



Workshop

International Expert Discussion on the Challenges of Compliance with UN Arms Embargoes, organized as part of the project on Strengthening Implementation and Enforcement of the Arms Embargo on North Korea (SAENK), Geneva, Switzerland, 9–10 September 2019

Workshop Report

Introduction

This report provides a brief summary of the International Expert Discussion on the Challenges of Compliance with UN Arms Embargoes, which took place in Geneva, Switzerland, on 9–10 September 2019.

This workshop fits into the broader framework of the SAENK project, which is intended to strengthen national implementation and enforcement of UN sanctions on the Democratic People's Republic of Korea (North Korea). A key element of the project is that of providing support for an emerging community of practice on North Korean sanctions, with possible implications for longer-term cooperation. In light of the fact that measures that the UN Security Council (UNSC) imposed on North Korea entail a range of hurdles that embody many of the more general challenges related to the implementation and enforcement of arms embargoes, North Korea can be used as an illustrative case to contribute to the broader understanding of the complexities, strengths, and limitations related to these coercive and preventive measures. To this end, the SAENK project convened an International Expert Discussion on the Challenges of Compliance with UN Arms Embargoes in order to:

- (1) introduce the SAENK project, its goals and objectives, and preliminary research findings to subject-matter experts and practitioners, including from academia, think tanks, non-governmental organizations, and international organizations;
- (2) share and review preliminary findings from the materials produced in the framework of the SAENK project;
- (3) provide evidence to the policy community on how North Korea is evading sanctions and explore some of the counter-strategies that can be employed at the national and international levels;
- (4) benefit from subject-matter experts' presentations of their research findings or projects, and their perspectives on North Korea's sanctions evasion techniques, as well as on effective implementation and enforcement; and

(5) highlight elements of mutual interest and concern among various projects related to sanctions evasion and the effective implementation and enforcement of arms embargoes.

Partnership and participation

The Small Arms Survey collaborated with the Netherlands Ministry of Foreign Affairs and Dr Erica Moret, chair of the Geneva International Sanctions Network at the Graduate Institute of International and Development Studies (IHEID), in the organization of the event. Thirty-two international experts working on North Korea, sanctions evasion, and UN arms embargoes in general took part in the meeting. These experts included representatives of governments (including the Ministry of Foreign Affairs of the Netherlands, the Ministry of Foreign Affairs of the Republic of Korea, the Ministry of Foreign Affairs of Japan, and the US State Department), fellow civil society organizations, and research/academic institutions based in Europe (with a number of Geneva-based participants) and the United States.

Workshop outline and process

The workshop comprised four broad thematic sessions covering eight thematic clusters, including presentations by the Survey team and subject-matter experts followed by short discussions. Presentations dealt with the following themes:

- (1) arms embargoes: dimensions, actors, key conclusions from the research;
- (2) the UN arms embargo on North Korea: state of the art and challenges;
- (3) non-UN arms embargo regimes on North Korea;
- (4) smuggling methods used to evade sanctions;
- (5) illicit transfers by North Korea;
- (6) strategies employed by North Korea and counter-strategies for tackling North Korean evasion techniques;
- (7) policy approaches and capacity building: perspectives from the international community; and
- (8) investigating UN arms embargoes violations: challenges and examples of best practice and cooperation

Recommendations that emerged from the discussions focused on the following themes:

- *fostering closer dialogue on a multisectoral level and addressing gaps in the governance of sanctions at the global level*: the Financial Action Task Force, for example, does not cover small arms and light weapons, and major international organizations, such as the International Maritime Organization, are not actually engaged in sanctions work;
- *finding ways to encourage better political buy-in*: this could be done, for example, by focusing on risk management;
- *investing in research that helps to highlight open-source investigations*;
- *fostering partnerships in sanctions-compliance efforts between the UN and its key partners* (for example, the EU in terms of autonomous restrictive measures) in order to guarantee the effective implementation and monitoring of sanctions, including the arms embargo, given the lack of proper monitoring mechanisms such as panels of experts or Office of Foreign Assets Control-equivalent bodies at the regional level;
- *encouraging better utilization of the expertise of regional and international organizations*;
- *considering links and synergies with international instruments with broader geographical scope*, in particular with instruments that relate—at least to some

extent—to sanctions, such as the Arms Trade Treaty and the Proliferation Security Initiative;

- *promoting research into ways in which sanctions interact with some other key political areas and fostering synergies with policies related to other areas, for example, dialogue, mediation, trade, cyber security, and cryptoassets-/blockchain-supported technologies;*
- *considering further mapping/research into the methods North Korea uses to evade sanctions;*
- *ensuring the inclusion of a broader spectrum of actors when organizing capacity-building work at the national or regional level, with special focus on public–private engagement; and*
- *increasing the use of investigative missions to uncover and report on violations of arms embargoes.*

Background materials and data that the Small Arms Survey collected during the first months of the SAENK project to develop a research paper (Briefing Paper) on the mechanics of illicit trafficking from North Korea and three ‘how-to’ guides on how to implement and enforce the embargo on that country informed the content of the workshop. Feedback from participants helped the SAENK project team to gain further understanding of the more general challenges related to the implementation and enforcement of the UN arms embargo on North Korea. These are:

- insufficient, inadequate, uneven, and/or outdated enabling national legislation and regulations;
- non-reporting and late reporting by UN member states, which, among other things, impedes the Panel of Experts’ ability to analyse the challenges facing national implementation;
- the lack of oversight, in particular with regard to maritime sanctions;
- the lack of information sharing and knowledge;
- UN member states’ lack of understanding and low prioritization of UNSC resolutions; and
- the shortage of appropriately qualified technical experts.

Possible solutions to address these gaps and improve implementation and enforcement were also explored:

National states were called on to:

- adopt national mechanisms to address sanctions obligations;
- undertake proliferation risk and threat assessments;
- establish an inter-agency coordination mechanism to oversee sanctions implementation and enforcement;
- strengthen legal and administrative authority in supplier and neighbouring countries; and
- activate or reinforce open communication channels with the UN Panel of Experts, national agencies, and external stakeholders.

Policy-makers and practitioners were called on to:

- organize awareness-raising activities to foster public–private engagement;
- undertake proliferation risk and threat assessments at the international level;
- recommend listing companies in the international capital market to disclose the compliance of their business and supply chains with the arms embargo, and

recommend institutional investors to follow the same norm to disclose their inquiries to and replies from listing companies.

Some experts made a number of (critical) observations on the nature of sanctions efforts in general and the SAENK project's work and some of its components in particular. Some key suggestions were the following:

- (1) There should be further reflection on the nature of UN sanctions on North Korea, which can be considered as comprehensive rather than targeted sanctions.
- (2) A more targeted approach should be considered to the implementation and enforcement of UN sanctions on North Korea and should be reflected in SAENK project language and activities.
- (3) Capacity-building activities should be split up into basic awareness workshops and awareness-raising activities intended for particular groups (for example, port authorities).

Some participants questioned the rationale of the SAENK project by suggesting the following:

- (1) The SAENK project should consider whether reinforcing the implementation of UN sanctions regime and UN arms embargoes is really worth the effort, because North Korea continues to violate the arms embargo and the latest Panel of Experts report shows that the multilateral sanctions regime conceived and designed to target North Korean nuclear weapons and ballistic missile programmes has not been effective.
- (2) The project should reflect on the rationale for the UN arms embargo on North Korea, which is ultimately aimed at preventing the flow of resources into the weapons of mass destruction programme and not at prohibiting arms-related transfers from and to North Korea. UNSC measures on conventional arms should therefore be considered as secondary measures, and related bans, including mandatory inspection requirements, as implementation measures. Nevertheless, the international community has not yet focused on transfers of conventional arms from and to North Korea, and attempting to keep the community focused on this aspect is the actual ground-breaking element of the SAENK project.
- (3) The project should bear in mind that, as the literature suggests, it is difficult to ascertain whether and to what degree sanctions are responsible for policy change, while it is also difficult to assess whether capacity-building work on the implementation of UN sanctions is responsible—and to what extent—for policy change.

Seven main areas of agreement were identified on how to improve policy and capacity-building work and initiatives by focusing on the approaches used by the UNSC arms embargo on North Korea, which could also be applied more broadly to other UN arms embargo regimes. These seven perceived needs include:

- (1) *countering North Korean evasion methodologies by establishing or enhancing monitoring mechanisms;*
- (2) *increasing knowledge and information sharing within and among UN member states in order to increase their capacity to apply sanctions;*
- (3) *establishing national and regional mechanisms to address sanctions obligations;*
- (4) *thinking laterally about how to identify which aspects of sanctions states can realistically be expected to apply in light of their respective national legislative systems;*
- (5) *providing support to UN member states to assist them to provide good-quality and consistent reporting;*
- (6) *involving regional and international organizations in reporting obligations; and*

(7) promoting a culture of common understanding of UNSC resolutions, which is still largely lacking, leading to disagreements over the implementation of arms embargoes.

Areas of agreement among participants on how to improve research into North Korea's evasion of sanctions identified three main issues:

- (1) the need for further knowledge on how to maximize monitoring mechanisms in order to create better data for compliance;*
- (2) the need for further knowledge on how sanctions interact with other policy instruments; and*
- (3) the need for further research on the role of embassies and trade missions as operational centres for the conduct of illicit activities.*

Overall, the need for further research-oriented work on UN arms embargoes, combined with policy work, was emphasized. To this end, the IHEID SanctionsApp and the UN arms embargo databases of the Group for Research and Information on Peace and Security represent ground-breaking resources that need to be taken into account when conceptualizing policy-relevant work.

While no major controversies emerged from the discussion, participants identified the following areas as underexplored or contentious:

- further work on implementation vs further work on enforcement;*
- the need for follow-up measures in cases of UN member states' non-compliance with UN sanctions regimes;*
- the effectiveness of the UN arms embargo on North Korea; and*
- the role of non-UN sanctions regimes and how they help or hinder the effectiveness of UN sanctions regimes.*

The discussions revealed that there is no one-size-fits-all approach to capacity building. Initiatives to build capacity need to be tailor-made for the particular setting in which they will be undertaken, taking into account, for example, questions of culture, historical links, and national security priorities.

While outreach efforts have been undertaken in Africa, the Middle East, and South-east Asia, large parts of these regions remain underexplored. While the approach that the SAENK project has developed may generally work, capacity-building activities cannot be implemented in countries like China, which remains a hub for North Korea's conduct of illicit activities at the global level. Most front companies and brokering entities that North Korea uses to conduct such activities are in fact of Chinese origin. In order to both enhance capacity-building work on the implementation and enforcement of UN sanctions on North Korea and to identify and counter sanctions evasion techniques, it may be useful to develop a conceptual framework that draws on parallels between how North Korea operates in Asia and how criminal cartels in South American countries operate in North America.

In order to support an emerging community of practice on North Korean sanctions, further discussions/information sharing at the international level on specific topics related to North Korean sanctions (and compliance with UN arms embargoes more generally) and enhanced linkages among capacity-building activities seem to be the best options.

Workshop facilitators

Dr Sigrid Lipott, Small Arms Survey, Geneva, Switzerland: SAENK project coordinator and presenter

Dr David Atwood, Small Arms Survey, Geneva, Switzerland: organizer

Dr Erica Moret, Small Arms Survey, Geneva, Switzerland: moderator

Mr Hugh Griffiths, Small Arms Survey consultant: presenter and moderator

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Kingdom of the Netherlands



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Workshop

The Challenges of Compliance with UN Arms Embargoes:

An International Expert Discussion

Date: 9 (afternoon)–10 (full day) September 2019

**Venue: Geneva Welcome Centre, La Pastorale,
Maison Rose Route de Ferney 106, Geneva**

Moderator: Dr Erica Moret, Graduate Institute, Geneva

Draft programme

Monday, 9 September 2019		Day 1
Time	Subject	Responsible organization/person
13:00–14:00	Arrival and registration of participants (coffee/tea)	Small Arms Survey
14:00–14:45	<ul style="list-style-type: none">• Welcome• SAENK project presentation• Purpose of the expert discussion and introduction of participants	Graduate Institute/Small Arms Survey
Session 1. Arms embargoes and the arms embargo on North Korea: strengths and weaknesses		
14:45–15:25	Cluster 1. Arms embargoes: dimensions, actors, key conclusions from the research	Mr Ahmed Abdel Hakam , senior associate, Eversheds Sutherland (London) Dr Zuzana Hudakova , post-doctoral researcher, Sciences Po CERI (Paris) Mr Léo Gehin , Groupe de Recherché et d'Information sur la Paix et la Sécurité (Brussels)

15:25–15:35	Questions/discussion	
15:35–16:15	Cluster 2. The UN arms embargo regime on North Korea: state of the art and challenges	Mr Benjamin Hautecouverture , researcher, Fondation Pour la Recherche Stratégique (Paris) Mr Xiangfeng Li , member of the UN Panel of Experts on North Korea (New York)
16:15–16:25	Questions/discussion	
16:25–17:05	Cluster 3. Non-UN arms embargo regimes on North Korea	Mr Jonathan Corrado , director of policy, Korea Society (New York) Ms Elizabeth Konstantinova , policy officer-nuclear, SECDEFPOL.4, alternate chair of the Conop Working Group, Disarmament, Non-proliferation and Arms Export Control, European External Action Service (Brussels)
17:05–17:15	Questions/discussion	
17:15–18:00		Cocktail reception
Tuesday, 10 September 2019		Day 2
Session 2. Evasion techniques		
09:00–09:40	Cluster 1. Smuggling methods used to evade sanctions	Mr Hugh Griffiths , arms expert and former member of the UN Panel of Experts on North Korea Dr Dan Liu , researcher, Project Alpha, King's College London (London) Mr Cameron Trainer , research associate, James Martin Center for Nonproliferation Studies, Middlebury Institute of International Studies, Washington DC Office (Washington, DC) Ms Darya Dolzikova , research analyst, Proliferation and Nuclear Policy, Royal United Services Institute for Defence and Security Studies (London)
09:40–09:50	Questions/discussion	
09:50–10:30	Cluster 2. Illicit transfers by North Korea	Dr James Byrne , research fellow, Royal United Services Institute for Defence and Security Studies (London) Dr Bruce Bechtol , Department of Security Studies and Criminal Justice, Angelo State University (San Angelo)

		Mr Jonathan Corrado , director of policy, Korea Society (New York)
10:30–10:40	Questions/discussion	
10:40–11:10		Coffee/tea break
Session 3. Effective implementation and enforcement		
11:10–12:40	Cluster 1. Strategies employed by North Korea and counter-strategies for tackling North Korean evasion techniques	Mr Hugh Griffiths , arms expert and former member of the UN Panel of Experts on North Korea Ms Cristina Rotaru , researcher, Verification Research, Training and Information Centre (London) Ms Darya Dolzikova , research analyst, Proliferation and Nuclear Policy, Royal United Services Institute for Defence and Security Studies (London)
12:40–13:00	Questions/discussion	
13:00–14:00		Lunch
14:00–15:10	Cluster 2. Policy approaches and capacity building: perspectives from the international community	Governments: Ms Sachi Claringbould , deputy permanent representative to the Conference on Disarmament; first secretary, Permanent Representation of the Kingdom of the Netherlands in Geneva (Geneva) Mr Blake Pritchett , foreign affairs officer, Bureau of International Security and Nonproliferation, Office of Export Cooperation, EXBS Program, US Department of State (Washington, DC)) Civil society: Dr Ian Stewart , head, Project Alpha, King's College London (London) Dr Sigrid Lipott , associate researcher, Small Arms Survey (Geneva) Mr Martin Rioux-Lefebvre , director of program management, Compliance and Capacity Skills International (New York)

15:10– 15:30	Questions/discussion	
15:30–16:00		Coffee/tea break
Session 4. UN arms embargoes violations		
16:00– 16:30	Cluster 1. Investigating UN arms embargoes violations: challenges and examples of best practice and cooperation	Mr Hugh Griffiths , arms expert and former member of the UN Panel of Experts on North Korea Mr Aurelien Llorca , armed group expert, UN Panel of Experts on Mali Mr Xiangfeng Li , member of the UN Panel of Experts on North Korea (New York)
16:30– 16:40	Questions/discussion	
16:40– 17:00	<ul style="list-style-type: none"> • Wrap-up and closing • Evaluation questionnaires 	Small Arms Survey

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