

Research in Brief



Issue No 2022-8

Publication Date April 22 2022

ISSN 2092-7117

Building D, 370 Sicheong-daero, Sejong City 30147 KOREA **Korea Institute for Health & Social Affairs**

▮ Making Use of Humanitarian Exemptions to Sanctions against North Korea in the Health and Welfare Sectors

Sung-Eun Cho

Research Fellow, KIHASA

●● Introduction

After having sought to little avail to ease the comprehensive economic sanctions the UN Security Council had imposed on it in 2016, North Korea faced a supplies shortage, what with a breakup in US-DPRK talks in February 2019 and the breakout of the global covid-19 pandemic in 2020. Following the covid-19 pandemic, in particular, North Korea closed its borders and repatriated all Pyongyang-based representatives of international organizations, choosing to isolate itself from the rest of the world. The self-imposed isolation of North Korea is known to have aggravated its supplies shortage.

The resumption of the long-halted humanitarian inter-Korean exchange is an urgent step to take for peacemaking on the Korean Peninsula and for ensuring at least a minimum standard of living for North Koreans. According to “The State of Food Security and Nutrition in the World 2021”, a report published by the UN Food and Agriculture Agency, an estimated 10.9 million North Koreans, or 42.2 percent of the population, were undernourished in the period 2018~2020 and an estimated 300,000, or 18.1 percent, of North Korean children five years of age or younger were stunted from undernourishment in 2020. The nutrition problem that North Korea has is one that requires a proactive approach, as it, in addition to being a matter of humanitarian concern for

universal human rights, could, if left untackled, especially as regards children, well engender the problem of population quality in the event of an inter-Korean reunification.



Sanctions and humanitarian exemptions

The UN Security Council has since 2006 adopted, pursuant to Chapter 7 of the United Nations Charter, a long series of sanctions resolutions against North Korea in response to its nuclear and ballistic missile development that the international community saw was threatening to global peace and security. The effect of the sanctions intensified as the UN Security Council removed the “livelihood exemptions” from its Resolution 2321. Resolution 2371 (August 5, 2017) imposed a blanket ban on natural resources imports from North Korea. Resolution 2375 (September 11, 2017) implemented an expanded ban on North Korean export of textiles and apparels. Also, with Resolution 2397 (December 22, 2017), the UN Security Council prohibited North Korean exports of food, agricultural products, machinery, electrical devices, raw earth minerals, wood and sea vessels.

The international community acknowledges the need to impose sanctions on North Korea, but it is also interested in the humanitarian situation in which North Korea could suffer damage from an unintended consequence of such sanctions. It is the adverse effect that the sanctions may have on the human rights of people in the sanctioned country that is of concern to the international community. For example, tight sanctions, economic ones in particular, may affect the rights of the civilian population of the sanctioned country to adequate standard of living, health, education and labor. The most affected of all the basic human rights that are affected by economic sanctions would be the right to health. As sanctions in more recent years have left North Korea unable to import even essential medical supplies and devices, drugs and vaccine products, it is the right to life itself that could be put at risk should, for example, an infectious disease breaks out.

The UN Security Council has been running a humanitarian sanctions exemption program with a view to protecting the human rights of people in the sanctioned countries, among which is North Korea. The first case of humanitarian exemption to a sanctions regime traces back to 1968, when the UN Security Council adopted a comprehensive resolution against Southern Rhodesia. For humanitarian assistance projects targeting civilian populations in North Korea, the need is growing to make the most of those exemptions.

The UNSC sanctions regime against North Korea has been tight to an unprecedented extent, and yet, of all sanction regimes in force, it is the only one that comes with an independent set of guidelines for humanitarian sanctions exemption. Article 46 of Resolution 2321 (2016) has affirmed that the UNSC’s Sanctions Committee “may, on a case-by-case base, exempt any activity from the measures imposed by these resolutions if the Committee determines that such an exemption if necessary to facilitate the work of such organizations in the DPRK or for any other purpose

consistent with the objectives of these resolutions.” Much of this affirmation was reaffirmed in several of the subsequent resolutions, including Resolution 2371 (2017), Resolution 2375 (2017), and Resolution 2397 (2017). Following its adoption of Resolution 2375, the UNSC Committee on Sanctions against North Korea—better known as the UNSC 1718 Committee after Resolution 1718 it had imposed on North Korea in 2006—in a press release on December 8, 2017 announced that it wished to “dispel any potential misunderstandings about the Security Council sanctions regime on the Democratic People’s Republic of Korea and better facilitate the delivery of humanitarian assistance to the Democratic People’s Republic of Korea”, bringing to attention “the relevant provisions contained in” the resolutions.

●● Cases of South Korean nongovernmental organizations granted with sanctions exemptions

Despite the fact that Resolution 2321, adopted in 2016 by the UN Security Council, includes provisions allowing humanitarian exemptions to the sanctions regime on North Korea, South Korean humanitarian organizations had rarely made an attempt to make use of those exemptions up until the second half of 2018. In 2018 alone, there were three rounds of inter-Korean summit meetings, and in 2019 two rounds of US-DPRK talks were held. As sanctions against North Korea intensified, however, nongovernmental aid organizations, which, standing as they were by their old-school mode of operation, bound by inter-Korean relations that seemed on track for improvement, found themselves confronted with difficulties getting their planned projects carried out. For example, after Resolution 2397 came into force, it took as long as three months for the Medical Aid for Children, a South Korean nongovernment organization, just to ship such basic medicines as fever relievers and antibiotics out to North Korea. The approval of the shipment was preceded by an extensive, meticulous process of verifying that none of the goods bound for shipment constituted violations of the sanctions put in place by the UN, the US, or the South Korean government. Furthermore, it often took a considerable amount of time for shipping firms to proceed with the loading of the goods onto their ship, burdened as they were with fear of the impact the US’s secondary boycotts might have on them. As cases of international and nongovernmental organizations getting from the 1718 Committee sanctions exemptions became known to South Korean nongovernmental organization, the perception began to grow that making use of exemptions can work to reduce the time to be taken for the delivery of humanitarian assistance.

The first to obtain such a sanctions exemption was the UNICEF. It took about two months for the international organization to get the approval for which it filed an application on August 27, 2018. The supplies involved consisted of a total of 35 items to be used in vaccination against, and control of, tuberculosis and malaria (X-ray equipment, refrigerated trucks, laboratory equipment, operating-room instruments, and vaccine refrigerators). Earlier in 2018, Eugene Bell Foundation, another South Korean aid organization, had applied in February for a sanctions exemption for its assistance project involving

the construction of a prefab hospital ward for tuberculous patients, and got it approved 9 months later, on November 30, 2018.

On August 6, 2018 the 1718 Committee announced its “Guidelines for Obtaining Exemptions to Deliver Humanitarian Assistance to the Democratic People’s Republic of Korea.” Subsequently, the South Korean Ministry of Unification issued an application form for use for requesting “exemptions to sanctions on shipment of items bound for North Korea”. By June 2021, the 1718 Committee had granted approval for a total of 76 humanitarian aid projects, of which 66 were listed for public view. Five among the 66 disclosed projects were those with approval granted through the good offices of the South Korean government.

[Table 1] South Korean nongovernmental organizations with their assistance projects approved by the UNSC 1718 Committee (in effect as of June 2021)

	Organization	Approved items (date of approval)
With the mediation of the South Korean government	Inter-Korean Economic Cooperation Research Center	-Covid-19-related products (July 7, 2020) -Medical devices used to detect the African Swine Fever (July 22m 2020)
	South Korea (Gyeonggi-do)	-Glass greenhouse system building and allied items; Nutritional Improvement for vulnerable populations in Nampo, South Pyongan
	Medical Aid for Children	-Medical equipment for dental care (August 13, 2020)
	South Korea	-Drinking water improvement (January 22, 2021)
Direct application by the applicant	Eugene Bell Foundation	-Supplies for multidrug-resistant tuberculosis patients (November 29, 2018; January 18, 2019; January 30, 2020; June 5, 2020)
	World Vision International	-Cement and 110 items of plumbing material (January 30, 2019) -Well pump, cylindrical saw, GI pipes, aluminum well caps, WASH project items (July 22, 2019)
	Sunyanghana	-Parallel bars used for physical therapy; rehabilitation equipment products
	Samcare International	-Medical equipment products, pharmaceuticals, nutraceuticals, medical books (February 7, 2020)

Source: UN Security Council. (2021). Humanitarian Exemption(s) in Effect.

<https://www.un.org/securitycouncil/sanctions/1718/exemptionsmeasures/humanitarian-exemption-requests>

Several South Korean nongovernmental organizations—the Medical Aid for Children, the Korean Sharing Movement, and the Green Tree International—were identified as having undertaken some of those 10 projects that remained undisclosed. The experience of the South Korean nongovernmental

organizations with respect to sanctions exemptions reveals how important it is for an aid organization to convince the 1718 Committee of the urgency and transparency of its proposed project by ensuring, for example, that, as a humanitarian aid scheme, the project is targeted at vulnerable civilian populations and that it in no way runs the risk of being diverted to the interest of the North Korean regime. The UNSC 1718 Committee, composed of fifteen nations sitting on the UN Security Council—five permanent members (United States, China, Russia, United Kingdom, and France) and ten elected members—makes decisions by consensus when granting exemptions to sanctions. It is crucial that a humanitarian aid organization, as it seeks to get the planned project approved, is equipped with effective strategies with in mind that the members of UNSC 1718 Committee hold different views across a spectrum of different issues. The need for demonstrating the urgency and transparency of a planned project is clearly manifested in the UNSC 1718 Committee’s aforementioned guidelines. The overarching aim of Resolution 2397 is to have North Korea eventually abandon all its WMD activities. The resolution in effect prohibits altogether even humanitarian assistance if it is deemed in any sense to be in the interest of the North Korean regime. For humanitarian aid supplies to be delivered to North Korea, it must be demonstrated in advance that they will be used purely for humanitarian purposes and that they will be monitored in such a way as to leave no chance at all that they may be put to use otherwise than for their intended purposes.

The cases examined in this study suggest that gaining sanctions exemptions takes more than a perfunctory filling-out of an application form. That is, the urgency of a planned humanitarian aid project must be substantiated with concrete documentary evidence demonstrating that the project is intended to benefit specific vulnerable groups who stand in urgent need of it. The Medical Aid for Children has strategically sought, by naming its planned project “medical equipment assistance project aimed at providing healthcare services to children and other vulnerable groups,” to bring the attention of the 1718 Committee not so much to the goods requested for approval for shipping as to how those supplies would in a humanitarian way benefit what specific vulnerable groups. Other nongovernmental organizations in their application for exemption likewise accentuated the vulnerable groups for whom their aid projects were intended, including children, older adults, the frail, disabled persons, and the chronically undernourished. As an example, one of these nongovernmental organizations, identified in this study as “Organization D”, in its application for approval for an aid project, had pointed up the urgency of the project by circumscribing its assistance to a small number of children of a narrowly specified age range selected from a specific rural area.

A concrete description of how dire the situations are for the targeted groups has proved effective. For example, some of the approved cases were found to have contained indicators that mirrored the target area’s status with respect to health, nutrition and food. The indicators presented were mostly from several studies that some international organizations, among them the UN, had conducted of North Korea. Also proven effective in gaining exemptions is the mentioning of the UN Sustainable Development Goals and related indicators, and an emphatic appeal that the proposed project could contribute to some extent to the SDGs.

When it comes to demonstrating the transparency of a planned project, whether and how the supplies bound for North Korea will be monitored matters more than the area to which the aid is to be delivered.

The applicants that were granted exemption approval for an aid scheme targeting Pyongyang residents were found to have presented in their applications a detailed plan for how the distribution of the aid supplies would be monitored to preclude any possibility of any of the supplies being siphoned off to elite groups. One such application included a plan for some of those involved in the project to make onsite inspection visits following the transfer of supplies, with a view to ensuring that the supplies delivered are in storage at where they should be and put to use as planned. The exemption request also made it clear that should a delay occur in the planned visit due, for example, to a freeze in inter-Korean relations, some overseas Koreans involved in the project would be tasked to carry out the planned onsite inspection. Another aid entity, identified in this study as Organization B, presented in its application a list of Korean-Chinese nationals employed for its Chinese branch, for whom, as Chinese citizens, visits to North Korea are less restricted than for South Korean nationals and who as such would be put in charge of ensuring the transparency of its proposed aid scheme. In yet another noteworthy example, the Medical Aid for Children even presented a list of North Korea specialists from the International Planned Parenthood Federation, a global nongovernmental organization, who would be tasked to conduct the monitoring of goods delivered to North Korea.

A nationalistic approach of underscoring the situation that are specific to the two Koreas is likely to win little sympathy from the international community. Any effort to convince the UNSC 1718 Committee to grant a sanctions exemption needs to be phrased in the language of the international community, preferably backed up by official indicators that are used in the international community.



Concluding remarks

North Korea's nuclear-weapons programs and long-range missile tests have rendered the country isolated in the international arena. With activities of economic cooperation banned altogether, the activities that South Korea can engage in toward inter-Korean peacebuilding are restricted to humanitarian aid. Since the Sunshine Policy of the Kim Dae-jung Government, inter-Korean exchange has promoted mutual understanding between the two Koreas. Assistance projects, undertaken or underway outside the political and military realms, are expected to have a cushioning effect on the ongoing inter-Korean conflict. The pull of humanitarian aid can over time convince the North Korean authorities of the value of long-term peace and prosperity and give the civilians of the country the prospect of improvement in their lives, leading to mid-to-long-term peacebuilding on the Korean Peninsula.

The strict sanctions imposed against North Korea notwithstanding, nongovernmental organizations, if they succeed in convincing the 1718 Committee to grant them a sanctions exemption, can ship out supplies to North Korea for its vulnerable civilians. The odds of obtaining a sanctions exemption are especially high for supplies purposed for the health and welfare of vulnerable civilian populations in North Korea. There is a growing need to deliver humanitarian assistance to North Korea via various channels, including government agencies, international organizations and nongovernmental

organizations, given that North Korea is in dire need, since the covid-19 pandemic in particular, for medical supplies including vaccine doses, emergency medicines, and diagnostic medical devices. Such humanitarian aid efforts should be made use of fully as a means of shifting the current conflict into resolution.