

New sanctions against North Korea The challenges of implementation and China

SUMMARY

In January 2016, North Korea conducted its fourth nuclear test, exposing the inability of UN sanctions to prevent the reclusive regime from gradually enhancing its ballistic missile capabilities and miniaturising a nuclear warhead. Despite China's past principled reluctance to agree to UN economic sanctions against its military ally, and its selective implementation of the previous sanctions scheme, which has been widely perceived as the major cause of its ineffectiveness, in March 2016 China endorsed UN Security Council resolution 2270(2016). The latter expands significantly the scope of previous sanctions against North Korea.

China's frustration at its lack of leverage over North Korea to prevent it from further escalating regional tensions, combined with the response from Japan, South Korea and the United States, has compelled it to endorse tougher sanctions against North Korea as a means of bringing it back to the negotiation table. However, China has emphasised that stiffer sanctions alone will not be a panacea for the Korean Peninsula's denuclearisation. China plays a vital role in ensuring a meaningful impact of the newly adopted sanctions, given its intense economic relations with North Korea.

A consensus between China and the USA on a common approach to North Korea which accommodates their conflicting geostrategic interests would be crucial for engaging North Korea. But given the latter's staunch insistence on its status as a nuclear-armed state, prospects are grim for a resumption of the stalled Six Party Talks to replicate – under much more complex circumstances – what was achieved with Iran in 2015.



In this briefing:

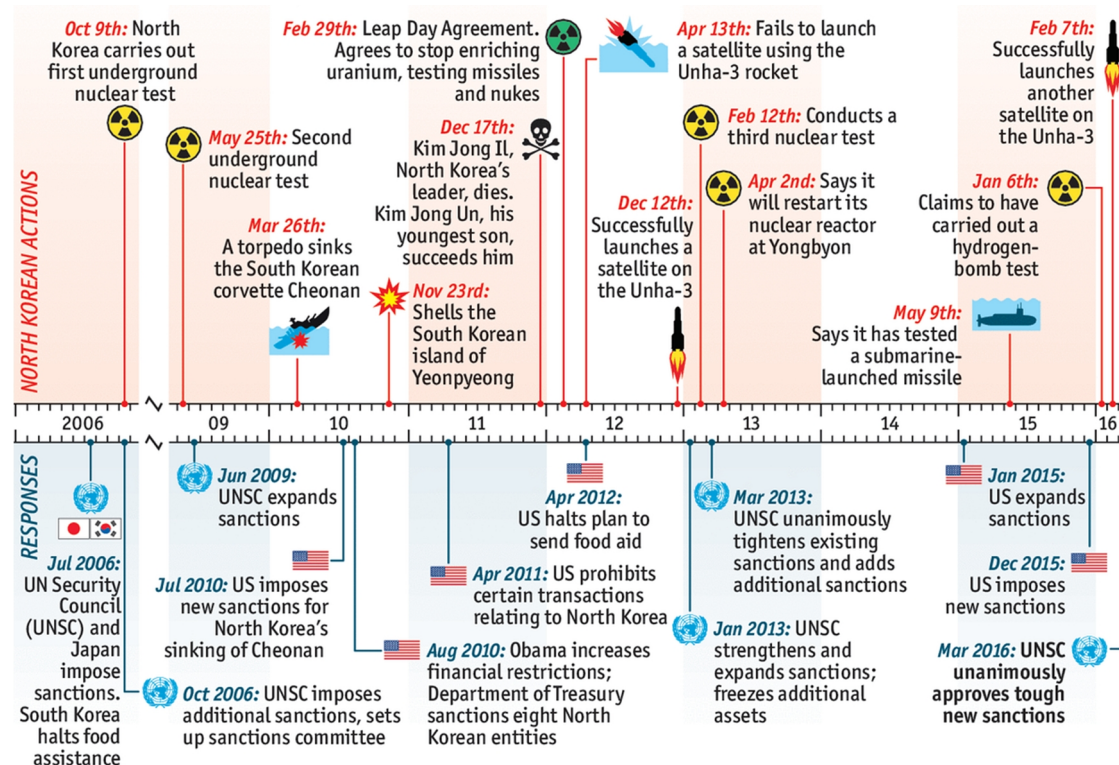
- North Korea's recent military provocations and the new UN sanctions
- New elements and loopholes in UNSC resolution 2270(2016)
- Is China's policy towards North Korea changing?
- Is China enforcing the new sanctions?
- Prospects going forward
- EU approach to North Korea
- Further reading

North Korea's recent military provocations and the new UN sanctions

North Korea's fourth nuclear [test](#) in January 2016 (which it [claimed](#) was a miniaturised hydrogen bomb) has reminded the international community of the danger posed by the regime's steady upgrading of its ballistic missile capabilities and [progress](#) in miniaturising a nuclear warhead. North Korea's belligerent provocations continued through February 2016 with the launch of a long-range missile. This was in line with its [style](#) of issuing threats prior to and during US-South Korea joint military [drills](#), which it perceives as preparations for invasion. In 2016, these included a [simulation](#) ([OPLAN 5015](#)) of strikes against North Korea's military and nuclear assets.

On 2 March 2016, the UN Security Council unanimously adopted [resolution 2270\(2016\)](#), condemning North Korea's grave violations of the UN sanctions [regime imposed](#) on the country following its nuclear tests in 2006, 2009 and 2013 (see Figure 1). The resolution also broadens the restrictive measures against the country in an unprecedented way and advocates the resumption of the [Six Party Talks](#) which brought together China, Japan, North Korea, Russia, South Korea and the USA between 2003 and 2008.

Figure 1 - A decade of North Korean provocation and selected international responses



Source: [The Economist](#), 5 March 2016, p. 46.

Following China's approval of the new UN sanctions, on 10 March 2016 the [Workers' Party](#) of (North) Korea issued a [document](#) declaring that China should be treated like an [enemy](#) state. On 18 March 2016, North Korea conducted a [test launch](#) of two mid-range ballistic missiles. On 26 March 2016, it [released](#) a propaganda video entitled 'Unless South Korea complies with our ultimatum' depicting a mock artillery attack on South Korea's presidential offices and other government buildings, after having released another video showing a mock nuclear attack on Washington DC.

On 1 April 2016, North Korea [fired](#) a short-range missile into the sea, jamming GPS navigation signals in South Korea. On 4 April 2016, it issued a [statement](#) calling for negotiations with the USA, as on many other previous occasions, but also [attempted](#) to

launch an intermediate-range ballistic missile on 15 April 2016 to commemorate the birthday of the current leader's late father. The [Workers' Party Congress](#) of May 2016, the first in 36 years, [endorsed](#) Kim Jong-un's 'Byungjin' policy of pursuing economic development while also stockpiling a nuclear arsenal for 'defensive use', thus replacing his father's '[Songun](#)' (military first) policy, but also legitimising the country's pathway to a nuclear state after this aim was [enshrined](#) in the Constitution in 2012.

New elements and loopholes in UNSC resolution 2270(2016)

UNSC resolution 2270 provides a broad legal framework for robust sanctions against North Korea and reflects the drafters' ambition to fill the gaps in the existing UN sanctions, in order to bring about more stringent sanctions enforcement in the future.

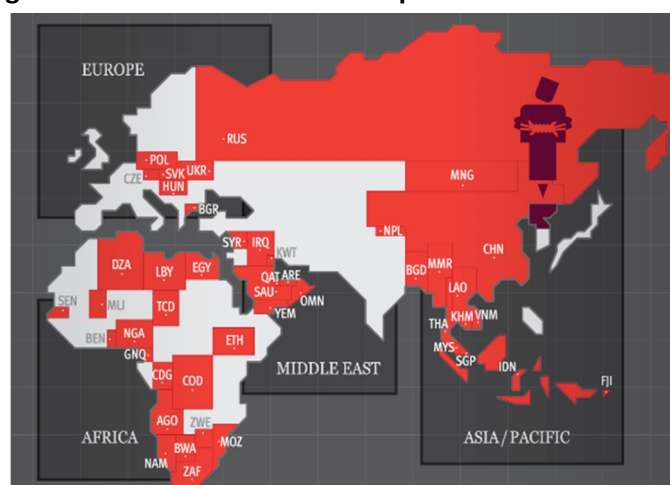
Drawing on the lessons learnt from North Korea's sophisticated practice of reflagging and renaming to circumvent UN sanctions (see the 2015 UN Panel of Experts [report](#)), it prohibits the leasing or chartering of flagged vessels and aircraft to North Koreans and the provision of crew services to them. It strengthens previous sanctions by expanding the existing arms ban to all arms, including small arms and light weapons (SALWs); by prohibiting specialised teaching and training to North Koreans in fields that could contribute to proliferation activities or the development of nuclear weapons delivery systems; and by defining 'economic assets' and 'luxury goods' to eliminate ambiguities.

The scope of the resolution has been extended to the financial and transport sectors, including, among other things, setting requirements for mandatory inspections of cargo-carrying North Korean vessels and aircraft, prohibiting the procurement of certain minerals from North Korea and preventing the export of aviation fuel to it. However, it does not include a ban on oil exports to North Korea, as [requested](#) by the USA but opposed by China, as this would have entailed the regime's rapid collapse. The resolution extends asset freezes, mandates the expulsion and repatriation of North Koreans, including diplomatic staff, who breach the sanctions, and cuts North Korea off from several other legal possibilities to generate hard currency revenue to finance its nuclear and ballistic missile programmes. Yet, it does not include the revenue (estimates vary between [US\\$150 million](#) and [US\\$2.3 billion](#) annually) North Korea derives from its most loyal workers (estimated at 50 000 to 60 000 people) [toiling](#) abroad in restaurants or on construction sites.

The legitimate effort of the resolution's drafters to avoid creating hardships for ordinary North Koreans has resulted in numerous humanitarian or livelihood purposes-related clauses, pre-notification case-by-case exceptions to be obtained from the UN [1718](#) Sanctions Committee, and [loopholes](#). The latter raise questions on how the provisions will be interpreted and implemented in practice, and draw criticism that their effectiveness may suffer from continued

or new evasion tactics that are difficult to monitor at global level. A case in point is the ban on imports of North Korean coal, iron and iron ore. An [exception](#) for coal originating in third countries, such as Mongolia and Russia, and supplied to South Korea via North

Figure 2 – North Korea's labour export around the world



Source: [Beyond the UN COI Report on Human Rights in North Korea](#), Shin, Chang-Hoon, Go, Myong-Hyun, November 2014, p. 28.

Korea's port of Rajin/Rason (see map on page 6), provided transactions are notified and unrelated to creating revenue for North Korea's nuclear or ballistic missile programme, was included at the request of [Russia](#). A second exemption applies to transactions determined to be exclusively for 'livelihood purposes' and not related to prohibited activities. These are significant [loopholes](#), since it is difficult in practice to distinguish between military and civil use of coal and to trace what the revenue generated by North Korean exports is ultimately used for.

Is China's policy towards North Korea changing?

China's past principled reluctance to sanction North Korea

Like all other UN Security Committee members, China has always expressed its [opposition](#) to North Korea's intention of becoming a nuclear-armed state. However, unlike others, it has displayed a strong interest in strictly limiting UN sanctions to provisions aimed at preventing North Korea from developing nuclear and ballistic missile capabilities, while ensuring that its survival would not be jeopardised due to sanctions impairing its overall economic situation. China endorsed targeted UN sanctions after North Korea's nuclear tests in 2006, 2009 and 2013, despite its principled reluctance to use multilateral sanctions, let alone unilateral sanctions to which it is staunchly [opposed](#), to discipline sovereign states.

Deciding on sanctions against its northern neighbour has given China the daunting task of balancing the three elements of its 'no war, no instability and no nuclear weapons [policy](#)' to secure its national interests: on the one hand, to denuclearise the Korean Peninsula in order to uphold the nuclear non-proliferation regime and avoid a nuclear arms race, and on the other hand, to preserve peace and stability. In the past, China privileged stability over denuclearisation to secure the status quo, and to avoid regime change and internal turmoil in North Korea. Either of the latter would inevitably entail a massive influx of North Korean refugees into China's northern provinces and much undesired instability. In a worst-case scenario, China's only military alliance with a foreign country could even draw it into a war. Under the 1961 Sino-North Korean [Treaty](#) of Friendship, Co-operation and Mutual Assistance, China is obliged to prevent aggression against and intervene in the defence of North Korea in case of an attack launched against it. But this would not apply in the event that North Korea should initiate a war.

Risking collapse of North Korea's regime by imposing tough sanctions has been incompatible with the totalitarian regime's traditional key geostrategic role for China as a [buffer](#) against South Korea and the US forces (about [29 000](#) troops) deployed there, and as a means to forestall the spectre of a US-led reunification of the two Koreas. However, North Korea's geostrategic significance has been openly [questioned](#) by high-ranking Chinese military staff. As a result of Kim Jong-un's defiant pursuit of nuclear weapons, the country's reclusive regime has become more of a strategic liability than an asset for China, leading to a recurrent [debate](#) about whether China should ultimately [abandon](#) its troublesome ally. There is indeed a mutual negative public [perception](#). Compounded by a series of [purges](#) of pro-Chinese officials in North Korea, political relations have become [strained](#). Since coming to power in 2013, Chinese President Xi Jinping has used a [diplomatic thaw](#) in Chinese-South Korean relations to boost [economic ties](#) and to counter the US-South Korean alliance, whereas he has yet to [meet](#) with North Korea's dictator. This 'asymmetric' treatment of the two Koreas has, however, not prevented China's continued economic engagement with North Korea.

Reasons for China's tougher line on North Korea

First, North Korea's defiant disregard of China's serious [warnings](#) in February 2016 to forego its nuclear ambitions created a situation of instability, which China feared could spiral out of its control and had to be addressed. China's long-standing policy of economic engagement with North Korea has failed to provide it sufficient incentives to give up its nuclear and missile programme which it considers to be its only effective protection against the perceived risk of a foreign invasion. China has blamed the USA for its lack of engagement with North Korea; however, China has had to acknowledge that, despite its own extensive economic and political support for North Korea, this has resulted in North Korea's economic [dependence](#) on China, but has not given China political leverage on that country's military decision-making. This perspective contrasts sharply with the widespread belief that China's unique relations with its northern neighbour are the key to the solution of the North Korean conundrum, since the sobering reality appears to be that North Korea is [not listening](#) to anyone.

Second, the response from Japan, South Korea and, in particular, from the USA has added pressure on China to agree to stiffened UN sanctions. South Korea's [decision](#), after North Korea's satellite launch in February 2016, to begin official talks with the USA on the deployment of the Terminal High-altitude Area Defense (THAAD) system, was of key relevance. China sees this deployment as an invitation for enhanced US presence in the Asia Pacific region and a [threat](#) to its strategic deterrence. It would undermine the security [interests](#) of both China and Russia, as it would destroy the strategic balance and entail a regional arms race, with Japan also [considering](#) options to enhance its ship-based defence system or transform it into a land-based one. China is presumed to have endorsed tougher sanctions in exchange for at least a [delay](#) in THAAD deployment.

In addition, in February 2016 Japan adopted unilateral sanctions against North Korea (entry bans for North Korean nationals and ships, including for humanitarian purposes, and [constraints](#) on remittances to North Korea) and so did South Korea ([closure](#) of the Kaesong Industrial Complex, the only remaining inter-Korean joint venture, putting 54 000 North Koreans out of work, shrinking North Korea's space for legal sources of revenue and terminating South Korea's pro-reunification '[sunshine policy](#)').

In the USA, Congress approved the North Korea Sanctions and Policy Enhancement [Act](#), which was signed into law by President Obama in February 2016 and was followed up by an [executive order](#), bringing US sanctions to the same [level](#) as those previously imposed on Burma/Myanmar and Iran. The act provides the legal basis for US 'secondary sanctions' targeting companies and the banks of third countries doing business with North Korea, and thus predominantly concerns China, given its intensive economic ties with this country. It appears to have ushered in a departure from the US [policy](#) of '[strategic patience](#)'. This policy, which includes, among other things, insistence on North Korea's verifiable steps towards denuclearisation as a prerequisite to US re-engagement in an effort to break the past provocations-concessions cycle, is [considered](#) as failed for its '[benign neglect](#)' of the threat posed by North Korea and for allowing, rather than containing, the country's steps towards technological progress.

Third, the [nuclear deal](#) reached with Iran in July 2015, the [Joint Comprehensive Plan of Action](#), has provided clear evidence that far-reaching economic [sanctions](#) can ultimately bring a defiant state back to the negotiating table.

While the above factors explain why China is pursuing a [tougher](#) line towards North Korea, this appears to be a temporary adjustment rather than a genuine change of policy. Analysts remain [divided](#) in their views.

Is China enforcing the new sanctions?

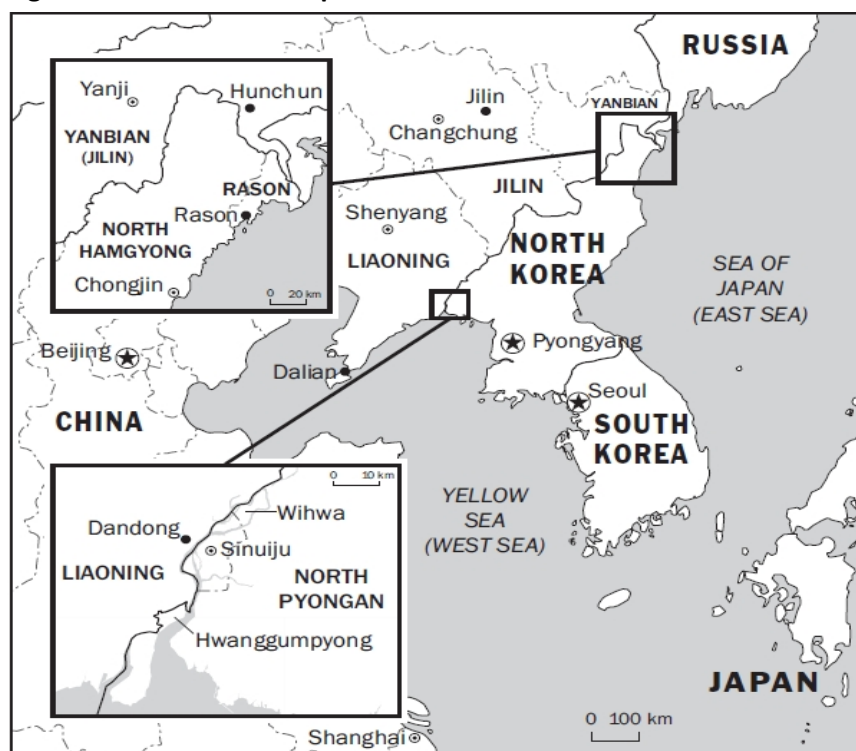
China has huge economic leverage over North Korea, since it is the country's largest trading partner. In 2014, the volume of Sino-North Korean trade [reached](#) US\$6.9 billion, up from [US\\$1.7](#) billion in 2006 when the first UN sanctions were adopted. China has largely [profited](#) from North Korea's increasing economic isolation by monopolising trade with the country, resulting in the latter's reliance on trade with China growing to 90.1% by 2014. China provides North Korea an estimated [40%](#) of its food, 70% of its crude oil, 95% of its foreign direct investment and a huge amount of [foreign aid](#).

Under China's policy of economic engagement and boosting connectivity between its northern provinces and North Korea, the [cross-border](#) infrastructure [links](#) for North Korea's coal exports to China were enhanced in 2015. The Chinese border city of [Dandong](#) plays a major role as a hub for trade, investment and tourism with North Korea. [Half](#) of China's trade with the country passes across the bridge over the Yalu River between Dandong and [Sinuiju](#) (see second inset on Figure 3). On 5 April 2016, China [banned](#) imports of North Korean coal, iron ore, gold, [titanium](#) and rare earth, which [account](#) for the bulk of the country's external revenue. China also announced it would stop the sale of aviation fuel and other oil products used for making rocket fuel to North Korea.

North Korea could offset its loss of trade with China to some degree by trading more with Russia. The Rajin/Rason—Khasan [project](#) at the Russian-North Korean border (see first inset on Figure 3) started with Russian coal deliveries to South Korea through North Korea and is aimed at intensifying Russia's trade with Japan and South Korea via this bridgehead. It was [terminated](#) by South Korea following the latest UN sanctions, despite a specific exemption. Russia [invested](#) heavily in the project and could [obstruct](#) UN sanctions by intensifying trade with North Korea via Rajin/Rason.

Some [analysts](#) argue that the loopholes in the UN resolution will allow China to continue importing coal from North Korea, thus reducing to symbolism its move to agree to tougher sanctions. Others take the view that a meaningful impact of the UN sanctions will [depend](#) both on China's political willingness and on its actual capabilities on the ground to carry out inspections. Given China's highly decentralised administration, with local authorities enjoying large interpretative discretion, the intensity of Sino-North Korean trade along their joint 1 400-kilometre border, China's poor record of following up on previous sanctions and on [data reliability](#), there is scepticism as regards effective

Figure 3 – North Korea's Special Economic Zones



Source: [China's Policy on North Korea](#), SIPRI, 2013, p. 36.

implementation. Since 2013, there have been [improvements](#), as evidenced by a Chinese export [embargo list](#) of dual-use items to North Korea, [extended](#) in [June 2016](#). In spite of this, analysts [argue](#) that stricter sanctions implementation will be short-lived, if past patterns are repeated.

So far the picture is [mixed](#). China had already [initiated](#) goods inspections at the port of Dalian and [financial sanctions](#) in Dandong before the end of 2015. [Reports](#) from early April 2016 from the Hamgyong area indicate that bribing of Chinese customs officials and smuggling of military items declared as everyday merchandise go on unimpeded, while [reports](#) from mid-April 2016 from the Dandong area suggest that China has reduced its border traffic with North Korea by half and that [cargo](#) is now checked randomly, even though not systematically, and fines are imposed if prohibited goods are detected. More [closures](#) of businesses in Dandong were reported in May 2016.

While only time will tell how effectively China will enforce the UN sanctions, there are some signs of a policy change: recently, it has stopped repatriating North Korean [defectors](#), allowing them to head for South Korea with valid papers.

Prospects going forward

The July 2015 breakthrough in the nuclear talks with Iran has inspired analysts to [speculate](#) over whether a similar deal could be brokered with North Korea. Some argue that the Iran deal could serve as a [benchmark](#), despite differences such as regime characteristics, level of nuclear arms development, significance of nuclear arms for the regime's survival, (un)preparedness to compromise on denuclearisation for economic gains, level of integration in the world economy and the resulting long-term economic outlook, because of lessons learnt. Others [claim](#) that the Iran deal cannot be a model for North Korea, since in addition to the above differences, the 1994 US-North Korean [Agreed Framework](#), which collapsed in 2002, offers much fewer incentives for North Korea to comply with its commitments than the 2015 arrangements with Iran.

Many commentators blame [failed](#) policies for the technological advances North Korea has made, to the point that denuclearisation as a goal becomes increasingly futile no matter how tough sanctions may be, stressing the need for a [new approach](#) and decisive action. In the same vein, some [experts](#) suggest that the USA and North Korea remove or lower the preconditions for dialogue, because lack of engagement would further entrench the country's nuclear ambitions. Since the North Korean nuclear programme is predominantly grounded in security concerns, the emphasis should be on security-building rather than on economic incentives in exchange for denuclearisation. In a recent [analysis](#), US nuclear expert, Professor Siegfried Hecker, argues that based on the premise that North Korea will retain its nuclear weapons in the short term as a 'hedge to provide security', a comprehensive strategy is needed which would halt the programme's steady expansion, then roll it back and ultimately eliminate nuclear weapons as set out in the [2005 Joint Statement](#) agreed under the Six Party Talks format.

Prospects for creative diplomacy undertaken by the outgoing US administration are bleak owing to failed US efforts in 2012 under the short-lived US-North Korea Agreement ([Leap Day Deal](#)), widespread [support](#) for tougher sanctions as a game-changer, [possibly](#) factoring in regime change, and lack of a [cohesive](#) policy. Given North Korea's past strong resilience and its firm conviction that it should heed the [lessons](#) from Libya and Ukraine (which gave up their nuclear power protection only to become vulnerable to foreign invasions), it could engage in nuclear proliferation and step up illegal [smuggling](#) to finance

its belligerent programmes, rather than bow to tougher sanctions that fail to address its security dilemma.

EU approach to North Korea

The EU pursues a policy of [critical engagement](#) towards North Korea, which consists of political dialogue, diplomatic pressure and sanctions, and [humanitarian assistance](#) to promote the EU's interests of regional peace and stability, denuclearisation/non-proliferation and human rights.

In the wake of North Korea's fourth nuclear test, EU HR/VP Federica Mogherini denounced the country's 'grave violation' of its international obligations, and called on it 'to [re-engage](#) in a credible and meaningful dialogue with the international community, in particular in the framework of the Six-Party Talks, and to cease this illegal and dangerous behaviour'. Following North Korea's February ballistic missile launch, she called upon the country to '[abandon](#) its programmes to develop ballistic missiles, nuclear capabilities and weapons of mass destruction in a complete, verifiable and irreversible manner' and [welcomed](#) the adoption of UNSC resolution 2270. At the end of March 2016 the EU transposed the UNSC resolution by [expanding](#) the restrictive measures against North Korea under Council Decision (CFSP) [2016/476](#). In May 2016, the Council [adopted](#) new restrictions on trade, financial services, investment and transport.

Since EU-North Korea trade declined from more than €351 million in 2004 to just [€34](#) million in 2014, the EU has very little economic leverage over the country. But there may be scope for additional restrictive measures in areas such as finance and insurance and a more stringent monitoring of '[non-diplomatic](#)' activities of North Koreans. Unlike Iran, in respect of which the EU participated in the multi-party negotiations under the P5+1 format (bringing together China, France, Germany, Iran, Russia and the UK) which led to the July 2015 nuclear agreement, it is not involved in the Six Party Talks. Notwithstanding this, it could use its role as a soft power security player and act as a facilitator of the resumption of the Six Party Talks and as a supporter of the conclusion of a US-North Korean peace treaty replacing the 1953 armistice.

Further reading

[China's Policy on North Korea](#). Economic Engagement and Nuclear Disarmament, Duchâtel, M. and Schell, P., Stockholm International Peace Research Institute (SIPRI) Policy Paper, December 2013.

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[North Korea](#): U.S. Relations, Nuclear Diplomacy, and Internal Situation, Chanlett-Avery, E., Rinehart I.E., Nikitin, M.B.D., Congressional Research Service (CRS), January 2016.

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