

# Addressing North Korean Forced Labour by Means of International Economic Sanctions

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In its second case-study, *Tightening Belts* describes how North Korean (DPRK) workers carry out forced labour in the supply chains of Chinese factories and international textile brands. The authors recommend that corporations—Chinese garment factories, as well as (Western) buyers of garments—take their corporate social responsibility seriously and step up their due diligence efforts. This contribution approaches the infringements from a public law perspective, and inquires what international or domestic regulatory measures are, could, or should be adopted to address DPRK forced labour in international supply chains. Regulatory measures could take a variety of forms, but the emphasis of the analysis lies on the adoption of *economic sanctions*, defined as ‘the withdrawal of customary trade and financial relations for foreign and security policy purposes’,<sup>691</sup> with the aim ‘to bring about a change in the policy or activity’ of targeted entities.<sup>692</sup> Applied to the case of the DPRK, the

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691) Jonathan Masters, ‘What Are Economic Sanctions?’, Council on Foreign Relations, 12 August 2017, <https://www.cfr.org/backgrounder/what-are-economic-sanctions>.

692) General Secretariat of the Council of the EU, Sanctions Guideline, 5664/18, 4

question is how the international community and third states (i.e., states other than the DPRK) (can) use restrictive measures with a view to curbing or even bringing a halt to the forced labour activities performed by DPRK nationals. The contribution focuses on measures that are *human rights*-oriented, i.e., measures that address forced labour as a human rights violation (a violation of the labour rights of DPRK workers),<sup>693</sup> rather than as an undesirable source of income for the DPRK government.

The contribution distinguishes between two types of economic sanctions, which are discussed in the first two sections: (1) measures that are specifically aimed at curbing DPRK nationals' *work activities in third states*; (2) measures that embargo the *exportation of DPRK-produced goods*. Both measures may have beneficial impacts on the human rights situation of DPRK nationals, even if their primary aim may be to reduce the DPRK government's foreign earnings.

While in international sanctions practice the former type of measure is decidedly uncommon,<sup>694</sup> the latter is not. Thus, the discussion of the DPRK export/import embargo in Section 2 forms the springboard for a more wide-ranging inquiry into non-geographically limited import bans for foreign-origin goods produced with forced labour (Section 3). Internationally speaking, the use of state-tolerated forced labour in the production of goods that may be destined for exportation is unfortunately legion. In 2012, the International Labour Organization (ILO) estimated that 20.9 million people are victims of forced labour globally,<sup>695</sup> and in 2014 it found that in the private economy, forced labour generates US\$

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693) See Article 8(3)(a) International Covenant on Civil and Political Rights (adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976) ('No one shall be required to perform forced or compulsory labour').

694) In the case of the DPRK, they have exceptionally been adopted with a view to tackling the practice of the DPRK sending its nationals abroad to generate funds for the regime, in the context of which forced labour occurs. In general, states do not send their nationals abroad to toil there in forced labour conditions. This does not mean that foreign workers are not exploited. See, e.g., the exploitation of migrant workers in Qatar: 'The Ugly Side of the Beautiful Game: Exploitation of Migrant Workers on a Qatar 2022 World Cup Site' (London: Amnesty International, March 2016).

695) International Labour Office Special Action Programme to Combat Forced Labour (SAP-FL), 'Global Estimate of Forced Labour' (Geneva: ILO, 2012).

150 billion in illegal profits per year.<sup>696</sup> Such forced labour can be used to produce goods that enter international supply chains. Accordingly, import restrictions could put pressure on exporting states to address forced labour practices more vigorously. Section 3 gives pride of place to a recently amended US act that bans the importation into the US of goods produced with forced labour. Section 4 concludes.

### ***1. Curbing DPRK Nationals' Work Activities in Other States***

A rather unique restrictive measure adopted by the international community in respect of DPRK slave labour is the curbing of DPRK nationals' work activities in other states. In particular, UN Security Council (UNSC) Resolution 2397 (2017) expressed concern 'that DPRK nationals continue to work in other States for the purpose of generating foreign export earnings that the DPRK uses to support its prohibited nuclear and ballistic missile programs', and on that basis decided that UN Member States 'shall repatriate to the DPRK all DPRK nationals earning income in that Member State's jurisdiction and all DPRK government safety oversight attachés monitoring DPRK workers abroad immediately but no later than 24 months from the date of adoption of this resolution.'<sup>697</sup> Larissa van den Herik pointed out earlier in *People for Profit* that the 'protective reach of UN sanctions for North Korean migrant workers is limited', as the obligation to repatriate DPRK workers is 'not primarily inspired by human rights concerns, but rather functional in nature, aimed at curbing financial flows to Pyongyang'.<sup>698</sup> However, repatriation of DPRK workers can, in principle, have positive human rights effects in that DPRK workers will no longer be toiling abroad in slave-like conditions. While, as the current study has found, 'North Korean labour must be understood as forced labour and in some cases even as contemporary slavery, *whether it takes place domes-*

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696) International Labour Office (ILO) Special Action Programme to Combat Forced Labour (SAP-FL) Fundamental Principles and Rights at Work Branch (FPRW), 'Profits and Poverty: The Economics of Forced Labour' (Geneva:ILO,2014).

697) UNSC Resolution 2397 (2017), 8.

698) Larissa van den Herik, 'Testing the Protective Reach of UN Sanctions for North Korean Migrant Workers', in *People for Profit: North Korean Forced Labour on a Global Scale*, ed. Remco E. Breuker and Imke B. L. H. van Gardingen (Leiden: LeidenAsia-Centre, 2018).

*tically or overseas*,<sup>699</sup> it also transpires that the situation of DPRK workers abroad may ‘in some ways’ be worse than in the DPRK itself.<sup>700</sup> For instance, the report notes that ‘the surveillance system controlling North Koreans abroad is even stricter than it is within North Korea, as they are even barred from contacting family or moving around freely.’<sup>701</sup>

As repatriation of DPRK workers may, apart from curbing DPRK income, result in minor improvements of the situation of DPRK workers, adequate implementation of UNSC Resolution 2397 is called for. It is not entirely clear, however, whether all states take their obligations to repatriate DPRK workers seriously. Recently, states have reported on their repatriation efforts to the UNSC DPRK sanctions committee, in line with Resolution 2397, which required all Member States to provide a midterm report after 15 months.<sup>702</sup> Russia and China, the states where arguably the largest number of DPRK workers are active, have stated that they repatriated respectively two-thirds and more than half of DPRK workers in 2018.<sup>703</sup> Poland, which occupied a central place in the *Slaves to the System* report,<sup>704</sup> reported that while in December 2017, 451 North Koreans were working in Poland, only 37 were working there by the end of 2018.<sup>705</sup> It is not certain, however, that all reported figures are correct. For instance, it has been reported that in 2018, Russia, rather than repatriating DPRK workers, hired *new* workers. A Russian decree on foreign workers apparently gave Russian companies permission to hire 1,237 DPRK workers in Russia’s Amur region, which borders the DPRK.<sup>706</sup> This would be in breach of UNSC Resolution 2375 (2017), which decided that all Member States ‘shall not provide

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699) Breuker & van Gardingen, *Tightening Belts*, 210 (emphasis added).

700) Breuker & van Gardingen, *Tightening Belts*, 234.

701) Breuker & van Gardingen, *Tightening Belts*, 234.

702) UNSC Resolution 2397 (2017), 8.

703) Michelle Nichols, ‘Russia, China Sent Home More than Half of North Korean Workers in 2018: UN Reports’, *Reuters*, 26 March 2019. The reports have not been made public, but Reuters had access to them.

704) Remco E. Breuker and Imke B.L.H. van Gardingen, *Slaves to the System. North Korean Forced Labour in the European Union – the Polish Case*, Leiden: LeidenAsia-Centre, 2016.

705) Breuker & van Gardingen, *Slaves to the System*.

706) Alec Luhn, ‘Russia hiring North Korean “slave” workers despite UN sanctions’, *The Daily Telegraph*, 3 August 2018, <https://www.telegraph.co.uk/news/2018/08/03/russia-hiring-north-korean-slave-workers-despite-un-sanctions/>.

work authorizations for DPRK nationals in their jurisdictions in connection with admission to their territories unless the Committee determines on a case-by-case basis in advance that employment of DPRK nationals in a member state's jurisdiction is required for the delivery of humanitarian assistance, denuclearization or any other purpose consistent with the objectives of [UNSC resolutions on DPRK].<sup>707</sup> Russia defended itself by stating that the relevant contracts had been signed before the adoption of UNSC Resolution 2375.<sup>708</sup> In doing so, it made use of a savings clause pursuant to which the prohibition 'shall not apply with respect to work authorizations for which written contracts have been finalized prior to the adoption of this resolution.'<sup>709</sup> However, it was reported that 'the number of new work permits and job listings by companies who have received them raises doubts that all this employment was agreed before the ban.'<sup>710</sup> Reports also indicated that Russia continued to operate joint ventures with DPRK entities in violation of another provision of UNSC Resolution 2375, which prohibits such joint ventures from January 2018 onwards.<sup>711</sup> Russia, and possibly other states, may bank on the potential relaxation or even withdrawal of UN sanctions given the thaw in US-DPRK relations.<sup>712</sup> It is of note in this respect that, pursuant to UNSC Resolution 2397, UN Member

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707) UNSC Resolution 2375 (2017), 17.

708) Luhn, 'Russia hiring North Korean "slave" workers despite UN sanctions.'

709) UNSC Resolution 2375 (2017), 17.

710) Luhn, 'Russia hiring North Korean "slave" workers despite UN sanctions.'

711) UNSC Resolution 2375 (2017), 18 ('Decides that States shall prohibit, by their nationals or in their territories, the opening, maintenance, and operation of all joint ventures or cooperative entities, new and existing, with DPRK entities or individuals, whether or not acting for or on behalf of the government of the DPRK, unless such joint ventures or cooperative entities, in particular those that are non-commercial, public utility infrastructure projects not generating profit, have been approved by the Committee in advance on a case-by-case basis, further decides that States shall close any such existing joint venture or cooperative entity within 120 days of the adoption of this resolution if such joint venture or cooperative entity has not been approved by the Committee on a case-by-case basis, and States shall close any such existing joint venture or cooperative entity within 120 days after the Committee has denied a request for approval.').

712) See the US-DPRK summit in Singapore (2018). The full transcript of US President Trump's press conference after the summit can be found here: Jennifer Williams, 'Read the Full Transcript of Trump's North Korea Summit Press Conference', *Vox*, 12 June 2018, <https://www.vox.com/world/2018/6/12/17452624/trump-kim-summit-transcript-press-conference-full-text>.

States have a period of 24 months to repatriate DPRK workers.<sup>713</sup> This means that they remain technically in compliance even if they repatriate remaining DPRK nationals only on the very day of 22 December 2019 (the end of the 24 month period). Accordingly, the actual human rights impacts of the repatriation obligation remain undetermined.

## **2. Embargoing the Exportation of DPRK Goods Produced**

The UNSC has not only addressed the situation of DPRK workers abroad, but also—albeit indirectly—the situation of DPRK workers in the DPRK itself, by embargoing the exportation from the DPRK of goods which are crucial sources of earning for the regime.<sup>714</sup> Textiles are among those goods. They feature very prominently in Part II of *Tightening Belts*, which addresses the use of DPRK forced labour in textile supply chains through export processing techniques involving Chinese trade companies. UNSC Resolution 2375 decided ‘that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, textiles (including but not limited to fabrics and partially or fully completed apparel products), and that all States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of the DPRK.’<sup>715</sup> *Tightening Belts* has documented that this prohibition is not properly complied with, and in particular that ‘garments produced in North Korea are still being exported through China for the international market.’<sup>716</sup> Such practices not only strengthen the DPRK regime but also entrench DPRK workers’ forced labour in the DPRK.

Insofar as states such as China are unable or unwilling to address the procurement of textiles from the DPRK, and in fact outsource their production to the DPRK, the focus shifts to the states of final destination of the produced garments, i.e., the states

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713) UNSC Resolution 2397 (2017), para. 8 (‘Decides that Member States shall repatriate to the DPRK all DPRK nationals earning income in that Member State’s jurisdiction and all DPRK government safety oversight attachés monitoring DPRK workers abroad immediately but no later than 24 months.’).

714) UNSC Resolution 2375 (2017), paras. 13-16 (listing condensates and natural gas, petroleum products, crude oil, and textiles).

715) UNSC Resolution 2375 (2017), para. 16.

716) Breuker & van Gardingen, *Tightening Belts*, 191.

with the largest consumer markets. The report mentions that ‘China exported over USD 95 billion just in finished garments and foot-wear to brands in the EU, US, Canada, Australia, and New Zealand’, including USD 6.14 billion to the Netherlands in 2017.<sup>717</sup> These Western states of destination/importation also have obligations under UNSC Resolution 2375, as the resolution requires that ‘all States... prohibit the procurement of [textiles] from the DPRK by their nationals.’<sup>718</sup> Accordingly, Western states should make sure that DPRK-origin textiles do not end up on their markets.

The most straightforward means for a state to implement a procurement prohibition as laid down in UNSC Resolution 2375 is an import ban, in this case a ban on importing DPRK-origin textiles. This regulatory (administrative) measure could be combined with the imposition of civil or criminal penalties (prosecution) on importers. Such penalties could have an additional deterrent effect. Indeed, a mere *import ban* may not prevent importers from trying to place prohibited goods on the market in case it is enforced only haphazardly. If importers are put on notice that they also risk penalties beyond the denial of the privilege of importing tainted goods, they may think twice and carry out proper due diligence on their supply-chains.

The US and the EU have adequately implemented the UNSC-mandated prohibition of procuring *textiles* from North Korea in their own sanctions regulations.<sup>719</sup> Just like the UNSC sanctions, these US and EU sanctions are primarily informed by a desire to curb the revenue for the DPRK government which is generated by the exportation of DPRK-produced goods or the use of DPRK labour.

However, US lawmakers have extended this import ban to all goods that are tainted by the DPRK forced labour, by inserting a provision into the Countering America’s Adversaries through

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717) Breuker & van Gardingen, *Tightening Belts*, 66.

718) UNSC Resolution 2375, para. 16.

719) ‘North Korea Sanctions & Enforcement Actions Advisory: Risks for Businesses with Supply Chain Links to North Korea’ (Washington DC: US Departments of the Treasury, State, and Homeland Security, 23 July 2018); ‘EU Restrictive Measures against North Korea: Transposition of Sectoral Sanctions Imposed by UNSC Resolution 2375 (2017)’, Council of the European Union, <https://www.consilium.europa.eu/en/policies/sanctions/history-north-korea/>.

Sanctions Act (CAATSA),<sup>720</sup> a US federal law that inter alia imposes sanctions on North Korea. US President Trump signed the bill into law on August 2nd, 2017, i.e., before the adoption of Resolution 2375 which imposed a procurement prohibition. From a human rights perspective, it is symbolically important that the relevant Section 321 of CAATSA bears the title ‘sanctions for forced labour and slavery overseas of North Koreans.’ These sanctions are primarily based on a desire to combat practices that violate human dignity, regardless of whether they also generate revenue for the DPRK government which the latter could use for the development of nuclear and ballistic missile programs. Importantly, such sanctions may well remain in place even if the DPRK no longer poses an international security threat.

Section 321 CAATSA amends 22 U.S.C. § 9241a, which now provides that ‘any significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labour of North Korean nationals or citizens shall be deemed to be prohibited ... and shall not be entitled to entry at any of the ports of the United States, except ‘if the Commissioner of U.S. Customs and Border Protection [CBP] finds, by clear and convincing evidence, that the goods, wares, articles, or merchandise described in such paragraph were not produced with convict labour, forced labour, or indentured labour under penal sanctions.’ On the basis of Section 321 CAATSA, the CPB may deny entry of DPRK goods, issue civil penalties, and seize and forfeit the goods. The US Immigration and Customs Enforcement (ICE) may follow up with the initiation of criminal investigations, which may result in incarceration, fines, and forfeiture of goods and proceeds.<sup>721</sup>

Section 321 CAATSA lays down a presumption that North Korean labour is forced labour. This presumption could be rebutted, in which the relevant goods can enter the United States. However, *textiles* originating in the DPRK or from DPRK labour cannot, at least not for the time being, be imported in the US, even in the

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720) H.R. 3364, Pub.L. 115–44.

721) US Customs and Border Protection, ‘CBP Combats Modern-Day Slavery with the Passage of the Countering America’s Adversaries through Sanctions Act’, 7 November 2017, <https://www.cbp.gov/newsroom/national-media-release/cbp-combats-modern-day-slavery-passage-countering-america-s>. ICE criminal enforcement is based on 18 U.S.C. 1761, 18 U.S.C.545, and 18 U.S.C. 1589.



(admittedly unlikely) case that evidence is adduced that the goods were not produced with forced labour.

### ***3. Banning the Importation of Goods Produced with Forced Labour***

The insertion of Section 321 into CAATSA cannot be viewed separately from another legislative evolution in the United States, namely the amendment of 19 U.S.C. § 1307, to which Section 321 CAATSA refers for the definition of forced labour. 19 U.S.C. § 1307 provides for a general ban on the importation into the US of goods produced with forced labour: ‘All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labour or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.’<sup>722</sup>

The geographical scope of 19 U.S.C. § 1307 is potentially unlimited: goods produced with forced labour, regardless of their origin, are barred from US importation. Pursuant to this statutory provision, there is no presumption that goods coming from particular states have been produced with forced labour. Such a presumption only exists for DPRK goods, per Section 321 CAATSA. Even if a presumption does not exist for other states, obviously, the CBP (which also enforces 19 U.S.C. § 1307) will tend to focus its enforcement efforts on goods coming from states where forced labour is prevalent. The CBP is likely to take inspiration from the US Department of Labor’s annual lists of goods produced globally by child labour or forced labour and of countries where these goods are produced.<sup>723</sup> For instance, in May 2018 the CBP relied on the Department of Labor’s Bureau of International Labor Affairs’ research on the use of forced labour in the production of cotton from Turkmenistan when issuing a detention/withhold release order (WRO) banning the importation into the US of all Turkmenistan

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722) 19 U.S.C. § 1307 goes on to state: “‘Forced labor’, as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily. For purposes of this section, the term “forced labor or/and indentured labor” includes forced or indentured child labor.’

723) ‘2018 List of Goods Produced Globally by Child Labor or Forced Labor’ (US Department of Labor, September 2018), <https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoods.pdf>.

cotton or products produced in whole or in part with Turkmenistan cotton.<sup>724</sup> The ban was triggered by a 2016 petition from members of the US Cotton Campaign, Alternative Turkmenistan News, and International Labor Rights Forum.<sup>725</sup> The general ban on the importation of goods produced with forced labour has in fact been in existence since 1930, but only in 2016 did the US repeal the ‘consumptive demand exception’ in 19 U.S.C. § 1307, which had allowed importation of such goods if they were not produced ‘in such quantities in the United States as to meet the consumptive demands of the United States’. This loophole rendered the statute relatively toothless as importers could argue that the imported good was meant to meet US demand.<sup>726</sup> Since the closing of the loophole, the CBP has issued five WROs with respect to China, and one with respect to Turkmenistan.<sup>727</sup>

Bans on the importation of goods produced with forced labour do not normally violate the law of the World Trade Organization (WTO), in particular the General Agreement on Tariffs and Trade (GATT) which governs the trade in goods. While import bans may restrict international trade, and perhaps *prima facie* breach substantive provisions of GATT, Article XX GATT provides for ‘exceptions’ which may justify trade measures pursuing public policy goals. Article XX(e) explicitly allows states to adopt or enforce measures relating to the products of prison labour. Trade measures relating to products of forced labour could be justified under Article XX(a) GATT, which allows states to adopt or enforce measures ‘necessary to protect public morals’. In the context of animal welfare, in *EC-Seals*, the WTO Appellate Body held that a ban on the importation of seals products could be provisionally justified under Article XX(a) GATT as it was necessary to protect public moral concerns of EU

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724) ‘Withhold Release Orders and Findings’, US Customs and Border Protection, <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations/detention-orders>; ‘2018 List of Goods Produced Globally by Child Labor or Forced Labor’.

725) ‘U.S. Customs Halts Imports of Forced Labor Cotton and Cotton Goods from Turkmenistan’, Cotton Campaign, 23 May 2018, <http://www.cottoncampaign.org/us-customs-halts-turkmen-cotton.html>.

726) Tim Fernholz, ‘US Border Agents Seized Goods Tied to Forced Labor for the First Time Since 2001’, *Quartz*, 29 March 2016, <https://qz.com/650121/us-border-agents-seized-goods-tied-to-forced-labor-for-the-first-time-since-2001/>.

727) ‘Withhold Release Orders and Findings’.

consumers, even if the relevant activity – the clubbing to death of seal pups, mainly in Canada – occurred abroad.<sup>728</sup> Similarly, public moral concerns of consumers in states importing goods produced with forced labour could justify an import ban on these goods<sup>729</sup> (provided that a number of conditions are met).<sup>730</sup> What ultimately matters is that consumers of states of importation, such as the US, are genuinely concerned about forced labour. What also matters is that forced labour is not just a concern of the US, but an international concern that has been addressed by treaties as early as 1930.<sup>731</sup> This international dimension confers additional legitimacy on US import bans for goods produced with forced labour. In banning such goods, the US acts as a decentralized enforcer of international law.

It is certainly advisable for other states to follow the US example. Other states have admittedly adopted legislation to counteract modern slavery, but this legislation falls short of an import ban. For instance, the much-touted UK Modern Slavery Act only requires ‘transparency’ in supply chains, by mandating businesses with a turnover of £36m or more to produce statements on their efforts to tackle modern slavery in their supply chains.<sup>732</sup> The ‘destruction

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728) ‘European Communities: Measures Prohibiting the Importation and Marketing of Seal Products Report of the Appellate Body’ (World Trade Organization, 22 May 2014): WT/DS400/AB/Rand WT/DS401/AB/R: paras. 5.289-5.290, upholding the finding of the Panel, ‘European Communities: Measures Prohibiting the Importation and Marketing of Seal Products – Report of the Panel’ (World Trade Organization, 25 November 2013): WT/DS400/R and WT/DS401/R.

729) See in the context of child labour: Aleydis Nissen, ‘Can WTO Member States Rely on Citizen Concerns to Prevent Corporations from Importing Goods Made from Child Labour?’, *Utrecht Law Review* 14 (2018): 70-83.

730) Compare WTO Appellate Body, above note x, para. 5.289 (endorsing the Panel’s analysis of the EU Seal Regime under Article XX(a) of the GATT as follows: ‘The Panel then conducted a relational analysis in which it evaluated the importance of the objective of addressing EU public moral concerns regarding seal welfare, the trade-restrictiveness of the EU Seal Regime, the contribution of the EU Seal Regime to the objective, and whether the alternative measure proposed by the complainants was reasonably available.’). See also the conditions pursuant to the chapeau of Article XXGATT (‘Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade...’).

731) International Labor Organization, *Convention concerning Forced or Compulsory Labour*, 1930 (No. 29).

732) Modern Slavery Act 2015, s. 54; Modern Slavery Act 2015 (Transparency in

of markets' which results from import bans is surely a much more potent tool.

It remains, however, that the enforcement of import bans on goods produced with forced labour is very resource-intensive. In addition, it may be undermined by countervailing amoral, political imperatives to encourage trade. Thus, while the NGO community has saluted the relevant US legislation, it has also signaled that the CBP lacks capacity to investigate and document whether goods are made with forced labour, that it is difficult for the ICE to conduct investigation as it has to rely on agents abroad, and that the CBP also has a trade facilitation function which may cancel out its role as an enforcer of trade regulations.<sup>733</sup> Still, the fact that the Trump Administration has now formally based its fight against foreign forced labour-produced goods on the safeguarding of American interests in the context of its America First policy, rather than just on the protection from exploitation of foreign vulnerable workers,<sup>734</sup> may possibly give a boost to enforcement efforts, regardless of its parochial overtones.

## Concluding Observations

The international community increasingly resorts to economic sanctions to bring about policy change. This is also the case in respect of the DPRK. To starve the DPRK government of cash, the UNSC has required that UN member states repatriate DPRK workers and has restricted international trade relations between the DPRK and third states in a number of sectors, such as textiles. In addition, individual states, such as the United States, have banned the importation of goods from the DPRK, presuming that such goods have been produced with forced labour.

In principle, all these measures could curb DPRK forced labour practices, as they put pressure on the DPRK, as well as those in cahoots with the DPRK, to change their ways. However, there

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Supply Chains) Regulations 2015, SI 2015/1833.

733) David Abramowitz, 'One step closer to stopping the import of goods made with forced labour', *Thomson Reuters Foundation News*, 28 February 2016, <http://news.trust.org/item/20160228062758-du6n5/?source=gep>.

734) 'List of Goods Produced Globally by Child Labor or Forced Labor'; 'US Steps Up Fight against Slave Labor "to Safeguard American Jobs"', *Reuters*, 20 September 2018, <https://www.theguardian.com/world/2018/sep/20/us-slave-labor-safeguard-american-jobs>.

is no conclusive evidence that economic sanctions are an effective policy instrument.<sup>735</sup> As regards the DPRK, there is obviously no guarantee that the repatriated workers will no longer perform forced labour in the DPRK. Moreover, banning the importation of goods from the DPRK will not necessarily improve the lot of North Koreans. On the contrary, such crude measures – as opposed to smart sanctions imposed on members of the governing elite – are likely to worsen living conditions in the DPRK, resulting in violations of economic and social rights of North Koreans.<sup>736</sup> At most, perhaps such measures may appease our conscience by preventing that we ‘feel complicit’ in DPRK slave labour.<sup>737</sup>

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735) Maarten Smeets, ‘Can Economic Sanctions Be Effective?’, WTO Staff Working Paper (Geneva: World Trade Organization, 15 March 2018), <https://doi.org/10.30875/0b967ac6-en>.

736) Dursun Peksen, ‘Better or Worse? The Effect of Economic Sanctions on Human Rights’, *Journal of Peace Research* 46 (2009): 59-77 (‘Economic coercion remains a counterproductive policy tool, even when sanctions are specifically imposed with the goal of improving human rights.’).

737) I do not use complicity in the technical, criminal law sense of the word here, but rather in its ordinary meaning of ‘[t]he fact or condition of being involved with others in an activity that is unlawful or morally wrong’ (Oxford English Dictionary).