. resolution, 1718, that was passed in October 2006 after North Korea's first nuclear test, Resolution 1874 seeks to curb financial benefits that go to North Korea's regime and its weapons program. This report summarizes and analyzes Resolution 1874. In summary, the economic effect of Resolution 1874 is not likely to be great unless China cooperates extensively and goes beyond the requirements of the resolution and/or the specific financial sanctions cause a ripple effect that causes financial institutions to avoid being "tainted" by handling any DPRK transaction.

On the surface, sanctions aimed solely at the Democratic People's Republic of Korea (DPRK, the official name of North Korea) and its prohibited activities are not likely to have a large monetary effect. Governments will have to interpret the financial sanctions ban of the resolution liberally in order to apply sanctions to the bank accounts of North Korean trading corporations. A key to its success will be the extent to which China, North Korea's most important economic partner, implements the resolution. A ban on luxury goods will only be effective if China begins to deny North Korea lucrative trade credits.

Provisions for inspection of banned cargo on aircraft and sea vessels rely on the acquiescence of the shipping state. In the case of North Korean vessels, it is highly unlikely that they would submit to searches. Resolution 1874 is vague about how its air cargo provisions are to be implemented, in contrast to the specific procedures set forth regarding inspecting sea-borne cargo. While procedures are specified for sea interdictions, the authority given is ambiguous and optional. Further, DPRK trade in small arms and ammunition is relatively insignificant, and therefore the ban on those exports is unlikely to have a great impact.

Other CRS Reports may be useful in conducting research on this issue: CRS Report RL30613, *North Korea: Terrorism List Removal*, by Larry A. Niksch; CRS Report RL33590, *North Korea's Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch; CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth Nikitin; CRS Report RL32493, *North Korea: Economic Leverage and Policy Analysis*, by Dick K. Nanto and Emma Chanlett-Avery (non-distributable; available to congressional clients upon request); CRS Report RL33324, *North Korean Counterfeiting of U.S. Currency*, by Dick K. Nanto; CRS Report RL34256, *North Korea's Nuclear Weapons: Technical Issues*, by Mary Beth Nikitin; and CRS Report RL32097, *Weapons of Mass Destruction Counterproliferation: Legal Issues for Ships and Aircraft*, by Jennifer K. Elsea.

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Introduction[1]

Since the breakdown of the Six-Party Talks over verification issues in December 2008, North Korea has carried out a series of increasingly provocative acts that have challenged the Obama Administration and the world community. In January and February, North Korea presented the newly inaugurated Obama Administration with a tough set of negotiating positions. North Korea reportedly did not respond to subsequent overtures by the United States to restart talks. On April 5, 2009, North Korea launched a long-range ballistic missile, the Taepo Dong 2, over Japan, but failed to achieve a complete test of the system or place a satellite into orbit. This test led to United Nations Security Council (UNSC) condemnation. In response, North Korea said it would abandon the Six-Party Talks, restart its nuclear facilities and conduct a nuclear test. It asked international and U.S. inspectors to leave the country.

On May 25, 2009, North Korea conducted an underground nuclear explosion.[2] In response, the UNSC on June 12 unanimously passed Res. 1874,[3] which puts in place a series of sanctions on North Korea's arms sales, luxury goods, and financial transactions related to its weapons programs and calls upon states to inspect North Korean vessels suspected of carrying such shipments. The resolution does allow for shipments of food and nonmilitary goods. As was the case with an earlier resolution, 1718, that was passed in October 2006 after North Korea's first nuclear test, Res. 1874 seeks to curb financial benefits that go to North Korea's regime and its weapons program. This report summarizes and analyzes Resolution 1874. In summary, the economic effect of Resolution 1874 is not likely to be great unless China cooperates extensively and goes beyond the requirements of the resolution and/or the specific financial sanctions cause a ripple effect that causes financial institutions to avoid being "tainted" by handling any DPRK transaction.

In June 2009, the Obama Administration formed an interagency team to coordinate sanctions efforts against North Korea with other nations. The team is led by Philip S. Goldberg, a former ambassador to Bolivia, and consists of representatives from the State Department, the White House, the National Security Agency, the Treasury Department, and others.[4] (See "Implementation of Sanctions" below.) Many observers cited the designation of a high-level coordinator as a way the United States could produce more success in implementing Res. 1874 than was had in implementing its predecessor. In February 2010, Ambassador Goldberg also took over as Assistant Secretary of the State Department's Bureau of Intelligence and Research (INR). He will continue in his role as Coordinator for Implementation of UNSC Resolution 1874 on North Korea.

Main Provisions of Resolution 1874

Resolution 1874 condemns the May 25 nuclear test, demands that North Korea not conduct additional nuclear tests or ballistic missile tests, says North Korea should suspend its ballistic missile program and re-establish the missile launch moratorium, calls on the DPRK to abandon all nuclear weapons and existing nuclear programs in a "complete, verifiable and irreversible

[1] Larry Niksch, a longtime Specialist in Asian Affairs who retired from CRS in early 2010, was a co-author of this report.

[2] http://www.dni.gov/press_releases/20090615_release.pdf.

[3] For full text, see http://www.un.org/Docs/sc/unsc_resolutions09.htm.

[4] Michael D. Shear, "U.S. Interagency Team to Focus On Sanctions Against N. Korea," *The Washington Post*, June 27, 2009, p. A7.

manner" and calls on North Korea to return to the Non-Proliferation Treaty (NPT) and the Six-Party Talks.

The resolution includes a ban on all arms transfers from the DPRK and all arms except exports of small arms or light weapons to the DPRK. As with past UNSC resolutions, this ban includes weapons of mass destruction (WMD) or missile-related technology. The resolution also provides for new economic and financial sanctions on the DPRK. It calls on states not to provide grants, assistance, loans, or public financial support for trade if such assistance could contribute to North Korea's proliferation efforts. It also calls on states to deny financial services, including freezing assets, where such assets could contribute to prohibited DPRK programs. The resolution is not an embargo, however, and explicit exclusions are made for humanitarian and denuclearization aid. These are broad and far-reaching sanctions, if effective, but several problems arise in implementation (discussed below).

Interdiction Procedures

Due to concerns over North Korea's past track record on proliferation of nuclear and missile technology, the Security Council deliberations focused on ways to interdict North Korean shipments of banned items. Past Security Council resolutions (1718 (2006) and 1695 (2006)) have tackled this issue, but the new resolution includes specific guidelines for inspecting and interdicting ships that transport banned materials. Resolution 1874 calls on all states to "inspect, in accordance with their national legal authorities and consistent with international law, all cargo to and from the DPRK, in their territory, including seaports and airports," if that state has information that the cargo is prohibited by UNSC Resolutions. Res. 1874 does not, however, provide the authority to do so without the flag state's consent.[5] Reportedly due to objections by Russia and China, the resolution does not authorize the use of force if the inspection is refused.[6] In that case, the requesting state is asked to report the matter to the Security Council.

If a suspect ship is on the high seas, U.N. member states are "called upon" to request the right to board and inspect. If refused, the resolution obligates the flag state to direct their vessel to port for inspection. The resolution "authorizes" seizure of banned items. The resolution prohibits "bunkering services" such as refueling or servicing of a ship with suspected cargo. This is significant because North Korea reportedly ships most goods under its own flag and typically uses small vessels that would need refueling.

Designations

The sanctions committee under U.N. Security Council Resolution 1718 first designated three North Korean companies at the end of April 2009. Resolution 1874 required designations to be reviewed within 30 days, and the Security Council sanctions committee on July 16, 2009, designated for sanctions three North Korean trading companies, an Iran-based company, and North Korea's General Bureau of Atomic Energy. It also designated five North Korean officials,

[5] "Flag state" refers to the country that exercises regulatory control over a commercial ship that has registered under its flag. Some states may allow foreign vessels to register under their flag, known as "flag of convenience."

[6] Blaine Harden, "North Korea Says It Will Start Enriching Uranium," *Washington Post*, June 14, 2009. The resolution is under Chapter 7, Article 41 of the U.N. Charter, and does not authorize use of force during interdiction attempts. The full text of Article 41 follows: "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

including the director of another North Korean trading company.[7] (For a full discussion see "Implementation of Sanctions" below.) No additional designations have been made since July 2009.

Reporting Requirements and Panel of Experts

Resolution 1874 also established reporting mechanisms on the implementation of the resolution. Within 45 days of the resolution's adoption, all U.N. member states were to report to the Security Council on "concrete measures" they have taken to implement the arms embargo and financial measures. The Sanctions Committee, originally established by UNSC Res. 1718, submitted a proposed agenda for its work covering "compliance, investigations, outreach, dialogue, assistance and cooperation." The newly established Panel of Experts is to contribute expertise to the Committee's work, particularly in evaluating cases of noncompliance.[8]

The resolution also asks the U.N. Secretary-General to establish a Panel of Experts, with a maximum of seven experts to analyze reports and make recommendations regarding implementation of Res. 1874 and 1718 for an initial one-year period ending with a report to the Security Council in spring 2010. The Secretary General appointed a panel with members from the United States, China, France, Japan, Russia, South Korea, and the United Kingdom.[9] Victor Comras is the panel's U.S. expert. According to the resolution, the panel is to "gather, examine and analyze information from States, relevant U.N. bodies, and other interested parties regarding implementation" and make recommendations to the Council, Committee, or member states on improved implementation. It is also tasked with producing an interim and final report summarizing its findings and recommendations. Despite this mandate, it is still unclear the extent to which the panel will make judgments about U.N. member states' compliance with the resolution. However, the panel is playing a role in investigating seized shipments and noncompliance cases.

The panel provided an interim report to the Security Council in November 2009, as required by the resolution. According to press reports, the experts panel noted that the sanctions have had an impact on North Korea's trading activity. However, the reports also said the panel assessed that North Korea was actively circumventing the sanctions through masking of transactions by use of intermediaries, false manifests, and false description of cargo. [10] It also reportedly said that North Korea's use of trading companies continued.

Cases of Noncompliance

Several cases of alleged noncompliance with UNSC Resolution 1874 sanctions surfaced in press reports in 2009. Each shipment involved multiple countries and other evasion techniques. Only one publicized interdiction to date involved an air shipment. In July 2009, Italian authorities seized yachts, banned luxury items under UNSC Resolution 1874, bound for North Korea. In

[7] "U.N. Expands Sanctions Imposed on North Korea," *Wall Street Journal Asia*, July 17, 2009, p. 13.

[8] Other U.N. Security Council Sanctions Committees have appointed a panel of experts to help the committee monitor implementation of sanctions, i.e., related to arms embargoes on the Sudan, Sierra Leone, Somalia, Liberia, etc. U.N. Security Council Resolution 1540 also established a panel of experts, but that panel focuses on reporting and encouraging states to develop national infrastructure to prevent illicit trade in WMD, as opposed to sanctions violations.

[9] http://www.un.org/sc/committees/1718/pdf/S2009416%20E.pdf. Please note that the Chinese expert on this original list was later replaced with another expert.

[10] "Sanctioned N. Korean firms operating via dummies: U.N. report," *Japan Economic Newswire*, November 19, 2009.

August 2009, the *ANL Australia*'s cargo of conventional weapons was seized in the UAE.[11] In September 2009, a shipment of protective clothing was intercepted in South Korea on its way to North Korea.[12] An Ilyushin Il-76 cargo plane was seized at an airport in Thailand in December 2009. The cargo included conventional weapons allegedly exported from North Korea. In November 2009, South Africa interdicted a shipment of tank components from North Korea en route to the Republic of Congo.[13] (Detailed discussion of these cases is below.)

Implementation of Sanctions[14]

The Obama Administration faces several key decisions regarding the U.S. role in enforcing Resolution 1874 and applying new U.S. sanctions against North Korea. The Administration faces a decision on how assertive to be in confronting North Korean ship traffic to attempt searches. It also faces a decision on the U.S. role in enforcing the ban on WMD-related North Korean financial transactions. U.S. officials have said that the Obama Administration is emphasizing the Resolution's call on states to deny financial services to North Korea, especially access to foreign banks by North Korean trading companies.[15] Administration officials also have said that they are considering reinstating North Korea on the U.S. list of state sponsors of terrorism; the Bush Administration removed North Korea from the list in October 2008.[16] Finally, the Administration may have to calculate the degree of pressure to apply to China if Beijing does little to enforce the Security Council sanctions, as was the case following Resolution 1718.

The Hyundai Economic Research Institute of South Korea has estimated that if U.N. members enforce the sanctions in Resolution 1874 against North Korea, North Korea could lose between $1.5 billion and $3.7 billion. Other estimates place the loss close to $4 billion.[17] However, Resolution 1874 does not make enforcement of sanctions mandatory but instead "calls on" U.N. members to take enforcement steps. If sanctions are to have this kind of impact, several key countries will have act forcefully and will have to interpret the sanctions language of the resolution liberally.

There appear to be four key areas of sanctions enforcement:

1. The Ban on Financial Transactions Related to North Korea's Trade in Weapons of Mass Destruction (WMD) and Weapons of Mass Destruction Technology

North Korea's state trading companies are key vehicles for transferring WMD and WMD technology to other countries and for transmitting the foreign exchange earnings back to Pyongyang. The trading companies conduct these transactions through accounts maintained in

[11] "Cargo of North Korea materiel is seized en route to Iran," *Wall Street Journal*, August 31, 2009.

[12] There is some dispute as to whether protective clothing is prohibited under the resolution. This type of clothing could be used to protect against chemical attacks. "S. Korea searched suspicious N.K. containers: sources," *Yonhap News*, October 6, 2009

[13] "South Africa reports NKorea sanctions violation," *Associated Press*, February 26, 2010.

[14] This section was originally prepared by Larry Niksch.

[15] U.S. Department of State, Bureau of Public Affairs, Background Briefing on North Korea, July 15, 2009.

[16] "U.S. Mulls Relisting N. Korea As State Sponsor of Terrorism," *Asia Pulse*, June 8, 2009. See CRS Report RL30613, *North Korea: Terrorism List Removal*, by Larry A. Niksch.

[17] "North Korea to Face Huge Losses from U.N. Sanctions: Report," *Asia Pulse*, June 11, 2009. Yun Deok-min, "China's Nuclear Headache," *JoongAng Daily Online*, June 16, 2009.

banks in numerous countries around the world. The trading companies are particularly active in China and undoubtedly have accounts throughout the Chinese banking system.[18] In order to shut down these financial transactions, governments and banks in a number of countries will have to freeze these bank accounts. However, they face the dilemma that the trading companies conduct other transactions through the same accounts. These include the financing of legitimate commerce but also laundering money acquired through North Korea's smuggling of counterfeit products, including counterfeit U.S. dollars and U.S. products. Neither of these activities are banned by Resolution 1874. Governments will have to interpret the financial sanctions ban of the resolution liberally in order to apply sanctions to the bank accounts of the trading corporations. Obama Administration officials have indicated that they are urging other governments to apply such a liberal interpretation to the activities of the trading companies.[19] In early July 2009, Ambassador Philip Goldberg and Under Secretary of the Treasury Stuart Levey visited China and Malaysia. Goldberg was appointed as a special envoy to coordinate sanctions against North Korea. They emphasized to Chinese and Malaysian officials the need to restrict activities of North Korean trading companies. They reportedly raised with Malaysian officials the use of a Malaysian bank by North Korea to facilitate the sale of North Korean arms to Burma.[20] Ambassador Goldberg and his delegation also visited South Korea, Japan, Thailand, and Singapore. U.S. officials have said that the Obama Administration is emphasizing the Resolution's call on states to deny financial services to North Korea, especially access to foreign banks by North Korean trading companies.[21] Ambassador Goldberg and an interagency team also visited Egypt and the United Arab Emirates in October 2009, to urge compliance with 1874 provisions.

The U.N. Security Council's sanctions committee designated three North Korean companies at the end of April 2009. Japan and the United States had recommended 10 and 14 trading companies to be sanctioned at points in the sanctions committee's deliberation, but China and Russia reportedly objected. The number finally was scaled back to three, two trading companies and one North Korean bank.[22] In line with Resolution 1874, the Security Council sanctions committee on July 16, 2009, designated for sanctions three North Korean trading companies, an Iran-based company, and North Korea's General Bureau of Atomic Energy. It also designated five North Korean officials, including the director of another North Korean trading company.[23] The U.S. Treasury Department previously had imposed U.S. sanctions on one of these North Korean trading companies, the Namchongang Trading Corporation, and the Iran-based Hong Kong Electronics. Treasury Department officials disclosed in late June 2009 that the Department was targeting 17 North Korean trading companies and banks for U.S. and international sanctions.[24]

In its interim report, the UNSCR Panel of Experts reportedly discussed North Korea's continued use of trading companies. For example, one news report said the experts had found that "The Korea Mining Development Trading Corp, sanctioned for involvement in ballistic missile sales, continued to operate through subsidiaries. The Kwangson Banking Corp and Amroggang

[18] John S. Park, *North Korea, Inc., Gaining Insights into North Korean Regime Stability from Recent Commercial Activities,* U.S. Institute of Peace, USIP Working Paper, Washington, DC, April 22, 2009.

[19] U.S. Department of State, Bureau of Public Affairs, "Background Briefing on North Korea," July 15, 2009.

[20] "U.S. Seeks Malaysia's Help to Block N. Korea's Access to Banks," *Kyodo News,* July 6, 2009.

[21] U.S. Department of State, Bureau of Public Affairs, "Background Briefing on North Korea," July 15, 2009.

[22] "3 Entities Subject to Asset Freeze Over N. Korea Nuke, Missile Program," *Kyodo News,* April 24, 2009.

[23] "U.N. Expands Sanctions Imposed on North Korea," *Wall Street Journal Asia,* July 17, 2009, p. 13.

[24] Jay Solomon, "U.S. goes after North Korea's Finances," *Wall Street Journal Asia,* July 1, 2009, p. 8.

Development Bank had been determined to be acting for the listed Tanchon Commercial Bank and Korea Hyoskin Trading Corp."[25]

2. Search of Sea-Borne Traffic

The specific provisions set out in Resolution 1874 appear to give the United States and allies the means to gain access to North Korean ships and thus shut down WMD-related ship traffic.[26] This will be dependent on a number of countries cooperating with the United States, particularly in applying the resolution's provision for searching North Korean ships in their ports and denying provisions of fuel and supplies to North Korean ships that refuse to be searched. China is particularly important, since North Korean ships frequently visit Chinese ports. Singapore, Indonesia, and Malaysia would be important with respect to North Korean ships that seek to pass through the Singapore and Malacca Straits that connect the Pacific and Indian Ocean, the route to the Middle East and Burma. Middle East-bound ships also stop at ports in India and Pakistan. India has searched North Korean ships in the past. Pakistan's cooperation may be more uncertain, since it has had close relations with North Korea in past years, including purchases of North Korean missiles and missile technology.[27]

The first test case of sea-borne traffic was the North Korean ship, the Kang Nam. The Kang Nam was shadowed by the U.S. Navy as it headed south from North Korea, hugging the coast of China as it approached the South China Sea. South Korean officials believed that the Kang Nam was bound for Burma with a shipment of arms. However, before reaching the international waters of the South China Sea, the Kang Nam turned back and returned to North Korea on July 7, 2009.[28] While attending a regional meeting in Thailand in late July, Secretary of State Hillary Clinton as well as Japanese officials stated that Burmese Foreign Minister Nyan Win had pledged that Burma would abide by U.N. sanctions on North Korea.[29]

An important application of sanctions against sea-borne traffic came in the form of several intercepted shipments of North Koreans bound for Iran in the second half of 2009. Three vessels were intercepted, which contained North Korean weapons that Western intelligence and Israeli intelligence officials and non-government experts believe were bound for Hezbollah and Hamas, terrorist groups on the official U.S. list of international terrorist organizations.[30] The largest of these shipments was aboard a ship that was searched in Dubai before departing for Iran in July 2009. All three ships reportedly contained North Korean components for 122 mm Grad rockets and rocket launchers. The shipment intercepted in Dubai contained 2,030 detonators for the Grad rockets and related electric circuits and solid fuel propellant for rockets. The Iranian Revolutionary Guards is known to have supplied significant quantities of these rockets and rocket launchers to Hezbollah and Hamas, which have frequently fired them into Israel.[31]

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[25] "N.Korea maneuvers to evade UN sanctions," *Reuters*, November 18, 2009.

[26] David E. Sanger, "U.S. to confront, not board, North Korean ships," *New York Times* (internet), June 17, 2009.

[27] Paul Kerr, "Iran, North Korea Deepen Missile Cooperation," *Arms Control Today*, January/February 2007, http://www.armscontrol.org/act/2007_01-02/IranNK

[28] Choe Sang-hun, "South Korea Says Freighter from North Turns Back," *New York Times*, July 7, 2009, p. 5.

[29] State Department, "Remarks at the ASEAN Regional Forum," Hillary Rodham Clinton, July 23, 2009; "Japan Officials Say Burma FM Pledges Nation to Oblige by UN Sanctions on DPRK," *Agence France Presse*, July 23, 2009.

[30] Joby Warrick, "Arms smuggling heightens Iran fears," *Washington Port*, December 3, 2009, p. A14. "Iran bought masses of N Korean arms," *Chosun Ilbo Online*, December 4, 2009.

[31] Ibid.

In addition, the South African government seized a shipment of large tank components bound for the Republic of Congo in November 2009. Press reports have said that the shipment originated in North Korea and passed through the Chinese port of Dallan.

3. Inspecting North Korea's Air Cargo

Resolution 1874 is vague in how its air cargo provisions are to be implemented, in contrast to the specific procedures set forth regarding inspecting sea-borne cargo. However, many experts believe that North Korea uses air traffic much more than sea traffic in order to transfer and exchange WMDs, WMD technology, and WMD scientists and technicians.[32] The key to inspections of North Korea's air cargo is the air traffic between North Korea and Iran. North Korea and Iran have extensive collaboration in the development of ballistic missiles.[33] The U.S.-based Institute for Foreign Policy Analysis estimated in 2009 that North Korea earns about $1.5 billion annually from sales of missiles to other countries.[34] It appears that much of this comes from missile sales and collaboration with Iran.[35] Iran and North Korea reportedly use the Pyongyang-Tehran air route for the transfer of missiles and weapons of mass destruction technology and for mutual visits of nuclear and missile officials, scientists, and technicians. North Korea and Iran reportedly emphasized air travel and traffic after 2002 in response to the Bush Administration's announcement of a Proliferation Security Initiative. Aircraft use Chinese air space and reportedly refuel at Chinese airports.[36] A weakness of Resolution 1874 is that it does not specify procedures for the inspection of North Korea-related air cargo similar to the procedures outlined for sea-borne cargo.

China would have the prime responsibility for searches of aircraft on the Pyongyang-Tehran air route. The Obama Administration indicated that Ambassador Goldberg raised the air traffic issue with Chinese officials during his visit to China in early July 2009, but they did not indicate how Chinese officials responded.[37] Chinese officials have not spoken publicly about the air traffic issue, but they have urged caution regarding searches of North Korean ships.

The seizure of an Ilyushin-T76 transport aircraft filled with North Korean arms in Bangkok, Thailand, in December 2009 was another successful application of sanctions but also pointed up the apparent lack of Chinese cooperation in intercepting North Korea-Iran air traffic. The Ilyushin had flown from Pyongyang to Bangkok through hundreds of miles of Chinese air space with no Chinese effort to direct the aircraft to land and be searched.[38] The Ilyushin reportedly had been leased a few days before the flight, on December 2, 2009, by Union Top Management, a firm based in Chinese Hong Kong. The sea-borne cargo of North Korean arms seized in Dubai in July

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[32] Paul Eckert, "Anti-proliferation Group Only Symbolic Without China," *Reuters News*, May 27, 2009.

[33] There also are numerous reports that the two countries may be cooperating in the nuclear field. Two CRS Reports lay out extensive information on North Korean-Iranian collaboration: CRS Report RL33590, *North Korea's Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch and CRS Report RL30613, *North Korea: Terrorism List Removal*, by Larry A. Niksch.

[34] Jon Herskovitz, "How North Korea Earns Money from Arms Sales," *Reuters News*, July 4, 2009.

[35] "What's Behind the New U.N. sanctions on N.Korea?" *Reuters News*, June 12, 2009.

[36] "N.Korea's Arms Export Routes Getting Harder To Track," *Chosun Ilbo Online*, June 29, 2009. Yi Chol-hui, "North's Air Cargo: Missiles," *Chungang Ilbo* (internet), June 16, 2003. "N.K. Exported Weapons Via Overland Routes in China, Russia," *Korea Herald Online*, July 2, 2009. William Triplett, "Gaps at the G-8 Gates," *Washington Times*, July 13, 2006, p. A16. Paul Eckert, "Anti-proliferation Group Only Symbolic without China," *Reuters News*, May 27, 2009.

[37] U.S. Department of State, Bureau of Public Affairs, "Background Briefing on North Korea," July 15, 2009.

[38] Nicholas Kralev, "Illegal N. Korean arms fly in Chinese airspace," *Washington Times*, December 17, 2009, p. A1.

2009 had visited several Chinese ports and was transported from Dalian, China, to Shanghai aboard a Chinese ship, again without a Chinese effort to conduct a search.[39]

The flight plan of the Ilyushin reportedly showed that its ultimate destination was Iran.[40] The weapons reportedly included two 1958 multiple 240 mm rocket launchers, rocket launching tubes, 24,240 mm rockets, shoulder-launched missiles, and components of surface-to-air missiles.[41] Israeli and Lebanese newspapers quoted Western intelligence sources as concluding that most of these weapons likely were bound for Hezbollah.[42] Charles Vick, a noted expert on arms and the arms trade, observed that the rocket-related weapons in the shipment are used often by Hezbollah and Hamas against Israel.

It is unknown how much income North Korea lost from Iran by the interception of the Ilyushin and the three earlier seizures at sea. The value no doubt is in the tens of millions of dollars, perhaps more.

4. The Ban on Financial Support for Trade with North Korea Except for Humanitarian Goods

Resolution 1874 reaffirmed Resolution 1718 of October 2006, including the ban on the export of luxury goods to North Korea. Luxury consumer goods are a key benefit to North Korea's elite, the core support group of the Kim Jong-il regime. In the past, the major sources of luxury goods have been Europe and China. Chinese traders report a high demand for Chinese consumer goods by the North Korean elite.[43] An analysis of Chinese trade statistics for 2008 indicates that Chinese exports of luxury consumer goods to North Korea was between $100 million and $160 million, about 5%-8% of China's total 2008 exports of $2 billion to North Korea.[44] Moreover, most of China's exports are reportedly financed by Chinese trade credits to North Korea, which have generous long-term repayment provisions.[45] In short, there is evidence that a sizeable portion of Chinese goods come into North Korea largely cost-free to the North Korean government. Thus, this sanction will not be enforced unless China's begins to deny North Korea these lucrative trade credits.

[39] "City firm linked to N Korean arms shipment," *The Standard Online* (Hong Kong), December 23, 2009. "Iran bought masses of N Korean arms," *Chosun Ilbo Online*, December 4, 2009.

[40] Daniel Michaels and Margaret Coker, "Seized arms Iran-bound, report says," *Wall Street Journal Asia*, December 21, 2009.

[41] "Details of mysterious weapons—authorities stunned to find RPG rocket launchers," Krungthep Thurakit (Bangkok, internet), December 16, 2009. "Rocket launchers, but no nuclear components," *The Nation Online* (Bangkok), December 16, 2009.

[42] "Korean arms cache caught en route to Mideast," *Daily Star Online* (Beirut), December 15, 2009.

[43] Robert J. Saiget, "China, DPRK Trade Said Booming Despite Rocket Tensions," *Agence France Presse*, April 6, 2009.

[44] For details on Chinese exports of luxury goods, see the **Appendix** to this report.

[45] Ibid.

Implications of Resolution 1874

Trade, Aid, and Finance[46]

The DPRK is really two economies.[47] The first is that of the military, the Korean Workers Party, and the governing elite. This economy has considerable industrial capacity and first priority for resources. This part of the economy appears to be growing as the military reportedly has taken over some trading companies that previously were private. In many products, particularly food, the first economy tends to be parasitic. It lives off the production from the second economy, the rest of the country. This second economy consists mostly of agriculture, services, light manufacturing, and the range of economic activity typical of a less developed nation. As a whole, the DPRK economy is one of the world's most isolated and moribund. It is in dire straits with a considerable share of its population on the edge of starvation and in need of outside food aid. Without humanitarian aid and trade with China, many of its people would starve. For 2009, the Food and Agriculture Organization and World Food Program estimated that the DPRK faced a cereal deficit of about 836,000 tons—enough to leave 8.7 million people in need of food assistance.[48] The industrial side of the economy also faces problems with antiquated equipment, lack of raw materials, and unreliable electrical supply.

The challenge in implementing the new U.N. economic and financial sanctions lies in separating funds and transactions that are related to the military from the normal economic and financial transactions of the country. Even though the economy as a whole is in shambles, the military and ruling elite are able to command sufficient resources to pursue their nuclear and ballistic missile programs. For example, officials from the Korean Peoples Army (KPA) reportedly have been authorized to acquire any material, resource or item from other commercial projects for use in North Koreas' nuclear programs.[49] A broad interpretation of the sanctions would apply to any transaction that could be interpreted to assist the military.

The irony of Pyongyang's nuclear and missile program is that its 2009 nuclear test and series of missile launches likely cost the government enough to cover much of its need for fertilizer and basic food imports for the year.[50] What seems clear is that if providing an essential level of food to the country's population were a priority goal for the regime, it would have the economic resources to do so.[51] North Korea finds itself in a stereotypical "guns and butter" dilemma. By diverting scarce resources to pay for "guns" it is robbing the greater economy of "butter" (or in North Korea's case, rice) and, in the process, creating a humanitarian disaster.

The additional sanctions in U.N. Resolution 1874 target outside resources flowing into the DPRK that are associated with its prohibited activities. Outside resources include development assistance, loans, finance, and certain exports and imports. Since most official development

[46] This section was prepared by Dick Nanto.

[47] For details, see CRS Report RL32493, *North Korea: Economic Leverage and Policy Analysis*, by Dick K. Nanto and Emma Chanlett-Avery

[48] World Food Programme, "8.7 Million North Koreans Need Food Assistance," December 10, 2008.

[49] John S. Park, *North Korea, Inc., Gaining Insights into North Korean Regime Stability from Recent Commercial Activities*, U.S. Institute of Peace, USIP Working Paper, Washington, DC, April 22, 2009.

[50] "N. Korea 'Squandered $700 Million to Create Tensions'," *The Chosun Ilbo*, July 6, 2009, Online Digital Chosun.

[51] Balbina Hwang, "Shattering Myths and Assumptions: The Implications of North Korea's Strategic Culture for U.S. Policy," *International Journal of Korean Unification Studies*, vol. 18, no. 1 (2009), p. 42.

assistance is to meet basic human needs, countries and international organizations may continue to provide humanitarian aid to North Korea should they desire to do so.[52]

Aid

In the 1990s, Pyongyang's policies (along with bad weather) pushed as many as 2 million of its citizens into death by starvation. In more recent years, other countries have stepped in to provide humanitarian aid even though the ruling regime arguably caused the humanitarian crisis in the first place. This time it appears that Pyongyang's gamble may not work. The Western world seems to be suffering from a combination of "aid fatigue," the effects of the global financial crisis, declining budgetary resources, plus a reluctance to "buy the same horse twice" (i.e., to provide food and fuel aid in exchange for denuclearization steps that are later reversed). Even though Resolution 1874 does not preclude humanitarian aid, this confluence of events, history, and negative responses to the DPRK's attempt to become a nuclear power could cut into inflows of essential food and fuel for the large segment of the population living on the edge of starvation.

Data on total aid to North Korea for 2008 has not been reported yet, but for 2007, the DPRK received $97.6 million in official development assistance (mostly humanitarian aid) from major aid donors that report to the Organisation for Economic Cooperation and Development (excludes South Korea, China, and Russia). Of this, $32.5 million came from the United States; $16.6 million from the European Community; $26.7 million bilaterally from Germany, France, Australia, Norway, Sweden, and Switzerland; and $10.4 million from the United Nations and other multilateral agencies. U.S. assistance has now stopped. The European Community has limited its funds to humanitarian aid and food security assistance and has progressively shifted from relief and emergency response to providing support to and/or rehabilitation of agriculture in two North Korean provinces.[53] The United Nations World Food Programme has scaled back its humanitarian food assistance for the DPRK after several months of funding shortfalls. In March 2009 (before the nuclear test), it reported that operations were at 15% of planned levels. Approximately 2 million out of the 6.2 million people targeted by their operation were receiving rations (incomplete) of fortified foods.[54]

South Korea provided $54.1 million in humanitarian aid to North Korea in 2008, down from $395.7 million in 2007. Virtually all ($50.2 million) of the aid in 2008 was through non-governmental organizations. How much of this NGO assistance may continue is problematic.[55]

Given the declines in humanitarian aid to the DPRK, Pyongyang may be counting on increased production from its agricultural sector to feed its people. Prospects for this, however, are not favorable. According to estimates by the Bank of Korea, in 2008, the North Korean economy grew at 3.7% following two years of negative growth of -1.1% in 2006 and -2.3% in 2007. The economy as a whole is regaining some of the ground lost during the past two years. Agricultural output grew by an estimated 8.2% in 2008 attributable mainly to better weather, but this did not offset the disastrous declines in farm production that amounted to -9.4% in 2007 and -2.6% in

[52] For more on assistance to North Korea, including details of U.S. aid, see CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth Nikitin.

[53] European Commission, *North Korea - Food Security Programme 2007 (LRRD Component)*, EuropeAid/126276/C/ACT/KP, Brussels, Belgium, 2008, p. 3.

[54] United Nations World Food Programme, *WFP Does What Little It Can for North Koreans*, March 5, 2009.

[55] CRS Report RL32493, *North Korea: Economic Leverage and Policy Analysis*, by Dick K. Nanto and Emma Chanlett-Avery, p. 34.

2006.[56] In short, the agricultural sector in the DPRK has recovered somewhat, but the adequacy of basic nutrition still is questionable for millions of people.

Financial Support

U.N. Resolution 1874 called upon all member states not to provide public financial support for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade) where such financial support could contribute to the DPRK's nuclear-related or ballistic missile-related or other WMD-related programs or activities. In 2008, China exported $2.0 billion in goods to the DPRK (see **Table 2**). With respect to the U.N. sanctions, only a small proportion of this total would seem to be associated with prohibited activities. Other links between exports of "dual use" items such as food, fuel, machinery, and electronics would be difficult to trace. Nevertheless, the $100 million to $160 million in Chinese exports of "luxury" goods[57] to North Korea may be essential to help maintain elite loyalty to the regime and to the military policies that have led to the nuclear and missile programs.

The amount of China's financial support for trade with the DPRK is not reported. In most of the world, except for cash transactions, most international trade is financed through trade credits issued by banks or other financial institutions. A news report from along the Sino-DPRK border indicates that much of the trade is financed by credits from Beijing.[58] Since North Korea's nuclear and missile programs have such a high priority in Pyongyang, it does not seem likely that the military would finance specific inputs into such programs with Chinese trade credits. After U.N. Resolution 1874, this seems even more unlikely. Imports not specific to the nuclear or missile programs ("dual use items") probably enter as general imports and are subsumed into standard non-prohibited categories of purchases that would go primarily for civilian uses. Without cooperation from Chinese officials, attempting to ferret out Chinese trade finance supporting exports of prohibited items only would be nearly futile. As for concessionary finance by Beijing, most of the $1.3 billion deficit in the DPRK's trade with China in 2008 must have been financed by long-term credits or loans (presumably from Beijing), though other sources of financing presumably would include rising Chinese foreign direct investment in North Korea, DPRK export earnings, illicit activities, or from foreign exchange generated from activities such as the Kaesong Industrial Complex. Note also that in 2008, North Korea's deficit in trade with Russia was $83 million.[59]

Since the DPRK is not a member of the World Bank or Asian Development Bank, it is not eligible to borrow for trade finance from these international financial institutions. National Export-Import banks also do not fund trade in prohibited items. Over the period 2005-2007, the 21 industrialized nations that form the Development Assistance Committee of the Organisation for Economic Cooperation and Development reported no bank credits for trade for the DPRK. Gross non-bank trade credits, however, amounted to $6 million in 2005, $110 million in 2006, and $17 million in 2007.[60] These data also do not include credits from China or Russia.

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[56] Bank of Korea, Income Statistics Team, *Gross Domestic Product of North Korea in 2008*, Seoul, Korea, June 26, 2009, http://eng.bok.or.kr/contents/total/eng/boardView.action.

[57] For details on Chinese exports of luxury goods, see the **Appendix** to this report.

[58] Robert J. Saiget, "China, DPRK Trade Said Booming Despite Rocket Tensions," *Agence France-Presse, Hong Kong AFP*, April 6, 2009.

[59] Ibid., p. 42.

[60] Organisation for Economic Cooperation and Development, *Development Statistics*, DAC Private Flows to the DPRK, Non-bank gross export credits, http://stats.oecd.org.

As for loans, the extent of borrowing from western commercial banks by the DPRK is relatively small. In December 2008, consolidated claims on the DPRK by banks that report to the Bank for International Settlements totaled $2.0 billion, down from a peak of $4.2 billion in June 2008. All reporting banks with claims on North Korean entities were from Europe, with France accounting for nearly half of the total.[61] These figures, however, do not include Russia or China. How much of this lending activity is purely commercial and how much went to North Korea's prohibited activities is unknown. Also, funds are fungible. A loan to a commercial activity in one sector may free up resources that then can be used for military purposes. The potential impact of the U.N. sanctions on this activity, therefore, is also unknown, but its upper limit would be around $2 billion in lending from Western nations.

On the surface, therefore, financial sanctions aimed solely at the DPRK's prohibited activities are not likely to have a large monetary effect. The total amounts of such activity are not large, and what can be attributed to nuclear or missile activity would be even smaller. Still, as can be deduced from the 2005 Banco Delta Asia sanctions (see text box below), if financial institutions are put in a position in which they have to choose between dealing with the United States or dealing with the DPRK, they often will close the North Korean accounts, even if those accounts are for legitimate purposes. The BDA sanctions also showed that even amounts as relatively small as $25 million are important to Pyongyang. A BDA-type strategy, therefore, might be to let financial institutions know that any prohibited financial activity related to the U.N. sanctions could bring their whole institution under scrutiny and possible sanctions similar to those imposed on the BDA. The financial institution may then terminate all transactions with the DPRK because it feels unable to separate out the legitimate and prohibited transactions.

[61] Bank for International Settlements, *Consolidated banking statistics, Table 9D: Consolidated foreign claims of reporting banks - ultimate risk basis*, accessed June 17, 2009.

The Banco Delta Asia Sanctions

On September 15, 2005, the U.S. Treasury imposed USA PATRIOT Act Section 311 designations against Banco Delta Asia (BDA) in Macau. In the action, Treasury stated that the bank was a "primary money laundering concern" because, among other findings, sources indicated that senior officials in Banco Delta Asia were working with DPRK officials to accept large deposits of cash, including counterfeit U.S. currency, and agreeing to place that currency into circulation. On September 20, 2005, the Financial Crimes Enforcement Network of Treasury imposed special measures against Banco Delta Asia that prohibited U.S. institutions or agencies from opening or maintaining correspondent accounts on behalf of BDA and required covered financial institutions to exercise due diligence to ensure that no correspondent account was being used indirectly to provide services to BDA. Some $25 million in North Korean assets were frozen.

The U.S. action against BDA generated an avalanche of responses both in financial and political circles. It caused such a run on accounts at the bank that the government of Macau had to take over BDA's operations and place a temporary halt on withdrawals. According to press reports, the Macau government shut down all North Korea-related accounts including those belonging to nine DPRK banks and 23 DPRK trading companies. These reportedly included accounts from the core organs of the North Korean Regime.

The financial effects of the BDA action were larger than expected. The crackdown also spread around the region. In Macau, the North Korean trading firm used by Pyongyang as a *de facto* consulate rolled up its operations as the Macau government placed BDA into receivership. Not only did the action deprive major DPRK companies of an international financial base and cut into the secret personal accounts of the Pyongyang leadership, but it appears to have obstructed some legitimate North Korean trade.

On February 13, 2007, a new Six-Party Talks agreement on North Korea's nuclear program and energy needs was concluded. In announcing this agreement, Assistant Secretary of State Christopher Hill pledged to settle with North Korea the issue of U.S. financial sanctions against BDA and the freezing of North Korean accounts of $25 million. After several failed attempts to transfer the $25 million, the DPRK recovered its funds in June 2007 when the New York Federal Reserve Bank agreed to transfer them through its facilities to a bank in Russia.[62]

On June 18, 2009, the Financial Crimes Enforcement Network (FinCEN) of the U.S. Treasury Department issued an advisory for all U.S. financial institutions to take risk mitigation measures against the possibility that the DPRK would use deceptive financial practices to hide illicit conduct. Specifically, FinCEN noted that with respect to correspondent accounts held for North Korean financial institutions, as well as their foreign branches and subsidiaries, there is now an increased likelihood that such vehicles may be used to hide illicit conduct and related financial proceeds in an attempt to circumvent existing sanctions, particularly those of U.N. Resolution 1874. FinCEN advised financial institutions to apply enhanced scrutiny to any such correspondent accounts and to avoid providing financial services for North Korea's procurement of luxury goods. In order to assist in applying enhanced scrutiny, FinCEN supplied a list of North Korean banks. It also encouraged financial institutions worldwide to take similar precautions.[63]

[62] CRS Report RL33324, *North Korean Counterfeiting of U.S. Currency*, by Dick K. Nanto.

[63] Financial Crimes Enforcement Network, U.S. Department of the Treasury, *North Korea Government Agencies' and Front Companies' Involvement in Illicit Financial Activities*, Advisory FIN 2009-A002, Washington, DC, June 18, 2009, http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a002.html.

Trade in Arms

The U.N. sanctions also ban exports of North Korean arms, including small arms and light weapons. Stopping exports of large armaments will depend on the effectiveness of interdictions and threats of interdictions of shipments by cooperating countries discussed elsewhere in this memorandum. DPRK trade in small arms and ammunition is relatively insignificant. Recently reported purchases of such items from the DPRK included imports of $45.5 thousand by Brazil in 2007, of $3.1 million by the United Arab Emirates in 2006, and $364.4 thousand by Ethiopia and $121.4 thousand by Mexico in 2005.[64] The small arms export ban, therefore, is not likely to have a large effect on the economy of the DPRK, but it could affect the ability of certain military-owned factories to buy needed raw materials and technology.

Import and Export Trade

Between one-half and three-quarters of the DPRK's imports and exports are with China. More than one-half of North Korea's exports and one-third of its imports have been with South Korea, primarily through activities in the Kaesong Industrial Complex located in North Korea just north of the DMZ. The United States and Japan have virtually no trade with North Korea. The vast majority of China's imports from the DPRK is in non-prohibited items such as ores, coal, iron/steel, apparel, fish, and minerals. The top six imports in **Table 1** account for about 85% of China's total imports from North Korea. The ores, coal, and fish/seafood originate primarily from Chinese investments in enterprises in the DPRK.

Table 1. China's Major Imports from the DPRK

($million)

Commodity	Description	2003	2004	2005	2006	2007	2008
	Total	395.5	582.2	496.5	467.7	581.5	754.0
26	Ores, Slag, Ash	15.0	58.9	92.3	118.4	164.0	212.7
27	Mineral Fuel, Oil	17.2	53.0	112.2	102.3	170.0	207.6
72	Iron and Steel	46.8	75.0	72.2	35.2	45.2	78.4
62	Woven Apparel	52.2	49.1	58.3	63.3	60.4	77.3
03	Fish and Seafood	207.0	261.2	92.4	43.3	29.9	40.0
25	Salt; Sulfur; Earths and Stone	0.7	1.1	1.3	4.2	7.5	19.3

Source: Congressional Research Service with Data from Global Trade Atlas.

Notes: Commodity numbers are 2-digit Harmonized Tariff System Codes.

As shown in **Table 2**, China's major exports to the DPRK include mineral fuels (petroleum), machinery/boilers, electrical machinery, knit apparel, plastic, vehicles, man-made filaments, and cereals. With the exception of knit apparel, these exports are essential to the functioning of the North Korean economy. It is noteworthy that China exports less in cereals to North Korea than it imports in fish and seafood, contradicting the general impression that trade in food is primarily one-way from China to the DPRK.

China recognizes the leverage it wields through its exports of petroleum to the DPRK. According to a news report from Japan, following the DPRK's second nuclear test, China imposed its own

[64] United Nations COMTRADE database.

"sanctions" on the DPRK by reducing crude oil shipments through its pipeline with North Korea. Previously, following the DPRK's missile test on April 5, 2009, China had tightened inspections of weapons-related exports to North Korea.[65] China also cancelled a joint venture with North Korea to produce vanadium (used to toughen steel alloys used in missile casings) and has intercepted a shipment of 70 kg of vanadium hidden in a truckload of fruit crossing the border into North Korea.[66]

Table 2. China's Major Exports to the DPRK

($million)

Commodity	Description	2003	2004	2005	2006	2007	2008
	Total	628.0	794.5	1,084.7	1,231.9	1,392.4	2,033.2
27	Mineral Fuel, Oil	180.7	204.4	285.7	347.5	402.0	586.0
84	Machinery; Reactors, Boilers	27.0	39.6	77.1	83.0	103.8	145.5
85	Electrical Machinery, Etc.	39.6	45.8	56.6	97.6	69.3	100.6
61	Knit Apparel	3.6	4.8	6.2	10.1	23.8	87.0
39	Plastic	24.6	32.0	52.2	52.0	54.6	80.0
87	Vehicles, Not Railway	8.4	18.3	28.3	28.0	53.7	67.3
54	Manmade Filaments	14.6	18.0	28.9	38.6	52.3	55.0
10	Cereals	50.0	15.3	50.3	16.9	36.5	34.9

Source: Congressional Research Service with Data from Global Trade Atlas

Notes: Commodity numbers are 2-digit Harmonized Tariff System Codes.

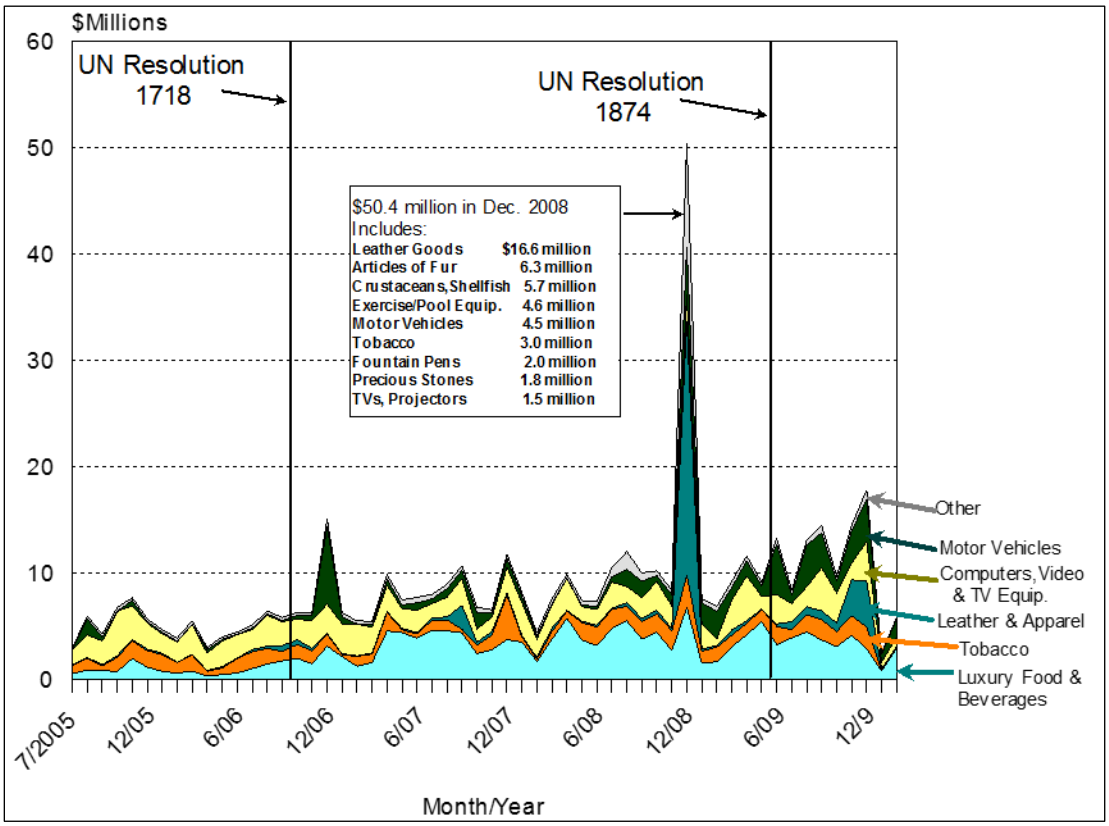
Since the sanctions under Resolution 1874 are narrowly focused on items related to the North Korean nuclear and missile programs, pressure from China would entail using broader trade tools.

The U.N. sanctions also include exports of luxury goods. **Figure 1** shows China's exports of luxury goods to the DPRK by month from July 2005 to November 2009 using international trade categories corresponding closely to the lists of banned goods. As indicated in the figure, there seems to be little change in Chinese exports of luxury goods following either of the two U.N. resolutions. **Figure 1** also shows that in December of each year, Pyongyang seems to go on a buying spree in China. There was a surge in imports of luxury items in that month, particularly in 2006 ($15.1 million) and in 2008 ($50.4 million). In 2008, the imports included $16.6 million in articles of leather, $6.3 million in articles of fur, $5.7 million in crustaceans and shell fish, $4.6 million in exercise and pool equipment, and $4.5 million in motor vehicles. In December 2009, there was a smaller spike in purchases of luxury goods followed by a drop in January 2010 and a slight recovery in February. Whether this decline in 2010 is due to a lack of foreign exchange or the U.N. sanctions is not determinable at this time.

[65] "China Imposes Own 'Sanctions' on DPRK by Reducing Crude Oil Shipment, Stepping Up Customs Inspection on Exports to the DPRK," *Asahi Shimbun (in Japanese)*, June 13, 2009, Translation in U.S. Forces Korea J2, Korea, Open Source Digest, Volume II, Issue 114, June 16, 2009 .

[66] "China foils smuggling of missile-use material to North Korea," *Chosun Ilbo*, July 25, 2009, Internet edition.

Figure 1. China's Exports of Luxury Goods under U.N. Sanctions to the DPRK



Source: Underlying data accessed through Global Trade Atlas.

Notes: Computers include only those less than 10 kg (laptops). From August to November 2009, China reported trade with the DPRK as trade with "Other Asia, not elsewhere specified." These "Other Asia" data are used in this chart for the August to November period. The list of luxury items are from the U.S. Department of Commerce and from Marcus Noland, "The (Non) Impact of UN Sanctions on North Korea," Peterson Institute for International Economics, Working Paper Series, December 2008, pp. 14-16, The lists of banned products are not specific and are not accompanied by HTS (Harmonized Tariff System) codes. The actual HTS codes used are listed in **Appendix** to this report.

In summary, the economic effect of Resolution 1874 is not likely to be great unless

- China cooperates extensively and goes beyond the requirements of the resolution and/or
- the specific financial sanctions create a ripple effect that causes financial institutions to avoid being "tainted" by handling any DPRK transaction.

North Korea's Proliferation, Nuclear and Missile Programs[67]

At a press conference on June 16, President Obama stated that "North Korea also has a track record of proliferation that makes it unacceptable for them to be accepted as a nuclear power.

[67] This section was prepared by Mary Beth Nikitin.

They have not shown in the past any restraint in terms of exporting weapons to not only state actors but also non-state actors."[68] North Korea is known to have sold ballistic missiles and associated materials to "several Middle Eastern countries, including Iran, and, in our assessment, assisted Syria with the construction of a nuclear reactor," according to DNI Admiral Dennis Blair's testimony to Congress.[69] North Korea appears not to simply export missile technology, but to collaborate with Iran and perhaps others in missile development.[70] Resolution 1874 may bolster the ability of the international community to prevent North Korea from proliferating its WMD and missile technologies to other countries and to halt supply of North Korea's programs only to the extent that countries are willing to sanction relevant entities, share sensitive information and stop suspicious shipments.

Some analysts point out that the measures authorized under the resolution will not prevent the proliferation of nuclear material or sensitive information such as test data or weapons design due to their portability. However, other analysts and the Obama Administration contend that if all countries implement what is called for in the resolution, at the minimum North Korea would be discouraged from attempting to ship or procure sensitive goods. Others point out that, generally, increased monitoring and sharing of information about North Koreans' activities abroad may improve U.S. intelligence related to WMD programs.

As evidenced in the reports to the UNSC Sanctions Committee for Res. 1718, many countries have existing laws or participate in multilateral export control regimes that prohibit trade in WMD and missile-related technology. The Proliferation Security Initiative (PSI) has facilitated international cooperation on WMD interdiction issues.[71] However, the extent to which countries are now willing to sanction their own companies involved in such transactions by placing them on the UNSC sanctions list (as discussed above) will be a key determinant.

Pyongyang has had an active procurement network for its nuclear program for decades.[72] Pyongyang may need to procure items from abroad for further advances. Therefore, increased international vigilance, stopping of shipments and financial pressures combined may have a limiting effect on North Korea's own programs as well as on its proliferation to others. This may largely depend on China's willingness to curb traffic, as discussed in the "Implementation of Sanctions" section above.

North Korea's Policies and Internal Situation[73]

As with all analysis that involves the secretive regime in Pyongyang, the impact of the resolution on North Korea's domestic situation is nearly impossible to gauge with any degree of precision. However, North Korea's actions surrounding the nuclear test have provided observers with some clues about the internal dynamics of Kim's government. In the past, North Korea's provocations tended to be viewed by the majority of analysts as ploys to strengthen its negotiating position at the Six-Party Talks. Pyongyang's more recent behavior, however, has generally shifted the predominant view among Korea-watchers: it now seems that North Korea is determined to be a nuclear state, even at the price of angering its closest allies.

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[68] http://www.whitehouse.gov/video/President-Obama-and-President-Lee-of-the-Republic-of-Korea-Talk-to-the-Press/

[69] http://intelligence.senate.gov/090212/blair.pdf

[70] "North Korea's Nuclear and Missile Programs," *International Crisis Group*, June 18, 2009.

[71] China does not participate in PSI. South Korea announced its participation shortly after the May 2009 North Korean nuclear test. See also CRS Report RL34327, *Proliferation Security Initiative (PSI)*, by Mary Beth Nikitin.

[72] "Nuclear Black Markets: Pakistan, A.Q. Khan and the Rise of Proliferation Networks," *IISS Strategic Dossier*, 2007.

[73] This section was prepared by Emma Chanlett-Avery.

Financial sanctions were designed to target the country's elite and military enterprises. Most analysts suggest that the regime has proven quite resourceful at remaining firmly in power despite a bevy of sanctions in past years. Even at the expense of large swathes of the general population, the inner circle of elites has been kept happy with limited resources. However, some argue that if sanctions are carried out effectively, they may have an impact on internal power struggles as elites vie for resources. Some suggest that the sanctions levied against Banco Delta Asia in 2005 appeared to be effective at targeting the regime, and that the pain inflicted by those sanctions led to North Korea's return to the nuclear negotiations. Others point out, however, that this return was preceded by North Korea's first nuclear test, indicating that effective sanctions may simply strengthen the hardliners' resolve.

Further complicating assessments of how the resolution may affect North Korea's internal policies is the assumption that officials in Pyongyang are contemplating a transfer of power. Kim Jong-il's reported stroke in August 2008 elevated attention among international observers to the question of succession in the North Korean regime. Pyongyang's behavior while Kim was ill was characterized as provocative and aggressive, suggesting that hardline elements held sway in decisions such as the missile launch, nuclear test, and withdrawal from the Six-Party Talks. Kim has apparently recovered and re-asserted his authority over the regime. Now back in power, Kim himself is thought to be overseeing the anticipated succession. The strengthening of the National Defense Commission and suspected constitutional adjustments, together with stepped-up propaganda in praise of his third son Kim Jong Eun, suggest that Pyongyang is attempting to manage a transition to a new leader.

Because decision-making within the regime remains opaque, it is not clear how elites in Pyongyang may be considering Beijing's reaction in their calculations. In the past, it seems that North Korean elites were able to depend on China ultimately to ensure their survival. If North Korea has actually alienated some influential players in Beijing with this round of provocations, enhanced Chinese enforcement of the sanctions regime could inflict more pain than earlier attempts. However, some analysts believe that China, recognizing that different parties within North Korea are competing for influence, may feel even more restrained from pressuring North Korea for fear of alienating a future power base.

Assessments of UNSC Resolution 1718 (2006)[74]

UNSC Resolution 1874 tightens, expands, and adds to many of the existing restrictions that were included in UNSC Resolution 1718, which the Security Council unanimously passed on October 14, 2006, five days after North Korea's first nuclear test.[75] As with Resolution 1874, Resolution 1718 was passed in the hope that it would curb financial inflows that went to North Korea's regime and its weapons programs, while imposing minimal humanitarian hardships on the broader North Korean population.

Less than three weeks after the UNSC passed Resolution 1718, North Korea announced it would return to the Six-Party Talks that it had been boycotting for nearly a year. The announcement came after secret meetings with U.S. and Chinese officials. While it is possible that Kim Jong-il's

[74] This section was prepared by Mark Manyin.

[75] Resolution 1718 called on North Korea to abandon its nuclear and missile programs and imposed sanctions on several types of activities. The resolution banned trade with North Korea in materials related to ballistic missiles or weapons of mass destruction, and barred exports of luxury goods to the DPRK. It also banned trading with North Korea in large weapons systems. It also froze funds and other financial assets owned by people connected with North Korea's unconventional weapons program and banned travel by such people.

government planned to quickly return to the talks after its nuclear test, it is also possible that the speedy passage and unanimous support of 1718 spurred the regime's decision.

However, most analysts consider Resolution 1718 ineffective in economically penalizing North Korea. The coverage of the provisions was relatively limited, provisions enforcing transparency on sanctioning countries were relatively weak, military enforcement options were not included in the resolution, and there was no defined list of the prohibited products. Instead, creating the lists was left to individual countries, who then reported them to the U.N. Sanctions Committee. This administrative feature of the sanctions regime allowed countries to avoid or soften implementation of the resolution. China and South Korea appeared to soften implementation with North Korea's decision to return to the Six-Party Talks. Neither country, for instance, published detailed lists of the luxury goods they planned to sanction. Together, the two accounted for 61% and 75% of DPRK trade in 2006 and 2007, respectively.

There is strong evidence that China did not rigorously implement the resolution's provisions.[76] According to an analysis by the Peterson Institute's Marcus Noland, for instance, it appears that exports from China increased after 2006.[77] In 2007, North Korea-China trade in general increased by 13%, followed by a 41% increase in 2008. In those years, Chinese exports to North Korea rose by 13% and 46%, respectively.[78] While this rise in overall trade is not necessarily indicative of an increase in luxury goods shipments, it appears to indicate that the sanctions either had no or little deterrent effect on Chinese enterprises' normal commerce with their North Korean counterparts.[79] Even more damaging, informed sources have told CRS that most of the North Korean trading companies and banks sanctioned by the Security Council continued to operate in China at the end of 2009.

As for South Korea, in the aftermath of North Korea's test, it halted humanitarian assistance. Food aid shipments from Seoul dropped from 400,000 in 2005 to 100,000 in 2006.[80] However, overall trade between the Koreas jumped by 33% in the calendar year after Resolution 1718 was adopted.[81] Much of this increased trade was due to the expansion of the Kaesong Industrial Complex (KIC), a facility in North Korea in which South Korean manufacturers employ North Korean workers. The North Korean government derives tens of millions of dollars from the complex, from rental fees and the portion of the workers' wages it collects.[82]

[76] Trade in heavy weapons systems such as missiles generally are not recorded, complicating any assessment of 1718's arms embargo.

[77] Marcus Noland, "The (Non) Impact of U.N. Sanctions on North Korea," Peterson Institute for International Economics, Working Paper 08-12, 2008.

[78] Global Trade Atlas using Chinese data.

[79] For more on this point, see Noland, "The (Non) Impact of U.N. Sanctions on North Korea," p. 5, 9-10.

[80] South Korean Export-Import Bank's "DPRK Support Fund," provided via South Korean Ministry of Unification.

[81] South Korean Ministry of Unification.

[82] See CRS Report RL34093, *The Kaesong North-South Korean Industrial Complex*, by Dick K. Nanto and Mark E. Manyin.

Appendix. China's Exports of Luxury Goods to the DPRK

HTS Number	Description	2006	2007	2008
	Luxury Items Listed by the United States			
24	Tobacco	14,117,739	12,950,218	16,952,464
2203-2208	Alcoholic Beverages	5,137,988	5,084,449	6,652,041
33	Perfumery, Cosmetic Products	1,322,454	1,672,327	1,688,481
42	Leather Art; Saddlery, Etc.	772,645	1,441,805	19,155,523
5007	Woven Fabrics Of Silk Or Silk Waste	0	10,422	0
621410	Shawls, Scarves Etc Of Silk Or Silk Waste Not Knit	1,645	2,750	0
4303	Articles Of Apparel Etc. Of Furskin	823,388	2,454,154	485,978
4304	Artificial Fur And Articles Thereof	590,483	209,337	6,427,779
8703	Motor Cars & Vehicles For Transporting Persons	9,087,018	7,179,104	10,981,707
870710	Bodies F Mtr Car/Vehicles For Transporting Persons	38,627	0	18,296
871110	Motocycles (Incl Mopeds), Pist. Eng. Cyl, Not, Exc 50Cc	7,625	49,633	19,863
871120	Motorcycles (Including Mopeds),Cycl,Exc50Cc,Nt250C	152,403	205,782	187,336
871190	Motorcycles (Including Mopeds), Nesoi, Side Cars	23,031	385,307	220,720
890310	Inflatable Yachts, Vessels, For Plesure, Sports	400	1,300	100
890399	Yachts Etc For Pleas, Sport, Nesoi; Row Bts, Canoes	21,620	4,200	21,845
57	Textile Floor Coverings	81,286	123,635	170,494
71	Precious Stones	49,118	23,837	3,916,863
8528	Tv Recvrs, Incl Video Monitors & Projectors	19,734,504	17,852,328	18,054,879
8521	Video Recrdng/Reproduc Appar Wheth/Nt Video Tuner	6,455,725	6,144,654	6,167,653
8522	Parts And Accessories For Items 8519 To 8521	694	20,990	40,080
847130	Portable Digtl Automatic Data Process Mach Not > 10 Kg	909,043	1,359,392	1,915,003
91	Clocks and Watches	309,593	536,805	959,410
97	Art and Antiques	2,188	1,180	1,770
92	Musical Instruments	884,475	1,025,490	1,861,885

HTS Number	Description	2006	2007	2008
6911	Ceramic Tableware Etc. Of Porcelain Or China	616,051	518,996	219,608
6912	Ceramic Tablewre, Kitchnwre Etc, Earthenware Etc	1,940	0	0
9506	Artls & Equip F Genrl Physcl Exerc Etc; Pools; Pts	175,268	275,992	5,063,675
701321	Drinking Glasses Other Than Glass-Ceramics, Of Lead Crystal	0	0	0
701331	Table/Kitchenware (Exc Drinking Glasses) O/T Glass-Ceramics, Of Lead Crystal	0	0	0
701333	Other Drinking Glasses, O/T Of Glass-Ceramics, Of Lead Crystal	0	4,020	636
701341	Table/Kitchenware,Excl Drinking Glasses, O/T Glass-Ceramics, Of Lead Crystal	0	195	756
701391	Glassware, Nes Of Lead Crystal, Other Than That Of 70.10 Or 70.18	0	61,487	23,208
960839	Fountain Pens, Stylograph Pens And Other Pens, O/T Indian Ink Drawing Pens	11,005	29,792	2,016,092
	Total U.S	**61,327,956**	**59,629,581**	**103,224,145**
	Additional Luxury Goods listed by the European Union, Australia, Canada, and Japan			
9006	Photographic Cameras;Photographic Flash-Light App O/T Discharge Lamps Of 85.39	6,795	33,656	17,992
9007	Cinematographic Cameras & Projectors, W/N Incorp Sound Record Or Reprdc App	34,164	0	2,162
8471less 847130	Computers no portables	12,253,274	14,130,377	16,226,703
160250	Prepared Or Preserved Bovine Meat Etc. Nesoi	3494	89216	59504
1604	Prep Or Pres Fish; Caviar & Caviar Substitutes	784,372	937,967	2,286,515
1605	Crustaceans, Molluscs Etc. Prepared Or Preserved	8,940,342	34,820,072	41,175,401
	Total Additional Luxury Goods	22,022,441	50,011,288	59,768,277
	Total U.S. Plus Additional Luxury Goods	83,350,397	109,640,869	162,992,422

Source: Congressional Research Service. List of luxury items from Marcus Noland, "The (Non) Impact of UN Sanctions on North Korea," Peterson Institute for International Economics, Working Paper Series, December 2008, pp. 14-16, and U.S. Department of Commerce. Data from Global Trade Atlas.

Note: The lists of banned products are not specific and are not accompanied by HTS (Harmonized Tariff System) codes. The above totals differ somewhat from those by Marcus Noland for 2006 and 2007. Nesoi=not elsewhere specified or indicated.

Author Information

Mary Beth Nikitin, Coordinator
Analyst in Nonproliferation

Mark E. Manyin, Coordinator
Specialist in Asian Affairs

Emma Chanlett-Avery
Specialist in Asian Affairs

Dick K. Nanto
Specialist in Industry and Trade

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