
U.S. Economic Sanctions against North Korea

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Introduction

The expectation is rising that basic agreement between Washington and Pyongyang on the underground nuclear facilities at Kumchangri would contribute to the positive posture of Perry Report scheduled to be out in May 1999. Progress of missile talk and four-party talk also raise the possibility of lifting U.S. economic sanctions against Pyongyang. Seoul wants Washington to ease economic sanctions and thereby stimulate opening of Pyongyang, because Seoul's policy on Pyongyang is focused on embracing Pyongyang based on comprehensive approach. But lifting economic sanction is not very much probable since other issues such as missile talk would affect the decision. US policy toward Pyongyang can be examined through its position on economic sanctions and current state, and thereby we might get some insights into the future of the economic sanctions against Pyongyang.

Background and Process

Pyongyang has been subject to the most comprehensive economic sanctions by Washington for almost 50 fifty years since the

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end of Korean War. Economic sanctions include a ban on commercial and financial transactions, freeze of North Korean assets in U.S., and restrictions on trade, export credit and private investment. They are multiple and diverse. Easing sanctions came to be gradually promoted since the July-7 Declaration in 1988 during Rho Taewoo government. Korea was preparing for the Olympic Games of 1988 and was in great need of preventing any provocative activities. For that purpose, Seoul asked Washington to ease the economic sanctions against Pyongyang. Washington responded positively, though only in symbolic dimension, and in 1989 partially eased ban on export to Pyongyang and a freeze on Pyongyang's assets in the U.S. As a result, Washington allowed export of publications which do not affect the national security. The U.S. travel agencies were also able to arrange travel for non-commercial activities such as sports, research and culture. Economic sanction came forward as a central issue with the Geneva agreement on nuclear issue between Washington and Pyongyang on October 21, 1994.¹ Based on Geneva Agreement, Washington and Pyongyang were supposed to promote complete normalization of political and economic relations. Sanctions on trade and investment including regulations on telecommunication service and financial transactions were supposed to be lifted within three months after the Agreement.²

But with the dissipation of 1994 crisis, Washington has been content to halt the nuclear programs of Pyongyang, and has not shown much interest in improving the relationship with Pyongyang or in easing economic sanctions. Clinton administration's package on easing economic sanctions, announced on January 20 of 1995, turned out to be very modest one under the pressure of Republicans who are majority in the Congress after November election of 1994. With nothing much going on since then, Washington revealed its intention to utilize the issue of eas-

¹ CRS Report for Congress, *Korea: Procedural and Jurisdictional Questions Regarding Possible Normalization of Relations With North Korea*, 94-933 S.

² Agreed Framework between the United States of America and the Democratic People's Republic of Korea, October 21, 1994.

³ Despite this, total amount of trade between the two countries in 1995 was over 5 million dollars, which was a 28 times increase from 1994 when ban on the trade with North Korea was partially lifted.

ing economic sanctions as a bargaining chip.³ US first proposed this idea to Pyongyang at the Washington-Pyongyang talk held in Berlin in March 1998.

Washington already proposed to Pyongyang at high level talk in Beijing in January 1992 that U.S. would lift economic sanctions if Pyongyang gave up the export of terror and missile, and cooperated on the issue of returning remains of the U.S. soldiers and Seoul-Pyongyang talk. Washington is now trying to link the sanction issue with the confidence building in the military areas. Pyongyang was not happy with this U.S. move and launched missile in August 1998. This again led Washington to link sanction with the missile issue. Lift of economic sanction was one issue Pyongyang has insisted in resolving, which motivated Washington to use the issue as a bargaining chip regardless of its effectiveness. Sanction regime of the U.S. is categorized into several baskets according to the major issues, like missile talk basket or four party talk basket. The problem of this basket system is that sanction is not easy to lift without direct concession on the part of Pyongyang. It is not likely that U.S. give up this basket system unilaterally.

Contents of Economic Sanctions and Partial Lift

This session deals with the current state of the U.S. economic sanction⁴ and concrete contents of the sanctions partially eased. North Korean diplomats working in UN office of New York can move only within a radius of 25 miles, because Pyongyang is not in official relations with the U.S. According to the U.S. constitution, decision to establish diplomatic ties are under the jurisdiction of the Executive with no need for Congressional consent. According to the Trade with the Enemy Act⁵, all of the North Korean assets were frozen as of Dec. 17 1950, and financial transactions were also banned. Allowed are non-political travel, financial transactions for export/import of humanitarian materials and public information

⁴ "North Korea Sanctions," <http://www.nautilus.org/napsnet/sanctions.html>

⁵ Trade With the Enemy Act ("TWEA"), Pub.L. 65-91, as amended 50 U.S.C. App.5(b); 31 C.F.R. 510.201 et seq.

⁶ This decision is under the jurisdiction of the Department of Finance. It is a policy matter of the Administration and do not need consultation with or consent of the Congress.

materials.⁶ Most of the U.S. export to and import from North Korea is also banned⁷. Exceptions include export of materials related to the public information, humanitarian aid, and the building of light water reactor,⁸ and import of magnesite. There also exist sanctions based on the regulation on international arms trade and the regulation against the terrorist or communist countries. According to the International Traffic in Arms Regulations (ITAR),⁹ which has banned the arms transactions since August 26, 1955, defense articles and trade of related services are not allowed. Sanction against Pyongyang as a terrorist country was determined on January 20 1988 in the aftermath of explosion of the passenger plane of the Korean Air Line in Nov. 1987. Sanctions against the terrorist countries include ban on export of arms according to the Arms Export Control Act, control on the export of dual use articles according to the Export Administration Act,¹⁰ ban on the foreign assistance according to the Foreign Assistance Act,¹¹ and sanctions based on International Financial Institutes Act.¹² Removal from the list of terrorist countries is within the scope of Executive decision, but president is bound to report to the Congress. At the Washington-Pyongyang talk on the suspect nuclear facility at Kumchangri held on September 5 1998, the U.S. disclosed that North Korea could be removed from the terrorist list and further talk is possible in case North Korea keeps implementing pertinent measures. It is not clear how William Perry, North Korea policy coordinator, would deal with deregulation of control as a carrot in his report, but his decision is important in that benefits given to North Korea is not small

⁶ Export Administration Act of 1979(Pub.L. 96-72, as amended, 50 U.S.C. App.2404)(“EAA”);15 C.F.R. Part 700

⁷ This is under the jurisdiction of the Department of Commerce, which can ease or end the regulation without the consultation or consent of the Congress.

⁸ International Traffic in Arms Regulations: ITAR. Department of State revised ITAR on April 4, 1988, and has banned the sale and trade of defense articles and services with the terrorist-supporting countries which are listed by the Secretary of the State.

⁹ Export Administration Act of 1979 as amended by the Anti-Terrorism and Arms Export Amendments Act of 1989, Pub.L.101-222, 103 Stat. 1892. A permission is required for the export of dual use articles and technology to the terrorism-supporting countries, and a notification to the Congress is required for the list of articles and details of the exported products 30 days in advance of export.

¹⁰ Foreign Assistance Act of 1961.

¹² American representatives are supposed to oppose the move of IBRD and IMF that provide fund or loan to the terrorist countries.

when it is removed from the terrorist country list. As a communist country, North Korea is not allowed the status of Most Favoured Nation (MFN), Generalized System of Preferences (GSP), foreign assistance, and guarantee, insurance, and a loan from the Eximbank according to Trade Act (1974) and Foreign Assistance Act (1961). The U.S. is designating North Korea as a country that violates Missile Technology Control Regime (MTCR) and is prohibiting export and import of defense articles according to the Export Administration Act.

Followings are the contents of sanctions eased by the Geneva Agreement. Washington dissolved a freeze on assets worthy of 5.2 million dollar that belong to third country citizens out of 20 million dollars frozen under above mentioned laws on January 20, 1995. Washington also allowed Pyongyang to use American banks to clear financial transactions which were incomplete or initiated in the U.S. Import of North Korean Magnesite and direct call between the U.S. and North Korea were allowed. Travel to North Korea by the U.S. citizens were permitted and office of mass media were to be installed. Flight of U.S.-registered aircraft over North Korean Flight Information Region (FIR) was allowed and emergency landing fee was determined from April 7, 1997. But based on the resolution involving safety considerations, American flight over North Korean airspace was prohibited from April 18. Some exceptions were made in the ban on the trade with North Korea in a way that transaction to cover costs directly related to purchase and transport of information materials, costs incurring from telecommunication, humanitarian assistance, finance and emergency transportation facilities.

Conclusion: Prospect of Easing Sanctions

Since further easing of sanction is linked to military issues such as missile export and development, future of easing sanctions is dependent on the progress in this area. But, there are some possibilities. As a result of missile talk, if North Korea halt the missile-firing test, Washington may ease the economic sanctions. In that case, Washington might ease the regulations starting from the

areas where measures do not need Congressional consent or require only administrative measures. First step might be to dissolve the ban on North Korean assets worth 25 million dollars. This measures would make it easy to conduct the financial transactions needed for the trade with North Korea. American companies may be allowed to invest in or trade with North Korea in the areas that are not sensitive in terms of military strategy. North Korea may also be allowed to join international financial organizations.

In case North Korea ceases to export missiles or missile parts, compensation for the lost income may be needed. The amount of possible lost income is reported to be 500 million dollars a year. Israel is especially keen on ending missile export by North Korea to Middle East. Washington is considering providing UN food aid program costing about 300 million dollars and multilateral development fund to support energy and mining sectors of North Korea as a sort of indirect compensation.

On the other hand, Washington has a plan to amend laws such as Export Administration Act and Trade with the Enemy Act with the consent of Congress if the talks on missile and return of remains of the U.S. soldiers are completed, if North Korea participates in the four-party talk sincerely, and if negotiation to deliver core parts needed to build light water reactors is to be completed. But these measures will require change in attitudes and effective measures on the part of North Korea. The U.S. Congress also need to change its perception that North Korea is a enemy country. Pyongyang's position is that since the development and production of missile is a matter of national sovereignty and security, it is more than a matter of compensation for economic loss. That is, North Korea demands the guarantee that U.S. will not pursue the collapse of North Korean regime. This is a quite complicated issue, because it is linked to the building of peace system on the Korean Peninsula and also related to the U.S. Armed Forces stationed in Korea.

On the other hand, Japan is paying much attention to the U.S.-North Korea missile talks. Firing-test, development, and deployment of North Korean missile have directly to do with the security of Japan. In that context, Japan might try to indirectly compensate for the ending of missile development in the process of normaliza-

tion talk between North Korea and Japan.

Finally, U.S.'s position is that only after the peace system in Korea is constructed and all the pending issues between Washington and Pyongyang come to a conclusion, it can revise all the related laws such as Export Administration Act and Trade with the Enemy Act with the consent the Congress. Only then will Washington be ready to grant MFN and GSP status and support Pyongyang's admission to the WTO.

In fact, easing or eventual lifting of economic sanctions would not immediately lead to an increase in the trade with and investment of the U.S. firms. Lack of foreign currency, limited products to trade, and insufficient infrastructure in North Korea are other serious obstacles.

However, investment in North Korea by American firms would be important because it would encourage investment of Western firms as well as South Korean firms. Reduced investment risk backed up by American investment and maximum compensation of 10 billion dollars by Japan for the past pains and exploitation during the colonial period, which is possible in case North Korea-Japan relations improve, would greatly ease the economic crisis of North Korea.

Seoul regards easing sanctions as a catalyst to encourage Seoul-Pyongyang economic cooperation and to improve Washington-Pyongyang relations and regional security. Since easing economic sanction is linked to the building of military confidence, however, any substantial result is not in sight in near future. What is important is to continue to have a belief in the gradual improvement and to strengthen the base of economic cooperation with Pyongyang. ■■■

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