

GETTING CHINA TO ENFORCE SANCTIONS ON NORTH KOREA

Nathan Beauchamp-Mustafaga

London School of Economics and Political Science

Jenny Jun

Georgetown University

The adoption of United Nations Security Council Resolution (UNSCR) 2087 and 2094 again raises the question on whether China's enforcement will provide the resolutions the teeth they need to bite. After analyzing China's reactions to North Korea's three nuclear tests and subsequent policy decisions, we argue that while Chinese incentives for implementing sanctions on North Korea have increased, many traditional roadblocks still persist as salient variables. This is likely to result in more lukewarm sanctions enforcement than what is expected from current media hype. We then identify three ways that the Chinese government's level of sanctions enforcement could be improved: viewing sanctions as raising barriers of entry rather than compelling policy change, the United States striking a balance between cooperative and coercive measures to diffuse Chinese fears of instability, and creating expectations of additional unilateral sanctions that threaten Chinese interests.

Introduction

Giving teeth to sanctions on North Korea has been traditionally difficult due to a mismatch in incentives between the legislator and the enforcer. The United States and South Korea, perceiving North Korea's missile launches and nuclear test as a dire threat to security and nonproliferation, are more motivated to impose harsh sanctions to curve North Korea's nuclear program. China has not entirely empathized with such security concerns, and holds a lukewarm attitude toward the utility of sanctions, stemming from its historical distaste for interference in foreign governments, fear of regime collapse in North Korea, and com-

plicated bureaucratic politics. Yet, due to its geographic proximity and sheer volume of transactions with North Korea, China has become a more pivotal actor in the enforcement of sanctions than the United States and South Korea, chief drivers in the drafting of such resolutions. As a result, the successful adoption of a sanctions resolution on North Korea needs to be viewed separately from the successful enforcement of its provisions.

Another Test, Another Round of Sanctions

The sanctions arrived in response to North Korea's third nuclear test on February 12, 2013, which Pyongyang claimed was a miniaturized nuclear device.¹ Coupled with the North's largely successful December 2012 so-called "satellite launch," suspected of covertly testing ballistic missile technology, these two events suggest progress on developing the capabilities necessary to attack the United States with a nuclear-tipped missile, as well as increased risk of nuclear and ballistic missile technology and material transfers.² This growing threat to US security interests, emphasized by North Korea's explicit threat to conduct a "preemptive nuclear strike" on the United States, further motivated the US government to push through a new round of targeted sanctions against the Kim Jong-un regime.³

The North Korean regime's third nuclear test followed the established pattern of increasingly bombastic rhetoric and a missile test, culminating in a nuclear test followed by sanctions, repeating events in 2006 and 2009. The most important development from this nuclear test is growing suspicion that North Korea tested a uranium-based bomb, which would indicate the North has another avenue towards proliferation that is easier to conceal and easier to mobilize. Moreover, it adds to the suspicion that the North has access to more uranium, unlike its fixed supply of plutonium, enabling them to make more nuclear warheads.⁴ However, attempts to collect an air sample soon after the test reportedly

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- 1 David E. Sanger and Choe Sang-hun, "North Korea Confirms It Conducted 3rd Nuclear Test," *New York Times*, February 11, 2013, http://www.nytimes.com/2013/02/12/world/asia/north-korea-nuclear-test.html?_r=0.
 - 2 Choe Sang-hun and David E. Sanger, "North Koreans Launch Rocket in Defiant Act," *New York Times*, December 11, 2012, <http://www.nytimes.com/2012/12/12/world/asia/north-korea-launches-rocket-defying-likely-sanctions.html?pagewanted=all>.
 - 3 Rick Gladstone and David E. Sanger, "New Sanctions on North Korea Pass in Unified U.N. Vote," *New York Times*, March 7, 2013, <http://www.nytimes.com/2013/03/08/world/asia/north-korea-warns-of-preemptive-nuclear-attack.html?pagewanted=all>.
 - 4 Max Fisher, "Why uranium would make a North Korean nuclear test especially scary," *Washington Post*, February 8, 2013, <http://www.washingtonpost.com/blogs/worldviews/wp/2013/02/08/why-uranium-would-make-a-north-korean-nuclear-test-especially-scary/>.

failed, as they did in 2009, leaving policy makers and scholars without definitive evidence that this test was uranium-based.⁵

According to US Ambassador to the United Nations Susan Rice, these sanctions are “some of the toughest sanctions imposed by the United Nations.”⁶ Indeed, the sanctions include a provision requiring states to inspect any North Korean cargo suspected of transporting items prohibited by all four rounds of sanctions against the North, a marked shift from Beijing’s previous opposition to mandatory inspections.⁷ They also further inhibit North Korea’s access to cash, blacklist several North Korean diplomats and officials with connections to the North’s nuclear and missile programs or money laundering activities, as well as explicitly ban several luxury items.

China and UNSCR 2094: Third Time’s a Charm?

China’s support for sanctions against North Korea on paper have yet to be matched by substantial actions on enforcement, but there is growing hope that China’s support for UNSCR 2094 is a breakthrough for China’s support of the sanctions regime. In 2006, despite strongly opposing the North’s nuclear test and President Hu Jintao’s personal involvement in declaring it “flagrant” (*han-ran*), a term usually reserved for China’s enemies, China rejected the first US draft of sanctions against the North, forcing a bargaining process that spanned five days until China approved UNSCR 1718.⁸ In 2009, China again “diluted” the sanctions by crafting “loopholes,” such as allowing Chinese companies to continue selling small arms to North Korea.⁹ The new round of sanctions in

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- 5 Joby Warrick, “North Korean secrecy on bomb test fuels speculation on nuclear advances,” *Washington Post*, April 1, 2013, http://www.washingtonpost.com/world/national-security/north-korean-secrecy-on-bomb-test-fuels-speculation-on-nuclear-advances/2013/03/31/f46bda44-98ae-11e2-b68f-dc5c4b47e519_story.html.
- 6 US Mission to the United Nations, Remarks by Ambassador Susan E. Rice, Permanent Representative of the United States to the United Nations, New York: US Department of State, March 5, 2013.
- 7 Beijing did allow optional inspections under UNSCR 1874. See: United Nations Security Council, *Security Council Condemns Nuclear Test By Democratic People’s Republic Of Korea, Unanimously Adopting Resolution 1718 (2006)*, New York: United Nations, October 14, 2006; US Mission to the United Nation, *FACT SHEET: UN Security Council Resolution 2094 on North Korea*, New York: US Department of State, March 7, 2013; and Bureau of Public Affairs, *North Korea Sanctions: Resolution 1718 Versus Resolution 1874*, Washington, DC: US Department of State, June 12, 2009.
- 8 For a discussion of Hu Jintao’s personal involvement in writing the statement, see: Linda Jakobson and Dean Knox, *New Actors in Chinese Foreign Policy*, report for the Stockholm International Peace Research Institute, 2010, 5; and “UN slaps sanctions on North Korea,” *BBC*, October 14, 2006, <http://news.bbc.co.uk/2/hi/asia-pacific/6051704.stm>.
- 9 Neil MacFarquhar, “U.N. Security Council Pushes North Korea by Passing Sanctions,” *New York Times*, June 12, 2009, <http://www.nytimes.com/2009/06/13/world/asia/13nations.html>.

2013 saw China's greatest cooperation yet with the United States on drafting sanctions.

Compared with past sanctions, this round took the longest to draft, but patience and horse-trading during the drafting process appears to have paid off, since the draft resolution was adopted the quickest.¹⁰ Moreover, the United States went to great lengths to emphasize its cooperation with China on drafting the sanctions, even introducing the draft resolution as "US-China agreed," which is in stark contrast with conflict over drafting between China and the United States in 2006.¹¹ Given questions surrounding Xi Jinping and his reshuffled foreign policy team's willingness to compromise with the United States on any front, US-China explicit cooperation on the North Korean sanctions front needs to be noted and commended as a welcome change from even late last year.¹²

China's support of the new sanctions was accompanied by the fiercest Chinese academic commentary yet against North Korea. Most notably, Fudan University professor Shen Dingli wrote in *Foreign Policy* that "China has reached a point where it needs to cut its losses and cut North Korea loose," and Deng Yuwen of the Central Party School wrote in *Financial Times* that "China should consider abandoning North Korea [and] take the initiative to facilitate North Korea's unification with South Korea."¹³ Xie Tao of the Beijing Foreign Studies University asserted that China's policy was an "utter failure" that went "against the tide of history" and concluded that "it is time for China to let go of North Korea."¹⁴ Surveying such commentary, Peking University professor Jia Qingguo noted "the debate in China has changed from one about whether China

10 Sanctions were drafted and introduced 21 days from the day of the test in 2013, compared with 16 days in 2009 and the same day in 2006, but passed one day after being introduced in 2013 compared with two days in 2009 and five days in 2006.

11 US Mission to the United Nations. Remarks by Ambassador Susan E. Rice, Permanent Representative of the United States to the United Nations, At a Security Council Stakeout, March 5, 2013. New York: US Department of State, March 5, 2013. See also: "UN slaps sanctions on North Korea."

12 There also seems to be some implicit agreement between the United States, China, Russia and South Korea to avoid unnecessary tensions on the Korean Peninsula. UNSCR 2094 was only approved after Russia took over the rotating chair from South Korea, as allowing sanctions to be passed while Seoul chaired the Security Council was much more likely to draw a strong reaction from Pyongyang. Colum Lynch, "Rice's new Chinese sparring partner," *Foreign Policy*, December 12, 2012, http://turtlebay.foreignpolicy.com/posts/2012/12/12/rice_s_new_chinese_sparring_partner.

13 Shen Dingli, "Lips and Teeth," *Foreign Policy*, February 13, 2013, http://www.foreignpolicy.com/articles/2013/02/13/lips_and_teeth_china_north_korea. See also: Deng Yuwen, "China should abandon North Korea," *Financial Times*, February 27, 2013, <http://www.ft.com/cms/s/0/9e2f68b2-7c5c-11e2-99f0-00144feabdc0.html>.

14 Xie Tao, "What's Wrong with China's North Korea Policy?," Carnegie Endowment for International Peace, March 26, 2013, <http://carnegieendowment.org/2013/03/26/what-s-wrong-with-china-s-north-korea-policy/ftjw>.

should work with other countries to impose sanctions against North Korea to one about the kind of sanctions China should endorse.”¹⁵ Although these arguments are part of a wider academic debate that likely reveals varying schools of thought within the Chinese government, Chinese scholars are likely voicing their own opinions and not the opinions of specific policy makers, limiting the value of monitoring the debate for signs of future shifts in policy.

While Western observers are obviously drawn to the bold assertions by Shen, Deng and Xie, the reality is that the Chinese state-run media is likely to reflect the views of China’s decision-makers more accurately than outspoken critics of North Korea publishing in the Western media. The state-run media has also been unusually critical of North Korea following the test, but reflects the underlying sentiment of the Chinese government with its refusal to endorse abandoning North Korea. The *Global Times* repeated its January 25 pre-test call for China to reduce aid to North Korea, writing, “since Pyongyang’s nuclear test has damaged China’s interests, it’s necessary for China to give Pyongyang a certain ‘punishment.’”¹⁶ Nevertheless, the *Global Times* still carried skeptical undertones of US intentions, as the newspaper claimed that the United States, South Korea and Japan’s underlying motive is to turn Beijing into “North Korea’s top enemy” and recommended a proportional response that does not ultimately undermine the relationship or China’s strategy and interests in the region.

The Chinese government’s response to the 2013 nuclear test was restrained in comparison to the academic response. While the wording coming from Beijing was strong, the Chinese government again did not use “flagrant” to describe the latest test, establishing that its response to the 2006 test was a special case. The Chinese government’s strongest criticism of North Korea’s ongoing provocations were issued by none other than President Xi Jinping, who said that “No one should be allowed to throw a region and even the whole world into chaos for selfish gain,” and the general assumption was that his comments were directed at Pyongyang, although some believe they were also directed at Washington.¹⁷ Nevertheless, Xi’s statement and other similar admonitions of North

15 Jia Qingguo, “Shifting emphasis: Beijing’s reactions to North Korea nuclear test,” *East Asia Forum*, March 3, 2013, <http://www.eastasiaforum.org/2013/03/03/shifting-emphasis-beijings-reactions-to-north-korea-nuclear-test/>.

16 “Not all Peninsula issues China’s problem,” *Global Times*, January 25, 2013, <http://www.globaltimes.cn/content/758130.shtml>. See also: “China needs to find right way to punish NK,” *Global Times*, February 17, 2013, <http://www.globaltimes.cn/NEWS/tabid/99/ID/762090/China-needs-to-find-right-way-to-punish-NK.aspx>.

17 Jane Perlez and Choe Sang-hun, “China Hints at Limits to North Korea Actions,” *New York Times*, April 7, 2013, <http://www.nytimes.com/2013/04/08/world/asia/from-china-a-call-to-avoid-chaos-for>

Korea have yet to be matched by successful Chinese action to end the warlike stance in North Korea, especially since there have been no high level meetings since last November when Politburo member Li Jianguo traveled to Pyongyang in a failed attempt to dissuade the North from its December missile test.

The chasm between the academic debate and government rhetoric carries over into sanctions policy. The *Global Times*' original denunciation of North Korea's test threats reflects China's conflicting views on the role sanctions should play in resolving the North Korean nuclear issue. The *Global Times*' January 25th editorial warned that "if the US, Japan and South Korea promote extreme UN sanctions on North Korea, China will resolutely stop them and force them to amend these draft resolutions," adding that China should "just let the US, Japan and South Korea grumble about China. We have no obligation to soothe their feelings."¹⁸ Despite calls, both inside and outside of China, for greater sanctions, China remains reticent to endorse strong sanctions or fully enforce existing sanctions.

Implications of UNSCR 2094: Increasing Incentives for Enforcement?

China's support for UNSCR 2094 raises hopes of an evolution in Beijing's North Korea policy following the Kim regime's third nuclear test and the recent leadership transition from Hu Jintao to Xi Jinping. Christopher Hill, US envoy to the Six Party Talks under President Bush, claimed that China's support "suggests that after many years, the screws are beginning to turn," echoing similar statements by Jon Huntsman, Kurt Campbell and even President Obama.¹⁹ Yet, the question remains that if indeed the screws are finally turning, who is doing the turning, how tight will they go and how will the outside world know the screws have been tightened?

Since the first Korean nuclear crisis in 1994, China has had two discernible shifts in policy. Following the North's second withdrawal from the Nuclear Non-Proliferation Treaty in 2003 and increased international pressure on Pyongyang, China took its first truly active role in the diplomatic arena by hosting the six-party talks aimed at denuclearizing the Korean Peninsula.²⁰ This also followed closely after Hu Jintao's ascension to Chairman of the CCP, replacing Jiang

selfish-gain.html?pagewanted=all. See also: Paul Eckert, "Analysis: In bitter irony for China, North Korea furthers US strategic goals," *Reuters*, April 10, 2013, <http://www.reuters.com/article/2013/04/10/us-korea-usa-china-idUSBRE93903U20130410>.

18 "Not all Peninsula issues China's problem."

19 Gladstone and Sanger, "New Sanctions on North Korea Pass in Unified U.N. Vote."

20 Evan S. Medeiros and M. Taylor Fravel, "China's New Diplomacy," *Foreign Affairs*, November/December 2003: 22.

Zemin, who had largely ignored North Korea since establishing diplomatic relations with South Korea in 1992. This shift towards a policy more favorable to the United States lasted through the DPRK's first nuclear test in 2006, marked by Hu Jintao's strong condemnation, but faded when the risky and untraditional policy failed to pay a dividend of a denuclearized Korean Peninsula.

China's second policy shift was in 2009, driven by the failure of China's more aggressive approach to the North Korea nuclear issue, revelations of Kim Jong-il's failing health and the imminent hereditary succession as well as the US "Pivot to Asia," which increased North Korea's strategic value to Beijing. As the Global Financial Crisis emboldened China to capitalize on the perceived weakness of the US-led Western order and shift towards a more aggressive foreign policy in Asia, North Korea was facing a rushed transition to a young and untested Western-educated heir with a frail tyrant seeking to steer his country through failed currency reform and dire economic conditions. The Chinese leadership under Hu Jintao responded to the 2009 test with a thorough review of its policy and even an informal vote in the Politburo Standing Committee, the highest arbiter of foreign policy.²¹ The vote was 5-4 in favor of continuing to support the North, and Premier Wen Jiabao was dispatched to Pyongyang in October 2009, the first visit by a Chinese premier in nearly 20 years in a sign of goodwill to get the China-DPRK relationship back on track.

Now in 2013, there are expectations that Beijing may be re-examining this relationship under the new leadership of Xi Jinping. The active academic debate within China appears the most animated since 2009, but is unlikely to lead to a wholesale reappraisal of Chinese policy towards its neighbor. Despite the *Global Times*' nationalistic slant in its editorials and oft-forward leaning criticism of North Korea, the fact that Shen, Deng and Xie published outside China in a foreign language, combined with Zhu Feng's censorship, demonstrates the unwillingness of the Chinese government to engage in real conversations about policy change.²² This unwillingness was highlighted by revelations that Deng Yuwen was suspended from his post at the Central Party School explicitly because of his *Financial Times* article.²³ The chasm between Chinese policy mak-

21 Nathan Beauchamp-Mustafaga, "The 18th Party Congress Crosses the Yalu: Implications for China's North Korea Policy," *38North*, November 27, 2012, <http://38north.org/2012/11/nbmustafaga112712/>.

22 Zhu Feng's critical article was originally published in Singapore's *Lianhe Zaobao* but republished in the *Global Times* with substantial and obvious censorship. For a translation and comparison of the two versions, see Adam Cathcart, "Incinerated Fantasy: Kim Jong-un, Zhu Feng, and a Censored Article in Beijing," *Sino-NK*, February 9, 2013, <http://sinonk.com/2013/02/09/incinerated-fantasy-kim-jong-un-zhu-feng-and-a-censored-article-in-beijing/>.

23 Jane Perlez, "Chinese Editor Suspended for Article on North Korea," *New York Times*, April 1, 2013, <http://www.nytimes.com/2013/04/02/world/asia/chinese-suspend-editor-who-questioned-north-korea->

ers and popular academic sentiment is evident in the lack of tangible action on Beijing's part.²⁴ Despite the *Global Times*' published survey of 20 Chinese experts following the DPRK's 2009 test that split evenly between support for harsher sanctions and lesser sanctions than UNSCR 1718, there has been little forward progress on improved sanctions or enforcement so far.

Despite the increasingly open debate within China that may suggest China's rethinking of North Korea policy, China's fundamental interests have not changed as a result of the test. China's policy is driven by a combination of political, economic and most importantly strategic factors, yet the impact of the test on China's policy drivers has been insufficient to force a fundamental change in policy. The impact to China's external environment has not differed dramatically from that of the 2006 and 2009 tests, despite worries of nuclear proliferation in Asia and increased US military presence; and Chinese businesses are still able to invest and trade with the North, despite new UN sanctions, leaving political factors as the only reason China would change its policy. Although political motivations do exist, such as Xi's push for better relations with the United States as he starts his term, the relative benefit is unlikely to alter China's strategic calculus in the near future.²⁵

This lack of fundamental movement does not preclude Beijing adopting a tougher stance on North Korea's illegal activities, as suggested by its support for Resolution 2094. Among the many possible indicators of a changing stance in Beijing, one easy item to watch is if China finally creates a luxury items list for its customs enforcement. Resolution 1718 banned countries from exporting luxury goods to North Korea but left it up to individual countries to determine what are considered luxury goods, and so far China has yet to release a list of banned luxury items. While Resolution 2094 does explicitly ban some goods as luxury items—notably yachts, racing cars, and jewelry with pearls and precious metals—it still does not present a comprehensive list for countries, again leaving most of the responsibility up to individual countries.

China's lack of a luxury goods list led the Congressional Research Service to conclude: "clearly, China has not been enforcing the sanctions on luxury goods," as China exported over \$50 million of banned goods in one month

alliance.html.

24 A. Greer Meisels, "Is Enough Finally Enough for China and North Korea?," *China Brief* 13, no. 6, March 15, 2013.

25 Adam Cathcart, Roger Cavazos and Nathan Beauchamp-Mustafaga, "The View From Beijing: North Korea as a Path for US-China Cooperation," *Sino-NK*, January 27, 2013, <http://sinonk.com/2013/01/27/the-view-from-beijing-north-korea-as-a-path-for-u-s-china-cooperation/>. See also: Jane Perlez, "North Korea Draws New China Scrutiny," *New York Times*, February 11, 2013, http://www.nytimes.com/2013/02/12/world/asia/north-korea-draws-new-china-scrutiny.html?_r=0.

alone, December 2008.²⁶ China could easily make a high-profile arrest of Chinese businessmen involved in the luxury goods trade with North Korea as an example of stepped-up enforcement while leaving the larger trade network unaffected. Other possible signals that China is enforcing sanction may be the seizure of a North Korean vessel, China simply announcing increased surveillance of Air Koryo flights from the Beijing airport, arresting people for smuggling goods to Iran or even making suspicious North Korean aircraft fly around Chinese airspace when flying to Iran.

China's support for UNSCR 2094 provides potential insights into Beijing's views of the stability of the North Korean regime and the succession process to Kim Jong-un. Beijing's support for incrementally harsher sanctions suggests Beijing believes the transition to Kim Jong-un is progressing well and the Kim regime can now handle external pressure from the international community and China. While the Chinese media has been quick to note that sanctions should not lead to regime change or damage Chinese interests, implicitly linking those concepts together, the Chinese government appears to believe Kim Jong-un has successfully consolidated enough power at the top of the North Korean system to absorb the impact of greater sanctions and some subsequent level of enforcement, as well as greater use of Chinese leverage. Coupled with the shift in the language of the official response to the February test, Beijing may be considering a more proactive enforcement policy.

UNSCR 2094 may also suggest Xi's administration sees North Korea as a possible avenue toward increased cooperation with the United States moving forward. Some Chinese scholars view North Korea as the most feasible stepping stone for better US-China relations and believe this round of sanctions represents a "strong signal of bilateral cooperation" between the two countries."²⁷ Echoing this Chinese view, one prominent US scholar asserted that "this may represent a bold new step forward by Party General Secretary Xi Jinping and China's new leadership in signaling the US that China is now interested in finding new areas of convergence."²⁸ However, China's traditional view of North

26 Dick K. Nanto and Mark E. Manyin, *China-North Korea Relations*, Washington, DC: Congressional Research Service, December 28, 2010, 20.

27 Sun Ru, "A Strong Signal of China-US Cooperation on North Korea," *China-US Focus*, March 12, 2013, <http://www.chinausfocus.com/peace-security/a-strong-signal-of-china-us-cooperation-on-north-korean/>. See also: Adam Cathcart, Roger Cavazos and Nathan Beauchamp-Mustafaga, "The View From Beijing: North Korea as a Path for US-China Cooperation," *Sino-NK*, January 27, 2013 <http://sinonk.com/2013/01/27/the-view-from-beijing-north-korea-as-a-path-for-u-s-china-cooperation/>.

28 "Can the North Korea Challenge Bring China and the US Together?," *The Atlantic*, March 7, 2013, <http://www.theatlantic.com/china/archive/2013/03/can-the-north-korea-challenge-bring-china-and-the-us-together/273777/>.

Korea as a counterweight to US influence in the region challenges this new-found optimism.

Roadblocks to Full Enforcement

China's resistance to fully enforce sanctions against North Korea, despite its international legal obligation, is due to a combination of principled opposition, fear of North Korea's collapse linked to its strategic value in US-China relations and Chinese bureaucratic politics. Despite China's nominal support for sanctions against the North, Beijing's agreement has come only haltingly and has not included full enforcement of sanctions. China has voted in favor of increasingly harsh sanctions on North Korea after all three nuclear tests in 2006, 2009 and now in 2013, but started from a low point.

China's past enforcement of sanctions has ranged from apparent incompetence to willful ignorance. Despite the Chinese government's best attempts to inhibit reporting by the UN Panel of Experts on North Korea, created by UNSCR 1874 to "monitor, promote and facilitate the implementation of measures imposed" against North Korea, evidence abounds at China's failure to enforce sanctions.²⁹ The panel released its most recent report publicly in June 2012, as China blocked publication of the 2011 report and still delayed the 2012 report's publication by a month.³⁰ The report found that China was linked to 21 of 38 reported sanctions violations and that China was a popular trans-shipping port for North Korean proliferation of ballistic missile-related parts and a source for North Korean imports of banned luxury items, including cars and tobacco.³¹ Among the most notable violations, the panel's report confirmed that Dalian port was used as a trans-shipping spot for North Korea's export of SCUD-related materials in October 2007, and Wikileaks revealed that China failed to act on US-provided evidence to stop North Korean proliferation of more ballistic missile parts transited through the Beijing Airport at around the same time in 2007.³² China has also limited the number of North Korean entities the UN Pan-

29 UN Panel of Experts on North Korea, *Panel Of Experts Established Pursuant To Resolution 1874 (2009)* (New York, 2009).

30 "China repeatedly violated economic sanctions against North Korea," *Asahi Shimbun*, June 22, 2012, <http://ajw.asahi.com/article/asia/china/AJ201206220038>. See also: Louis Charbonneau, "U.N. publishes report on North Korea sanctions violations," *Reuters*, June 29, 2012, <http://www.reuters.com/article/2012/06/29/us-korea-north-sanctions-idUSBRE85S16Q20120629>; and "China to block UN report on North Korean nuclear capability," *Guardian*, February 18, 2011, <http://www.guardian.co.uk/world/2011/feb/18/china-north-korea-nuclear-capability>.

31 UN Panel of Experts on North Korea, *Report of the Panel of Experts Established Pursuant to Resolution 1874 (2009)* (New York, June 29, 2012).

32 Ibid. See also: Kathrin Hille, "WikiLeaks: China drags feet on N Korea," *Financial Times*, November

el has been allowed to list as violators of sanctions, most recently for UNSCR 2087, whittling a US and Japan-produced list from 40 entities down to three.³³ This lack of enforcement through some of China's biggest ports raises questions over China's sincerity to stop North Korean proliferation and deter violations of UN sanctions.

China has historically resisted sanctions as a principle of its foreign policy. The guiding tenets of traditional Chinese foreign policy, the Five Principles of Peaceful Co-Existence, include "mutual noninterference in each other's internal affairs."³⁴ China has generally interpreted this principle as resisting influencing the affairs of foreign countries through the United Nations or other means, including sanctions. China's varied record on upholding this principle of non-interference reveals that China's foreign policy is guided more by interest than principle.³⁵ Most recently, in 2011 China abstained from voting on UNSCR 1973, which created a no-fly zone and ultimately led to intervention in Libya, but vetoed resolutions in 2012 intended to stop bloodshed in Syria.³⁶ This reinforces arguments that China's principle of non-interference is not a strict policy proscription but a flexible framework to justify actions in the international diplomatic arena.

China's overall North Korea policy, including resistance on sanctions, is driven in large part by a fear of the collapse of the North Korean state. The predominant view amongst Chinese officials and scholars is that a collapse of the North Korean state would lead to a possibly catastrophic cascade of negative

30, 2010, <http://www.ft.com/intl/cms/s/0/f3b2edda-fbc7-11df-b79a-00144feab49a.html>.

- 33 Bonnie S. Glaser and Brittany Billingsley, "The UN Prepares to Impose New Sanctions on North Korea," *Center for International and Strategic Studies*, March 4, 2013, <http://csis.org/publication/un-prepares-impose-new-sanctions-north-korea>.
- 34 Russell H. Fifield, "The Five Principles of Peaceful Co-Existence," *The American Journal of International Law* 52, no. 3 (1958): 504.
- 35 China supported the Soviet Union's 1956 intervention in Hungary but opposed the 1968 intervention in Czechoslovakia after the Sino-Soviet split, and directly supported anti-colonial movements in the third world through military and economic means throughout the Mao years. Likewise, China supported sanctions against the apartheid South African regime for human rights violations but opposed the UN's criticism of China's human rights abuses against Tibetans, calling it "an eager conspiracy of intervention." See: Jerome Alan Cohen, "China and Intervention: Theory and Practice," *University of Pennsylvania Law Review* 121, no. 3 (1973): 491, 493.
- 36 Zhong Sheng, "China: No interference in Syria's internal affairs," *People's Daily*, October 13, 2011, <http://english.peopledaily.com.cn/90780/7616513.html>. See also: Rick Gladstone, "Friction at the U.N. as Russia and China Veto Another Resolution on Syria Sanctions," *New York Times*, July 19, 2012, <http://www.nytimes.com/2012/07/20/world/middleeast/russia-and-china-veto-un-sanctions-against-syria.html>; and United Nations Security Council, *Security Council Approves 'No-Fly Zone' Over Libya, Authorizing 'All Necessary Measures' to Protect Civilians, By Vote Of 10 in Favour With 5 Abstentions*, New York: United Nations, March 17, 2011.

consequences for China's security environment, economy and social stability.³⁷ China views North Korea as a buffer against the United States and strategic asset for bargaining in the US-China relationship, so the continued existence of a pro-China North Korean state is a matter of vital national interest.³⁸ Strategic thinkers in Beijing are most concerned with the idea that a collapse would lead to a reunification of the Korean Peninsula under the US-allied South on China's border, with the possibility of US troops above the 38th parallel.³⁹ China also uses North Korea as a bargaining chip with the United States, so North Korea's strategic value rises as US-China relations worsen, exemplified by the fact that the US "Pivot to Asia" raised the strategic value of North Korea to China.⁴⁰ North Korea also distracts US and allied military resources away from China and could also possibly be used as leverage in a crisis over Taiwan, as the North and Taiwan have been linked from China's perspective since President Truman dispatched the Seventh Fleet into the Taiwan Straits at the start of the Korean War.⁴¹ North Korea's strategic value to China in military and political terms will remain a powerful factor in Beijing's policy decision-making and is a large impediment to China's willingness to fully enforce sanctions.

China fears that a collapse would lead to an influx of refugees across the border and challenge its control of social stability in the region. Experts estimate that a "significant" number of the possible three million overall refugees will head to China, since the border with South Korea is nearly impassable and there is a large ethnic Korean minority along the Chinese side of the border that includes many familial ties.⁴² This refugee influx would add stress to an already poor minority region and threaten social stability with the associated increase of illegal activities, including gangs, drug smuggling and possible irredentism.⁴³ Beyond collapse, China fears that sanctions alone may exacerbate its current

37 US-China Economic and Security Review Commission, "China's Foreign Policy: Challenges and Players," testimony by Victor Cha, 2011, 102.

38 Stephanie Kleine-Ahlbrandt, "Beijing Is No One's Ally in the Effort to Pressure and Disarm North Korea," *South China Morning Post*, January 5, 2012, <http://www.crisisgroup.org/en/regions/asia/north-east-asia/china/beijing-is-no-ones-ally-in-the-effort-to-pressure-and-disarm-north-korea.aspx>.

39 Zhu Feng, "Flawed Mediation and a Compelling Mission: Chinese Diplomacy in the Six-Party Talks to Denuclearise North Korea," *East Asia* (2011): 198.

40 Mark E. Manyin, *Kim Jong-il's Death: Implications for North Korea's Stability and US Policy*, Washington, DC: Congressional Research Service, 2012, 8.

41 Shen Dingli, "North Korea's Strategic Significance to China," *China Security* (Autumn 2006): 21.

42 Carla Freeman and Drew Thompson, "Flood Across the Border: China's Disaster Relief Operations and Potential Response to a North Korean Refugee Crisis," *US-Korea Institute*, 2009, 17.

43 Ibid. See also: John Pomfret, "Why China Won't Do More With North Korea," *Washington Post*, May 29, 2009.

refugee problem and “invite a larger influx of illegal border crossers and the economic and social burden that they would bring.”⁴⁴

The collapse of a “pro-China” North Korea would also disrupt China’s privileged access to natural resources, business opportunities and normal trade that helps support China’s poor northeast economy. China’s position as North Korea’s lone ally and largest economic partner enables China to gain relatively unchallenged access to North Korea’s estimated \$6 trillion worth of natural resources, including rare earths and coal.⁴⁵ Chinese companies have capitalized on this access, as 41 percent of Chinese investment has focused on natural resource extraction and at least 72 percent of China’s imports from North Korea in 2011 were natural resources.⁴⁶ China’s trade and investment with its neighbor flow primarily through China’s border provinces, Jilin and Liaoning. Based on hopeful expectations of future North Korean economic reform, these provinces have incorporated North Korea into their future economic growth strategy and are thus unwilling to sacrifice this opportunity for international sanctions.⁴⁷ As Jilin and Liaoning account for a combined 62 percent of Chinese investment in North Korea and at least 60 percent of cross-border trade, their provincial governments have a strong incentive to resist sanctions.⁴⁸ Furthermore, the rise of Zhang Dejiang to the Politburo Standing Committee (PSC) affords local governments access via personal connections to a favorable advocate of their interests at the highest levels of policy making.⁴⁹ Thus, China’s economic ties to the North act as another roadblock to sanctions enforcement, especially when related to the economic growth of the border provinces.

This powerful fear of collapse underlies China’s belief in a paradox that inhibits China’s willingness to enforce sanctions. From China’s perspective, the paradox of Chinese leverage is that the more China pressures North Korea, the less influence China has over North Korea and the more likely Kim Jong-un is to court President Obama, if only the US government returned the senti-

44 Anne Wu, “What China Whispers to North Korea,” *The Washington Quarterly* 28, no. 2 (2005): 43.

45 Scott Thomas Bruce, “North Korea’s Six Trillion Dollar Question,” *The Diplomat*, August 30, 2012, <http://thediplomat.com/2012/08/30/north-koreas-six-trillion-dollar-question/>.

46 Drew Thompson, *Silent Partners: Chinese Joint Ventures in North Korea* (Washington, DC: US-Korea Institute at SAIS, February 2011): 4. See also: “Bilateral trade between China and Democratic People’s Republic of Korea in 2011,” *TradeMap*, <http://www.trademap.org>.

47 Thompson, *Silent Partners*, 73.

48 *Ibid.*, 4. See also: Ce Liu, “Dandong’s Expanding Trade with North Korea, Hopes to Become an Economic Hub,” *China Daily*, March 9, 2011.

49 Zhang Dejiang previously served as party secretary of Jilin province and has long-standing ties to North Korea. For more on the potential impact of Zhang’s ascension to the PSC, see: Nathan Beauchamp-Mustafaga, “The 18th Party Congress Crosses the Yalu: Implications for China’s North Korea Policy,” *38North*, November 27, 2012, <http://www.38north.org/2012/11/nbmustafaga112712/>.

ment. Within this context, China views sanctions as an international expectation, largely from Western countries, that China pressure North Korea to alter its behavior at the risk of sacrificing its own interests in the process. Although Wikileaks and other sources have suggested China is increasingly realizing the inevitability of North Korea's collapse and reunification under the South, the Chinese leadership nonetheless seeks to postpone such a reunification as long as possible.⁵⁰ Therefore, China's desire for the continued existence of a pro-China North Korean state is an obstacle to full enforcement, as long as China views full enforcement as a threat to the North Korean state.

Another factor in China's lack of enforcement is Chinese bureaucratic politics.⁵¹ Although often overlooked, China's North Korea policy is shaped to a large extent by the contours of bureaucratic politics that play out at every level of policy decision-making and implementation from central authorities in Beijing to the local prefecture government in Yanbian.⁵² China's management of its policy towards the North is increasingly bifurcated—centralized policy formulation with diffused implementation. China's North Korea policy is formulated at the highest level of the Chinese government, namely the PSC based on recommendations by the Foreign Affairs Leading Small Group (FALSG).⁵³ However, China's policy is implemented by a diverse group of foreign policy actors who each hold their own interests as they implement the policy as outlined by President Xi Jinping and his fellow Standing Committee members. These actors include the bureaucracies the wield the greatest influence over policy, namely the International Liaison Department (ILD), People's Liberation Army (PLA) and Ministry of Foreign Affairs (MFA), and also include organizations that have secondary influence over policy, including the Jilin and Liaoning provincial governments and the Ministry of Commerce (MOFCOM).

50 Simon Tisdall, "Wikileaks cables reveal China 'ready to abandon North Korea,'" *Guardian*, November 29, 2010, <http://www.guardian.co.uk/world/2010/nov/29/wikileaks-cables-china-reunified-korea>.

51 This discussion of the bureaucratic politics of China's North Korea policy is based on conversations by Nathan Beauchamp-Mustafaga with over 60 high-level government officials, military officers, scholars and journalists from both the United States and China, including ambassadors and foreign policy advisors for both countries.

52 For the three best discussions of the bureaucratic politics of China's policy, see: Bates Gill, *China's North Korea Policy*, 283, United States Institute of Peace, 2011. See also: *Shades of Red: China's Debate Over North Korea*, 129, International Crisis Group, 2009; and US-China Economic and Security Review Commission, *China's Foreign Policy: Challenges and Players*, testimony by Victor Cha, 2011.

53 For a summary of Nathan Beauchamp-Mustafaga's master's thesis, "Chinese Bureaucratic Politics and Sino-North Korean Relations: Dynamics and Implications," see: Nathan Beauchamp-Mustafaga, "Chinese Bureaucratic Politics and Sino-North Korean Relations: Dynamics and Implications," *Sino-NK*, August 5, 2012, <http://sinonk.com/2012/08/05/chinese-bureaucratic-politics-north-korea-mplications/>.

China's enforcement of sanctions reflects the wider issues of bifurcated policy management within China's North Korea policy. Although China's support of UN sanctions on North Korea is conditional on approval by the PSC, the MFA's International Organizations and Conferences Department is responsible for negotiating sanctions in the UN Security Council. After the PSC, through the MFA, agrees to a new round of sanctions, several different ministries are responsible for implementation. The General Administration of Customs China (GACC) is responsible for enforcement at the border, while MOFCOM's Department of Mechanic, Electronic and Hi-Tech Industry is responsible for export controls on dual-use and weapons of mass destruction-related items and the Ministry of Industry and Information Technology's (MIIT) State Administration for Science, Technology and Industry for National Defense (SASTIND) is responsible for export controls on arms, and the Ministry of Finance is responsible for financial restrictions. This fractured responsibility for sanctions enforcement is compounded by intra-bureaucratic conflicts of interests on adhering to China's legal obligations.

The intended targets of monitoring for enforcement include foreign policy actors with access and influence over the Chinese foreign policy decision-making process, leading to at best a conflict of interest for those responsible for enforcement and at worse a lack of institutional power to stop and punish violations. This conflict of interest is highlighted by state-owned enterprises (SOE) and the Ministry of Commerce. SOEs have recently gained a profit-making interest in pursuing foreign policy goals, thereby creating possible conflicts of interest for enforcement as one government bureaucracy is responsible for enforcing the sanctions that another dodges in an attempt to turn a profit.⁵⁴ The significant investment by the Jilin and Liaoning provincial governments' SOEs in the North, estimated at 62 percent of total Chinese investment, creates a conflict of interest when enforcing sanctions against its own companies and thus tensions with the central government in Beijing, and this extends to regional banks earning upwards of 20 percent commission on illegal banking for North Korea.⁵⁵ The Ministry of Commerce, which is responsible for overseeing the growth of Chinese trade abroad and increasing employment across the country, is also responsible for sanctions enforcement on dual-use items, among others. This creates a direct conflict of interest within the Ministry, and with the

54 Richard Weitz, "China's Proliferation Problem," *The Diplomat*, May 24, 2011, <http://thediplomat.com/2011/05/24/china%E2%80%99s-proliferation-problem/>.

55 Drew Thompson, *Silent Partners: Chinese Joint Ventures in North Korea* (Washington, DC: US-Korea Institute at SAIS, February 2011), 4. See also: Leon V. Sigal, "How North Korea Evades Financial Sanctions," *38North*, May 3, 2013, <http://38north.org/2013/05/lsigal050313/>.

sensitivity the Chinese government affords to North Korea, most bureaucrats likely avoid the diplomatic incident by approving or ignoring dual-use exports to North Korea that should be prohibited under UN sanctions.

The export of the transport-erector-launcher (TEL) that was used to debut North Korea's newest inter-continental ballistic missile (ICBM) in April 2012 exemplifies a possible subversion of higher-level policy in pursuit of profit and is a useful example of Beijing's lack of export controls. The TEL, which appeared at a military parade in Pyongyang following Kim Jong-un's failed April 2012 missile test, was produced by a subsidiary of the state-owned China Aerospace Science and Industry Corporation, which maintains close ties to the PLA to such an extent that previously the largest customer for the vehicle, and possibly only customer, was the PLA itself.⁵⁶ While some have argued it was exported as a forestry product, the non-civilian features of the TEL led one expert to conclude that "the Chinese executing the contract certainly knew who they were dealing with and why."⁵⁷ Another expert asserted that the sale "would require approval from the highest levels of the Chinese government and the People's Liberation Army."⁵⁸ This dual-use nature, if not outright military use, of the vehicle should have brought it under the export control of MOFCOM.⁵⁹ A possible scenario is that the state-owned company sold vehicle to North Korea without the knowledge of MOFCOM's enforcement officials, or that the enforcement officials did not have enough power within the Chinese system to stop the sale. The PLA has long been suspected of having business interests in North Korea, and the TEL company's links to the PLA open the possibility that there was Chinese military involvement in the sale. As an influential actor in the Chinese system, the PLA would likely have the power to override any attempts to block the sale of the TELs by enforcement officials. Whether this potential PLA involvement in the sale and export of the vehicle was driven by motivations of profit or strategic covert military assistance to Pyongyang is unknown. In order to avoid further

56 Mark Hibbs, "China and the POE DPRK Report," *Arms Control Wonk*, July 2, 2012, <http://hibbs.armscontrolwonk.com/archive/879/china-and-the-poe-dprk-report>. See also: Jeffrey Lewis, "More on DPRK TELs," *Arms Control Wonk*, April 23, 2012, <http://lewis.armscontrolwonk.com/archive/5162/more-on-dprk-tels>.

57 Lewis, "More on DPRK TELs."

58 S. Smithson, "Analysts: China broke sanctions if N. Korea using its missile launcher," *Washington Times*, April 16, 2013, <http://www.washingtontimes.com/news/2012/apr/16/experts-china-likely-gave-n-korea-illegal-missile-/>.

59 "China denies exporting North Korean missile launch vehicles," *Associated Press*, June 13, 2012, <http://www.guardian.co.uk/world/2012/jun/13/china-north-korea-missile-vehicles>.

embarrassment, China's representative to the UN POE, a Ministry of Defense official, blocked the Panel from reporting the TELs coming from China.⁶⁰

The luxury items list is another example of domestic interest groups possibly shaping China's enforcement of sanctions. Despite the MFA signing China up to ban exports of luxury goods to North Korea, China has yet to establish a list of luxury goods. This failure to follow the spirit of the sanctions may be due to pressure from Chinese companies, either state-owned or private, to avoid sanctions that would affect their bottom-line. They can pressure the government by exploiting their connections to the decision-making process or by citing the potential unemployment arising from their loss of business due to sanctions enforcement, or simply through bribery.⁶¹ Reports of unabated China-DPRK trade in blatant luxury items in the weeks after approving UNSCR 2094, such as LCD TVs, near the North Korean Embassy in Beijing, located a half mile from the MFA's headquarters, and being transported through Beijing airport, which falls under the enforcement of the GACC, reveals either a willful ignorance of the sanctions violations occurring at its doorstep or an inability to enforce sanctions due to bureaucratic incompetence or impotence.⁶² This again highlights the numerous challenges bureaucratic politics plays in full enforcement.

Chinese roadblocks to sanctions enforcement present many obstacles that central authorities in Beijing and foreign countries must overcome in order to see substantial changes in China's stance on North Korea sanctions. Nevertheless, the underlying factors driving China's North Korea policy—namely fear of collapse, strategic value in US-China relations and bureaucratic politics—ultimately remain unchanged and thus China's fundamental strategic calculus on North Korea will remain unchanged for the foreseeable future. Xi and Obama's possible reconciliation in their new administrations also allows China to reassess the value of North Korea in terms of US-China relations, but this process will be slow and not significantly impact China's North Korea policy in the

60 Jeffrey Lewis, "Assessing the DPRK Panel of Experts," *38North*, July 12, 2012, <http://38north.org/2012/07/jlewis071712/>.

61 A prime of example of a Chinese business injecting its own interests into China's policy towards North Korea was when the Wanxiang Group had Premier Wen Jiabao personally intervene in its dispute with the North Korean government, reportedly in return for a \$10,000 payment. See: Peter Lee, "Dear Leader's designs on Uncle Sam," *Asia Times*, December 4, 2010, <http://www.atimes.com/atimes/China/LL04Ad01.html>. According to one report, "a bribe of between £40,000-£60,000 is paid to a customs official to send each 40ft container filled with illegal missile components through Dalian;" Julian Ryall, "Chinese firms breaking UN embargo on North Korea," *Telegraph*, June 8, 2012, <http://www.telegraph.co.uk/news/worldnews/asia/northkorea/9320339/Chinese-firms-breaking-UN-embargo-on-North-Korea.html>.

62 Megha Rajagopalan, "North Korean elite beating sanctions, one plasma TV at a time," *Reuters*, March 19, 2013, <http://www.reuters.com/article/2013/03/19/us-korea-north-china-idUSBRE92I16720130319>.

short-term due to the pragmatic and conservative path-dependency nature of the Chinese government, further compounded by the uncertainty of the transition period to Xi Jinping. In the end, China's enforcement of sanctions will likely run to the middle ground that appeases the international community but remain short of full enforcement to avoid any consequences that would directly affect the stability of the Kim regime, and thus China's interests in the region.

Three Tools to Improve Chinese Enforcement

This likely middle ground approach raises questions over the utility of "casual sanctions" in achieving its initial objective of halting North Korea's nuclear program. While the United States and the international community welcome the Xi administration's symbolic efforts to get tougher on North Korea, sanctions will not be ultimately successful if not enforced to the full spirit of the law, not simply China's version of the letter of the law. The TEL export suggests that China's past efforts have not been vigilant enough to inhibit North Korea's procurement of equipment for its military. This leaves US and other countries' policy makers searching for ways to increase Chinese cooperation on sanctions enforcement. Policy-makers can turn to three tools depending on how they balance desires for better enforcement of sanctions and positive relations with Beijing: viewing sanctions as raising barriers of entry rather than compelling policy change, striking a balance between cooperative and coercive measures to diffuse Chinese fears of instability, and creating expectations of additional unilateral sanctions.

First, regional stakeholders should work to debunk the myth in China that tightly enforced sanctions will lead to the destabilization of the North Korean regime by improving understanding of UNSCR 2094's policy objectives. Rather than the traditional objective of sanctions as pressure tactics to squeeze policy concessions from the target country, a more fitting description of targeted sanctions such as UNSCR 2094 would be sanctions to stunt an ongoing development. Whereas sanctions to compel policy change require heavy pressure on the key stakeholders of the target country, producing negative externalities such as regime instability, sanctions to delay development of a program targets program components instead of the regime.

Key provisions of past UN resolutions on North Korea's nuclear program, such as a ban on luxury goods, targeting of individuals and companies involved in nuclear and missile program development, and freezing of key financial assets, are typical of targeted sanctions, sometimes dubbed as "smart sanctions." The idea of targeted sanctions developed specifically out of a need to amelio-

rate the grave negative externalities of preexisting comprehensive trade sanctions, the biggest example being the UN's comprehensive trade embargo on Iraq throughout the 1990s.⁶³ Though it is generally agreed that the sanctions were effective in preventing Saddam Hussein from acquiring Weapons of Mass Destruction (WMD), it is also acknowledged that sanctions created excessive humanitarian and security problems.⁶⁴ UNSCR 2094, which contains provisions such as inspecting North Korean vessels on the high seas, tightening customs inspections, and preventing bulk cash flows, is hardly designed to have such nationwide economic and humanitarian impacts, even if it were to be fully enforced. It is unrealistic for China to assume that the full enforcement of UNSCR 2094 will serve as a critical blow to the North Korean regime.

Rather, UNSCR 2094 should be viewed as one of many efforts to mitigate risk on the Korean Peninsula, especially as a key tool in raising barriers of entry for North Korea's nuclear program. The aim of the latest round of sanctions is quite focused—to render the completion of Pyongyang's nuclear arsenal as difficult and costly as possible for the leadership.⁶⁵ Perhaps when UNSCR 1718 and 1874 were passed, China was hopeful that the threat of sanctions, rather than the enforcement of sanctions, was enough to induce Pyongyang to reconsider its nuclear program. However, targeted sanctions differ from traditional economic sanctions precisely in that the estimated cost to the regime is less, and therefore less threatening. Any hope that China held for North Korea to stop its nuclear program simply from threats alone should now be long gone. Expectations for policy change have proved unrealistic, with demonstrated proof that North Korea's nuclear and missile capabilities have improved significantly. Whereas China regarded adoption of UN resolutions in the past as a useful tool

63 Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review*, 2011. See also: David Rose, "North Korea's Dollar Store," *Vanity Fair*, August 5, 2009, <http://www.vanityfair.com/politics/features/2009/09/office-39-200909>; and Paul Rexton Kan, Bruce E. Bechtol, Jr. And Robert M. Collins, *Criminal Sovereignty: Understanding North Korea's Illicit International Activities*. Strategic Studies Institute, March 2010.

64 It was estimated that the Iraq sanctions caused up to 227,000 excess deaths among young children, and cut Iraq's GDP to roughly half. Such trade embargoes also increased black markets, organized crime syndicates, and transnational smuggling networks that persisted long after sanctions ended in Iraq. See: Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review*, 2011. For a discussion of North Korea's own illegal money-making activities, see: Paul Rexton Kan, Bruce E. Bechtol, Jr. and Robert M. Collins, *Criminal Sovereignty: Understanding North Korea's Illicit International Activities*, Strategic Studies Institute, 2010. See also: Rose, "North Korea's Dollar Store."

65 For an analysis of UNSCR 2094's intent compared to its endowed capabilities, see: Benjamin Habib, "Deconstructing UNSC Resolution 2094: The Response To North Korea's Third Nuclear Test," *Dr. Benjamin Habib*, March 9, 2013, <http://drbenjaminhabib.wordpress.com/2013/03/09/deconstructing-uns-c-resolution-2094/>.

to send warning signals, China must view UNSCR 2094 as a practical tool to manage the speed of North Korea's nuclear program, one that requires actual enforcement.

Second, the United States should strike a balance between cooperative and coercive measures when inducing China to enforce sanctions. While conveying the increasing security costs of allowing a nuclear North Korea has been effective, the method also inherently creates a fear of real conflict in the peninsula through miscalculation and increased uncertainty over US intentions.

Following North Korea's third nuclear test in February, the United States has been quick to turn the Korean Peninsula into a weapons exhibition show, with nuclear-capable B-52, stealth B-2, and fifth generation F-22 flyovers, as well as the deployment of nuclear powered Cheyenne submarine and the SBX-1 radar system.⁶⁶ The US government sees ballistic missile defense cooperation with South Korea and Japan as another lever to pressure Beijing to shift its North Korea policy. The Chinese MFA expressed its displeasure with this increased cooperation but has not acknowledged the link to its North Korea policy.⁶⁷ North Korea's missile tests provide a convenient excuse for enhanced cooperation, since missile defense systems could also be used against China and thus affect its second-strike capability.⁶⁸ While the US government has asserted that the increased deployment of missile defense systems is not targeted at China or Beijing's policy, US Deputy Assistant Secretary of Defense Aston Carter said "If the Chinese find them the kinds of things they don't like to see, there's an easy way to address that, which is to talk to the North Koreans about stopping these provocations."⁶⁹ The US government has also used joint military exercises with South Korea as a way to express dissatisfaction with China's North Korea policy and temporarily raise the security cost of Beijing's support in a dramatic fashion. The B-2 flyover can also be interpreted as a warning to China.⁷⁰

66 David Chance and Phil Stewart, "North Korea readies missiles after US stealth bombers fly over South," *Reuters*, March 29, 2013, <http://uk.reuters.com/article/2013/03/29/uk-korea-north-idUKBR-E92R13Q20130329>.

67 Chris Buckley, "China Cites Risk of New Tension as US Bolsters Missile Defenses," *New York Times*, March 18, 2013, <http://www.nytimes.com/2013/03/19/world/asia/china-cites-risk-of-tension-as-us-bolsters-missile-defenses.html>.

68 Neil MacFarquhar and Jane Perlez, "China Looms Over Response To Nuclear Test By North Korea," *New York Times*, February 12, 2013, <http://www.nytimes.com/2013/02/13/world/asia/north-korea-nuclear-test.html?pagewanted=all>.

69 Eckert, "Analysis: In bitter irony for China, North Korea furthers US strategic goals."

70 The B-2 was the aircraft responsible for bombing the Chinese embassy in Yugoslavia, which some analysts believe will serve as a signal to Beijing that the United States is serious about North Korea. See: Anna Mulrine, "US stealth bomber as messenger: what it says to China, North Korea," *Christian*

Another example is the use of the George Washington aircraft carrier during November 2010 in waters between South Korea and China, despite strong Chinese protests that the exercise should be conducted on the other side of South Korea.⁷¹ Following Beijing's defense of North Korea's attack on the Cheonan in March 2010, Deputy Secretary of State James Steinberg said, "though [these exercises] are not directed at China, the exercises are a direct result of China's support for North Korea and unwillingness to denounce their aggression."⁷² The most blatant security threat from the United States to China over North Korea to be publicly acknowledged was former US President Bush's statement to former Chinese President Jiang Zemin in February 2003 that "if we could not solve the problem [of denuclearization] diplomatically, then [Bush] would have to consider a military strike against North Korea."⁷³ The fact that China started the Six Party Talks as host six months later suggests this approach may have had some influence over China's North Korea policy.

Yet the apparent success of coercive measures should not dictate that the US government should abandon dialogue and cooperation going forward. Dealing with miscalculations and misperceptions arising out of these military demonstrations is also an integral part in assuring China that sanctions enforcements will not trigger any Chinese fears about instability in the peninsula into becoming a reality. Since part of China's resistance to fully enforcing sanctions is a fear of collapse linked to suspicions of US intentions in the region, increased dialogue between the US and Chinese governments on the crucial issues of "re-balancing," US military posture in the region and post-collapse scenarios would go a long way to decrease Chinese suspicions, and in turn reduce the strategic value of North Korea, finally leading to increased enforcement. US Chairman of the Joint Chiefs of Staff General Martin Dempsey's April visit to Beijing was one effort to clarify US intentions in the region against the backdrop of the Korean crisis after Secretary of State John Kerry had just visited to urge China

Science Monitor, March 28, 2013, <http://www.csmonitor.com/USA/Military/2013/0328/US-stealth-bomber-as-messenger-what-it-says-to-China-North-Korea>. The B-2 deployment also harks back to the atomic bomber diplomacy under President Harry Truman during the Berlin Crisis of 1949-1950 and at the outset of the Korean War. See: Roger Dingman, "Atomic Diplomacy during the Korean War," *International Security* 13, no. 3 (1988-1989): 50-91.

71 John Pomfret, "US aircraft carrier's arrival off Korean Peninsula also sends a message to China," *Washington Post*, November 25, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/24/AR2010112407028.html>.

72 Gertz, "New Details Point to Sinking by N. Korean Torpedo."

73 George W. Bush, *Decision Points*, New York: Crown, 2010: 424.

to press North Korea. In return for US dialogue, General Dempsey received his hosts' "assurance that they are working on it."⁷⁴

While the results of coordination may appear to be less tangible, the rhetoric is crucial in mitigating the negative externalities of coercive tactics. The United States took a good step in this direction when Ambassador Rice introduced of the US draft resolution as jointly drafted with China, which sent a strong signal that US-China cooperation over North Korea sanctions was at a high point. Though some were disheartened at the results of the China visit by David Cohen, Under Secretary for Terrorism and Financial Intelligence at the US Department of Treasury, it is important for such dialogues to occur frequently and candidly at the working level as well as in high diplomatic exchanges.⁷⁵

Third, recent history suggests the most effective way to compel Beijing to enforce sanctions on North Korea is to enact unilateral sanctions against North Korea that threaten Chinese economic interests and access to the US market. While Beijing is vehemently opposed to unilateral sanctions, the one instance of true hard-hitting sanctions on North Korea with Chinese cooperation was the US unilateral sanctions on Banco Delta Asia in 2005 for money laundering.⁷⁶ Following shortly after the 2005 Joint Statement, in what is widely considered to be a diplomatic bluster resulting from a lack of coordination between Washington bureaucracies, the sanctions scuttled a breakthrough in denuclearization negotiations over North Korea's nuclear program. Nevertheless, the unilateral sanctions immediately drove China to action. According to David Asher, former head of the North Korea Activities Group at the National Security Council, the unilateral sanctions were also directed at China; "Banco Delta was a symbolic target. We were trying to kill the chicken to scare the monkeys. And the monkeys were big Chinese banks doing business in North Korea."⁷⁷ Beijing enforced the Bush administration's unilateral sanctions, despite no legal obliga-

74 Jane Perlez, "US General Sees Hope for Chinese Help on Korea," *New York Times*, April 24, 2013, <http://www.nytimes.com/2013/04/25/world/asia/us-hopeful-after-talks-with-china.html?gwh=7AA93D19CF9FB4750257252F9E54D0EE>.

75 Terri Yue Jones, "US hopeful of strong Chinese action on North Korea," *Reuters*, March 22, 2013, <http://www.reuters.com/article/2013/03/22/us-korea-north-usa-idUSBRE92L02E20130322>. See also: Andrew Browne, "US Believes China to Toe Line on North Korea Sanctions," *New York Times*, March 22, 2013, <http://online.wsj.com/article/SB10001424127887324373204578376022445978456.html>.

76 Timothy Gardner and Arshad Mohammed, "US grants Iran sanctions exceptions to China," *Reuters*, June 28, 2012, <http://www.reuters.com/article/2012/06/28/us-usa-iran-sanctions-china-idUSBR-E85R16L20120628>. See also: David Lague and Donald Greenlees, "Squeeze on Banco Delta Asia Hit North Korea Where It Hurt," *New York Times*, January 18, 2007, http://www.nytimes.com/2007/01/18/world/asia/18iht-north.4255039.html?pagewanted=all&_r=0.

77 Peter Lee, "China in America's sanctions crosshairs," *Asia Times*, June 24, 2010, <http://www.atimes.com/atimes/China/LF24Ad03.html>.

tion to do so, and froze North Korean assets for fear of losing access to the US banking system.

A similar set of unilateral sanctions would likely temporarily strain the US-China relationship, but may be a necessary step to motivate China to reconsider its approach in line with its international obligations under UN sanctions. Indeed, the US government unilaterally sanctioned the DPRK's Foreign Trade Bank in March, the main foreign exchange bank for the country, after China opposed sanctioning the bank in UNSCR 2094.⁷⁸ To the surprise of many but in following its track record, the Bank of China announced it would cut ties with the bank, reflecting the effectiveness of US unilateral sanctions when they threaten China's interests.⁷⁹ The US government could levy unilateral sanctions against Pyongyang that would hit Chinese companies if they fail to enforce them. The United States could also sanction Chinese companies caught selling goods the United States deems in violation of UN sanctions, according to the US list of banned luxury goods, by banning those Chinese companies from the US market. The US government could also propose sending US customs officials to Dalian port and Beijing airport, the two most popular places for North Korea trafficking through China, similar to US-China cooperation on food security with US Food and Drug Administration officials working in China.

Another sanctions action outside of the UN would be to follow actions against Iran and work with the European Union to have North Korea removed from SWIFT, the international electronic financial settlement system.⁸⁰ Since North Korea is not as involved in the international financial system, this would not impact Pyongyang as much as Tehran, but the image of US and European Union pressure would lend credibility to the seriousness of purpose the international community holds against the North's nuclear program, especially if China publicly supported such a move. One scholar suggested "the Treasury Department should declare the entire North Korean government a primary money laundering concern" and sanction Chinese banks if they violate sanctions.⁸¹

78 Stephan Haggard, "The Foreign Trade Bank Sanctions," *North Korea: Witness to Transformation*, March 22, 2013, <http://www.piie.com/blogs/nk/?p=9790>. See also: Antoni Slodkowski and Warren Strobel, "Japan, Australia to sanction North Korean bank as part of US-led crackdown," *Reuters*, March 26, 2013, <http://www.reuters.com/article/2013/03/26/us-korea-north-bank-idUSBRE92P04T20130326>; and Leon V. Sigal, "How North Korea Evades Financial Sanctions," *38North*, May 3, 2013, <http://38north.org/2013/05/lsigal050313/>.

79 Keith Bradsher and Nick Cumming-Bruce, "China Cuts Ties With Key North Korean Bank," *New York Times*, May 7, 2013, <http://www.nytimes.com/2013/05/08/world/asia/china-cuts-ties-with-north-korean-bank.html?gwh=725EF0E1FC00CC7E258F24AF7B282B43>.

80 "Payments system SWIFT to expel Iranian banks Saturday," *Reuters*, March 15, 2012, <http://www.reuters.com/article/2012/03/15/us-nuclear-iran-idUSBRE82E15M20120315>.

81 Rachel Oswald, "US Should Sanction Chinese Banks Laundering North Korean Money: Experts,"

While these measures may induce a fast Chinese response, there is no guarantee that this response would be favorable and the undoubtedly high cost to US-China relations would be worth an uncertain and possibly intangible benefit to the US's denuclearization efforts.⁸²

The three aforementioned tools are by no means a panacea in getting China to consistently and effectively enforce targeted sanctions on North Korea. However, they suggest tangible ways that regional stakeholders can shape China's decision-making framework by increasing incentives for enforcement and mitigating roadblocks on its path. Working to close the incentive gap between the legislator and the enforcer is an important step for regional cooperative in managing heightened risk on the Korean Peninsula.

Conclusion: Tempered Expectations Necessary

The adoption of UNSCR 2094 may be the first evidence that the United States' cooperative approach is paying dividends, but the true test will be China's willingness to fully implement the new round of sanctions to the spirit of the law and not simply the letter of the law over the long-term. On this matter, it is important not to take the recent media hype about a Chinese "recalculation" of North Korea policy at face value, but to carefully gauge where China stands in its incentives in and aversions to enforcing sanctions.

Recent reporting paints a conflicting picture of China's enforcement of UNSCR 2094. North Korea reportedly pulled its money from Chinese banks before the test to avoid any repercussions, and China has reportedly followed through on North Korean fears by warning North Korean banks to not violate sanctions.⁸³ Furthermore, the Ministry of Transport "said it expected all government departments to follow sanctions and ensure no transport of banned goods."⁸⁴

Global Security Newswire, March 5, 2013, <http://www.nti.org/gsn/article/us-should-sanction-chinese-banks-launders-north-korean-money-experts/>. See also: Joshua Stanton and Sung-Yoon Lee, "Don't Engage Kim Jong Un—Bankrupt Him," *Foreign Policy*, January 9, 2013, http://www.foreignpolicy.com/articles/2013/01/09/dont_engage_kim_jong_un_bankrupt_him.

82 For more possible sanctions, see: Colum Lynch, "Is there anything left to sanction in North Korea," *Foreign Policy*, February 13, 2013, http://turtlebay.foreignpolicy.com/posts/2013/02/13/is_there_anything_left_to_sanction_in_north_korea.

83 Mike Richman, "Analysts: China Likely to Support New Sanctions Against N. Korea," *Voice of America*, February 9, 2013, <http://www.voanews.com/content/china-likely-to-support-new-sanctions-against-north-korea/1600524.html>. See: Jack Kim and Ju-min Park, "China fires warning shot at North Korea banks: report," *Reuters*, March 19, 2013, <http://www.reuters.com/article/2013/03/19/us-korea-north-china-idUSBRE92I09P20130319>; and Koichiro Ishida, "Fearing sanctions, N. Korean merchants pull their cash from Chinese banks," *Asahi Shimbun*, March 14, 2013, http://ajw.asahi.com/article/asia/korean_peninsula/AJ201303140093.

84 Ben Blanchard, "China steps up customs checks, but North Korea trade robust," *Reuters*, April

At the same time, the Ministry of Finance began to crack down on illegal financial transactions by North Korean banks, which beforehand went largely unenforced.⁸⁵ Despite reportedly higher scrutiny of Chinese exports to North Korea at the border, trade remains unaffected and violations are still occurring and Chinese diplomats themselves said that sanctions enforcement will “not go as far as the Obama administration wanted.”⁸⁶ While US officials initially applauded Chinese enforcement, highlighted by David Cohen’s comments, US officials are now reportedly already frustrated by China’s lack of enforcement, as evidenced by the continued luxury goods trade in Beijing.⁸⁷ This suggests that only time will tell where China’s priorities lie and how far the Xi administration is willing to enforce sanctions.

The official refrain remains: China is facing limited options with less influence than previously thought and must prioritize stability over another Korean War and subsequent refugee crisis. Yet the ground situation continues to worsen: North Korea demonstrated that it is making significant inroads into becoming a full blown nuclear state with the capability to launch nuclear attack on countries including the United States, Beijing’s diplomatic leverage on Pyongyang consistently continues to deteriorate, and South Korea, Japan, and the United States are increasing military activity in the region. The “muddle through” strategy is generating increasing diplomatic and strategic costs, and it is up to China to decide when the costs are high enough to outweigh the benefits. A good start would be to deliberate on whether some of the existing roadblocks to enforcement stem from old misconceptions and inefficient structural problems. North Korea has always been a land of lousy options, but some options are less lousy than others. **Y**

30, 2013, <http://www.reuters.com/article/2013/04/30/us-korea-north-sanctions-china-idUSBRE93T15E20130430>.

85 Jenny Jun, “Dealing with a Sore Lip: Parsing China’s “Recalculation” of North Korea Policy,” *38North*, March 29, 2013, <http://www.38north.org/2013/03/jjun032913/>. See: Shaun Waterman, “China doing ‘quite well’ enforcing U.N. sanctions on North Korea, South says,” *Washington Times*, April 15, 2013, <http://www.washingtontimes.com/news/2013/apr/15/china-doing-quite-well-enforcing-un-sanctions-nort/>.

86 Ben Blanchard, “China steps up customs checks, but North Korea trade robust,” *Reuters*, April 30, 2013. See also: Malcolm Moore, “China breaking UN sanctions to support North Korea,” *Telegraph*, April 13, 2013, <http://www.telegraph.co.uk/news/worldnews/asia/northkorea/9991907/China-breaking-UN-sanctions-to-support-North-Korea.html>; and Mark Landler, “Detecting Shift, US Makes Case to China on North Korea,” *New York Times*, April 5, 2013, <http://www.nytimes.com/2013/04/06/world/asia/us-sees-china-as-lever-to-press-north-korea.html?pagewanted=all&gwh=5CFA58A3D7F4FD8C0845499852E265C0>.

87 Browne, “US Believes China To Toe Line On North Korea Sanctions.” See: Perlez, “Chinese Editor Suspended for Article on North Korea;” and Rajagopalan, “North Korean elite beating sanctions, one plasma TV at a time.”