



Middlebury Institute of
International Studies at Monterey



JAMES MARTIN CENTER *for*
NONPROLIFERATION STUDIES

CHINPO SHIPPING: A SINGAPOREAN FINANCIAL AGENT OF NORTH KOREA

EDA EROL

LEONARD S. SPECTOR

DECEMBER 2017

EDA EROL is a financial crimes consultant with the Global Financial Crimes Intelligence Group of Wells Fargo Bank and formerly served at the Financial Crimes Investigation Board of Turkey (Turkish Financial Intelligence Unit-FIU). Her responsibilities included representing the Turkish FIU in the Egmont Group of Financial Intelligence Unit and the Eurasian Group on Combating Money Laundering and Financing of Terrorism. She conducted international information exchange with foreign counterparts within the context of anti-money laundering and countering terrorism financing and conducted investigations on money laundering and terrorism financing. At the time this paper was prepared, she was a research associate with the James Martin Center for Nonproliferation Studies.

LEONARD S. SPECTOR directs the Washington, DC, office of the James Martin Center for Nonproliferation Studies. Previously, he served as Assistant Deputy Administrator for Arms Control and Nonproliferation at the US Department of Energy and as founding director of the Nuclear Nonproliferation Program at the Carnegie Endowment for International Peace. He is the author, co-author, or co-editor of eight books, including with co-editors Matthew Bunn, Martin Malin, and William Potter, *Countering Black Market Nuclear Technology Networks* (Cambridge University Press, forthcoming), as well as numerous studies and articles on proliferation issues, most recently, *Outlawing State-Sponsored Nuclear-Procurement Programs and Pursuing Recovery of Misappropriated Nuclear Goods*, CNS Occasional Paper #25, (Monterey, CA, and Washington, DC: James Martin Center for Nonproliferation Studies, 2016).

This study is excerpted from CNS OCCASIONAL PAPER #35, *Countering North Korean Procurement Networks through Financial Measures: The Role of Southeast Asia*, found at:

<http://www.nonproliferation.org/op35-countering-north-korean-procurement-networks-through-financial-measures-the-role-of-southeast-asia>

The views, assessments, judgments, and conclusions in this report are the sole representations of the authors and do not necessarily represent either the official position or policy or bear the endorsement of the James Martin Center for Nonproliferation Studies, the Middlebury Institute of International Studies at Monterey, the President and Trustees of Middlebury College or any of their sponsors.

James Martin Center For Nonproliferation Studies

www.nonproliferation.org

The James Martin Center for Nonproliferation Studies (CNS) strives to combat the spread of weapons of mass destruction by training the next generation of nonproliferation specialists and disseminating timely information and analysis. CNS at the Middlebury Institute of International Studies at Monterey is the largest nongovernmental organization in the United States devoted exclusively to research and training on nonproliferation issues.

Middlebury Institute of International Studies at Monterey

www.miis.edu

The Middlebury Institute of International Studies at Monterey, a graduate school of Middlebury College, provides international professional education in areas of critical importance to a rapidly changing global community, including international policy and management, translation and interpretation, language teaching, sustainable development, and nonproliferation. We prepare students from all over the world to make a meaningful impact in their chosen fields through degree programs characterized by immersive and collaborative learning and opportunities to acquire and apply practical professional skills. Our students are emerging leaders capable of bridging cultural, organizational, and language divides to produce sustainable, equitable solutions to a variety of global challenges.

James Martin Center for Nonproliferation Studies
Middlebury Institute of International Studies at Monterey
460 Pierce St., Monterey, CA 93940, U.S.A.
Tel: +1 (831) 647-4154
Fax: +1 (831) 647-3519

© 2017 The President and Trustees of Middlebury College

CONTENTS

CHINPO SHIPPING: A SINGAPOREAN FINANCIAL AGENT OF NORTH KOREA

1. BACKGROUND AND INTRODUCTION	43
2. CHINPO SHIPPING COMPANY (PRIVATE) LTD.	44
2.1. NORTH KOREA’S ATTEMPTED ARMS SMUGGLING AND CHINPO’S INVOLVEMENT	45
3. LEGAL PROCEEDINGS REGARDING CHINPO’S MONEY TRANSFERS	47
3.1. LEGAL PROCEEDINGS REGARDING VIOLATION OF UN SANCTIONS	48
3.2. LEGAL PROCEEDINGS REGARDING VIOLATION OF SINGAPOREAN FINANCIAL RULES	50
4. ANALYSIS AND LESSONS OF THE CASE	51
4.1. ANALYSIS OF CHINPO’S ACTIONS	52
4.2. ANALYSIS OF THE BANK OF CHINA’S ACTIONS	53
4.3. ANALYSIS OF THE EFFICIENCY OF BANKS’ PREVENTIVE MEASURES	55
5. CONCLUSION	56

CHINPO SHIPPING: A SINGAPOREAN FINANCIAL AGENT OF NORTH KOREA

1. BACKGROUND AND INTRODUCTION

North Korea has maintained and advanced its nuclear and ballistic missile programs despite more than a decade of extensive sanctions imposed by the UN Security Council, the United States, and the European Union. North Korea has used various techniques—including shell companies, indirect payment methods, and foreign intermediaries—to circumvent these sanctions and obtain required materials for its prohibited weapons programs.⁸⁹ Ocean Maritime Management (OMM), a North Korean shipping company controlled by the Korean Ministry of Land and Marine Transport, has employed sophisticated techniques to evade sanctions and played a key role in North Korea's WMD activities through the transport of conventional arms, a major source of revenue for the regime of Kim Jong Un.⁹⁰ Highlighting the critical role OMM plays in North Korea's prohibited activities, Adam J. Szubin, then acting US Under Secretary of the Treasury for Terrorism and Financial Intelligence, noted: "Arms shipments transported by OMM serve as a key resource for North Korea's ongoing proliferation activities. Sales from these shipments contribute to North Korea's other illicit programs."⁹¹

To circumvent monitoring by authorities around the world, OMM works through a number of companies and representatives in Southeast Asian countries, such as Malaysia, Thailand, and Singapore. One such intermediary, Singapore-based Chinpo Shipping Company (Private), Ltd, facilitated OMM's activities by acting both as OMM's shipping agent and as its payment agent for all purposes, including OMM's shipping business in Singapore.⁹² However, in July 2013, both OMM's and Chinpo's activities were exposed when Panamanian authorities seized the vessel Chong Chon Gang, which was carrying conventional arms and equipment to North Korea. The investigations pertinent to this case resulted in the UN Security Council belatedly designating OMM in July 2014 as a target of sanctions and revealed the financial transactions that Chinpo carried out on behalf of North Korean entities.⁹³

89 UN Security Council, 1718 Sanctions Committee (DPRK), "Panel of Experts Report for 2014," February 23, 2015, <http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/131>.

90 UN Security Council, 1718 Sanctions Committee (DPRK), "Panel of Experts Report for 2015," February 24, 2016, <http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/157>.

91 US Department of Treasury Press Release, "Treasury Sanctions Supporters of North Korea's Ocean Maritime Management Company and Updates Sanctions," July 23, 2015, <<https://www.treasury.gov/press-center/pressreleases/Pages/jl0130.aspx>>.

92 UN Security Council, "Panel of Experts Report for 2014."

93 The United States sanctioned OMM shortly after the Security Council. UN Security Council 1718 Committee, Ocean Maritime Management Company, Ltd, Reasons for Listing, October 29, 2014, p. 15, <<https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/dprk.xsl>>. Department of Treasury Press Release, "Treasury Sanctions DPRK Shipping Companies Involved in Illicit Arms Transfers," July 30, 2014, <<https://www.treasury.gov/press-center/press-releases/Pages/jl2594.aspx>>.

The Chinpo Shipping case is the first known case in which the financing of proliferation-related activities was prosecuted and in which the concept of “proliferation financing” was interpreted by judicial authorities. This study will analyze this episode and demonstrate how improved implementation of suggested counter-proliferation finance measures could have prevented the shipment of arms at the center of this case.

2. CHINPO SHIPPING COMPANY (PRIVATE) LTD.

Chinpo Shipping was incorporated on August 11, 1970, as a Singaporean shipping agent and ship chandelling company.⁹⁴ This company was initially a small business run by Tan Cheng Hoe and his family. Tan originally set up the company to handle the business of a vessel that he had purchased, acting as the director and appointing his two daughters to roles in the operations and management side. In the early 1980s, Korea Tonghae Shipping Co (“Korea Tonghae”), one of the largest ship operators in the DPRK, appointed Chinpo as its shipping agent. Upon this appointment, Tan set up Tonghae Shipping Agency (Private), Ltd (“Tonghae”), in Singapore as a shipping agent for Korea Tonghae, while Chinpo acted as the shipping agent for other DPRK shipping companies.

In the late 1990s, the DPRK government set up OMM to both manage the North Korean commercial fleet, including the *Chong Chon Gang*, and provide DPRK shipping crews for Chinese ships. After OMM’s establishment, Chinpo and Tonghae began to provide transportation-related services to OMM. However, in 2005, after US warnings to international banks to avoid transactions with North Korea, OMM became unable to open a bank account in Singapore and realized that its transactions would trigger scrutiny from financial institutions.⁹⁵ Consequently, Chinpo Shipping, as OMM’s Singaporean agent, agreed to execute financial transactions for OMM through Chinpo’s account with the Singapore branch of Bank of China. Chinpo collected payments due OMM for its freight services, and after reimbursing its own costs for shipping services and paying OMM’s staff in Singapore, Chinpo remitted excess funds to various overseas entities as instructed by OMM.⁹⁶ Over the years, given its long-standing business relationship with OMM, Chinpo Shipping conducted financial transactions on behalf of OMM without apparently questioning the purpose of those remittances. Chinpo also created separate Excel sheets, including data titled “operation account, ship purchase

94 Singaporean Trade Registry, <<https://www.sgpbusiness.com/company/Chinpo-Shipping-Company-Private-Limited>>. Ship chandelling is the provision of supplies or equipment for ships.

95 The US warnings came after the United States designated Macao-based Banco Delta Asia, on September 15, 2005, as a financial institution of primary money laundering concern because of its involvement in North Korea’s illicit activities. The United States simultaneously announced a proposed ruling that would have excluded the bank from the US financial system. US Department of the Treasury Press Release, “Treasury Designates Banco Delta Asia as Primary Money Laundering Concern under USA PATRIOT Act,” 2005, <<https://www.treasury.gov/press-center/press-releases/Pages/js2720.asp>>; David Lague and Donald Greenlees, “Squeeze on Banco Delta Asia Hit North Korea Where It Hurt,” *International Herald Tribune*, January 18, 2007, <<http://www.nytimes.com/2007/01/18/world/asia/18iht-north.4255039.html>>.

96 *Public Prosecutor v Chinpo Shipping Company (Private) Limited*, [hereafter Chinpo Shipping case (District Court)] [2016] SGDC 104, Prosecution’s Submissions at the Close of Trial, December 14, 2015 [hereafter Prosecution’s Submissions].

account, and crew wages account,” to track incoming and outgoing payments, as well as other transactions related to its business with OMM.⁹⁷

In addition to his business activities with OMM and other North Korean entities, Tan built a close relationship with North Korean officials, even allowing the North Korean embassy in Singapore to use a portion of Chinpo’s office space as its diplomatic mission without cost. The embassy listed Chinpo’s address as its mailing address, and Tan was appointed as a “security guard” to enter the embassy’s office and collect embassy mail.⁹⁸ Furthermore, the DPRK embassy did not assign a permanent diplomat to run the embassy’s day-to-day work, so Tan often filled the void.

In addition to these affiliations, Tan acted as a primary contact for connecting North Korean and Singaporean companies. For example, he facilitated the employment of North Korean workers in Singapore, a practice that the Singaporean Ministry of Manpower later terminated. Additionally, North Korean and Singaporean business partners sometimes engaged Tan as an intermediary to resolve business disputes. Singtel—Singaporean Telecoms Company—for instance, asked for Chinpo’s help with a North Korean client’s unpaid bills.⁹⁹ Chinpo Shipping also acted as an intermediary between Chinese enterprises and a DPRK contact with regard to exploratory oil drilling activities in North Korea.¹⁰⁰

2.1. NORTH KOREA’S ATTEMPTED ARMS SMUGGLING AND CHINPO’S INVOLVEMENT

On July 13, 2013, Panamanian authorities interdicted the *Chong Chon Gang*—a DPRK flagged vessel operated by OMM—under suspicion of carrying drugs.¹⁰¹ Although the ship’s local agent declared that the vessel carried only sugar, Panamanian authorities found concealed military hardware on board after searching the vessel. Under 10,000 tons of sugar, the *Chong Chon Gang* held twenty-five containers and six trailers of military equipment, including two disassembled MiG 21 jet fighters, anti-tank rockets, and SA-2 and SA-3 surface-to-air missile systems, and their components.¹⁰² The US Department of Treasury noted that the hidden arms and related materiel aboard the *Chong Chon Gang* constituted the largest arms shipment to or from North Korea that had been seized

97 Ibid.

98 Ibid.

99 Jennifer Dodgson and Leo Byrne, “Court Case Reveals Chinpo Shipping’s Ties to North Korea,” *NK News*, September 10, 2015, <<http://www.nknews.org/2015/09/court-case-reveals-chinpo-shippings-ties-to-north-korea/>>.

100 Ibid.

101 BBC News, “Panama: North Korea Ship to Cuba Broke Arms Embargo,” August 29, 2013, <<http://www.bbc.com/news/world-latin-america-23873277>>.

102 Elena Chong, “Singapore Firm Convicted of Facilitating Payment to Ship Arms and Related Materiel to North Korea,” *Straits Times*, December 14, 2015, <<http://www.straitstimes.com/singapore/courts-crime/singapore-firmconvicted-of-facilitating-payment-to-ship-arms-and-related>>.

by authorities since 2006, following the passage of the first Security Council Resolution prohibiting shipments of arms to and from North Korea as part of a larger suite of sanctions.¹⁰³

Investigations revealed that the concealed military cargo was loaded in Cuba and bound for North Korea. Without explaining the reason for hiding the military goods under tons of sugar, Cuban authorities admitted that the ship was transporting 240 tons of “obsolete” defensive weapons.¹⁰⁴ Cuban and North Korean authorities argued that they transferred the weapons and equipment for repair in North Korea, and the weapons would be returned to Cuba. However, even if the military cargo was “obsolete,” the shipment itself violated relevant Security Council sanctions resolutions, which prohibit the transfer of any type of arms and related materials to North Korea.

Although a different DPRK company owned the *Chong Chon Gang*, OMM managed the vessel and arranged the attempted shipment of arms and related materiel to North Korea. OMM provided the captain and crew, instructed them to hide the military equipment under bags containing sugar, and provided them with false documentation to submit to Panamanian authorities.¹⁰⁵ Additionally, OMM instructed Chinpo Shipping to pay the vessel’s Panama Canal user fees. Upon this instruction, on May 28, 2013, Chinpo transferred US\$54,270 from its account in the Bank of China to a Panamanian shipping agent, CB Fenton and Co, SA, for the ship’s eastbound passage through the Panama Canal. For the vessel’s return passage, on July 8, 2013, Chinpo transferred US\$72,017 to the same shipping agent.¹⁰⁶ These details came to light as Panamanian authorities and UNSCR 1718 Committee Panel of Experts pursued their respective investigations of the case.

By arranging such a shipment, OMM violated the weapons embargo and other measures imposed against North Korea by UNSCR 1718 (2006) and modified by UNSCR 1874 (2009). Despite OMM’s violation of Security Council resolutions, the UN Security Council did not designate it on sanctions lists until a year later. Martin Uden, the former head of the UN Panel of Experts responsible for the incident’s investigation, described the failure of the 1718 Sanctions Committee to take action against OMM as “more regrettable” than its violation of UN sanctions.¹⁰⁷ Five days after Uden’s statement, on July 28, 2014, the 1718 Sanctions Committee added OMM to the UN Consolidated List of [Sanctioned] Individuals and Entities but failed to add other companies involved in the shipment, including Chinpo Shipping.¹⁰⁸ Two days after the Security Council’s designation of OMM, the US Department of Treasury imposed sanctions upon both OMM as the ship’s manager

103 US Department of Treasury Press Release, “Treasury Sanctions DPRK Shipping Companies Involved in Illicit Arms Transfers.”

104 Mariano Castillo, Catherine E. Shoichet, and Patrick Oppmann, “Cuba: Obsolete Weapons on Ship Were Going to North Korea for Repair,” CNN, July 17, 2013, <<http://www.cnn.com/2013/07/16/world/panama-north-korean-ship/>>.

105 US Department of Treasury Press Release, “Treasury Sanctions DPRK Shipping Companies Involved in Illicit Arms Transfers.”

106 Elena Chong, “Singapore Firm Convicted of Facilitating Payment to Ship Arms and Related Material to North Korea,” *The Straits Times*, December 14, 2015, <<http://www.straitstimes.com/singapore/courts-crime/singapore-firmconvicted-of-facilitating-payment-to-ship-arms-and-related>>.

107 Leo Byrne, “North Korea Likely Still Breaking UN Sanctions-Martin Uden,” *NK News*, March 17, 2016, <<http://www.nknews.org/2014/07/north-korea-likely-still-breaking-un-sanctions-martin-uden/>>.

108 Joshua Stanton, “North Korea: The Myth of Maxed-Out Sanctions,” *Fletcher Security Review*, January 21, 2015, <<http://www.fletchersecurity.org/#!stanton/c1vgi>>.

and Chongchongang Shipping Company as the ship’s owner.¹⁰⁹ However, the US Department of Treasury similarly declined to place Chinpo Shipping on its sanctions list.

3. LEGAL PROCEEDINGS REGARDING CHINPO’S MONEY TRANSFERS

However, after the disclosure that Chinpo had been involved in North Korea’s arms smuggling attempt, Singaporean authorities launched an investigation into the company’s activities. At the end of the initial investigation, on June 10, 2014, Singaporean police authorities indicted Chinpo and its director, Tan, on criminal charges.¹¹⁰ At the end of the trial, on December 14, 2015, the company was found guilty of both transferring funds that could have been used to support the DPRK’s nuclear program and running a remittance business without a valid remittance license. With respect to the first charge of financing proliferation, the district judge ruled that although Tan’s actions clearly surpassed simple negligence, he did not act “deliberately and with intent” to make prohibited payments on behalf of Chinpo’s clients to support their illegal activities. Rather, the court decided that Tan had irresponsibly disregarded the nature of the transactions at issue:

There were circumstances which called for enquiry but Chinpo took the position that it will pay to whoever the DPRK entities wanted them to pay and avoid any delays. They conducted no due diligence. Such irresponsible conduct must be effectively deterred. It was also relevant to consider the amount of arms and related materiel seized whose shipment would have been facilitated by the lack of due diligence.

As a result, instead of sentencing Chinpo to the highest possible fine, SD\$100,000 for each charge, the district judge sentenced Chinpo to an SD\$80,000 fine for the first charge and an SD\$100,000 fine for the second charge (a total of USD\$126,000).¹¹¹

However, as the following sections detail, the High Court of Singapore subsequently reversed the first conviction and cancelled the SD\$80,000 fine imposed by the district court. The appeals court decided that the lower court made a “large logical leap between transferring funds for the passage of a vessel through the Panama Canal (without knowing the presence of the Material on the vessel) and concluding that the transfer could contribute to the [nuclear program] of the DPRK.”¹¹² In short, the High Court found that Chinpo’s actions did not constitute financing of proliferation

109 US Department of Treasury Press Release, “Treasury Sanctions DPRK Shipping Companies Involved in Illicit Arms Transfers.”

110 Singapore Ministry of Foreign Affairs Press Release, “Joint MFA-MHA Press Statement in Response to Media Queries About the Criminal Charges Filed Against the Singapore-Registered Company Chinpo Shipping Company (Private) Limited,” June 10, 2014, <http://www.mfa.gov.sg/content/mfa/media_centre/press_room/pr/2014/201406/press20140610.html>.

111 *Chinpo Shipping Case (District Court)*, Written Judgment, April 29, 2016, paragraphs 161-167.

112 High Court of Singapore, *Chinpo Shipping Co (Pte) Ltd and Public Prosecutor, SGHC 108, 2017* [Hereafter *Chinpo Shipping Case (Appeal)*].

because financial transactions for Panama Canal passage did not contribute directly to North Korea’s nuclear program.¹¹³

3.1. LEGAL PROCEEDINGS REGARDING VIOLATION OF UN SANCTIONS

The district court found Chinpo guilty of breaching Security Council sanctions on North Korea as incorporated into Singaporean law by transferring financial assets or resources that “may reasonably be used to contribute to” North Korea’s nuclear weapons programs.¹¹⁴ The court imposed the fine on Chinpo pursuant to Article 12(b), titled “prohibition against provision of financial services and other resources” of Singapore’s United Nations (Sanctions—DPRK) Regulations 2010. According to the article:

No person in Singapore and no citizen of Singapore outside Singapore shall—(a) provide any financial services; or (b) transfer financial assets or resources, or other assets or resources, that may reasonably be used to contribute to the nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs or activities of the Democratic People’s Republic of Korea.

Therefore, to find Chinpo and its director, Tan, guilty of proliferation financing under Article 12(b), the court had to establish a link between the attempted transfer of the conventional weapons found aboard *Chong Chon Gang* and a potential contribution to the DPRK’s WMD or related missile activities. In other words, if the concealed conventional weapons did not potentially support the DPRK’s illicit WMD programs, then no legal basis existed for finding Chinpo guilty of a proliferation finance offense. This obstacle exists because of Article 12(b)’s narrow coverage, which prohibits the provision of financial services for WMD or related missile activities—but not the provision of financial services for other activities prohibited by Security Council sanctions resolutions, including those related to transfers of conventional weapons.¹¹⁵

A prosecution witness at Chinpo Shipping’s trial in Singapore, Graham Ong-Webb, a research fellow at the S. Rajaratnam School of International Studies, testified that although the arms and related material found on the *Chong Chon Gang* were not directly nuclear-related, they could potentially protect North Korea’s nuclear weapons program. According to Ong-Webb, the surface-to-air missile

113 Andrea Berger, “The Chinpo Shipping Case Implodes,” Arms Control Wonk, May 15, 2017, <<http://www.arm-scontrolwonk.com/archive/1203164/guest-post-the-chinpo-shipping-case-implodes/>>.

114 Singapore Statutes Online, “United Nations (Sanctions-Democratic People’s Republic of Korea) Regulations 2010,” <<http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A%221f31fe09-c485-462e-9c141bcb615d598a%22%20Status%3Ainforce%20Depth%3A0;rec=0>>.

115 Article 12(b) of the Singapore’s UN Regulations 2010 is in line with the Paris-based Financial Action Task Force’s (FATF’s) “working definition” of proliferation financing but is far narrower than framework of Security Council Resolutions 2094 (2013) and 2270 (2016), which ban provision of financing to other North Korean activities, as well. The FATF restricted its prohibitions under countering proliferation finance to WMD or missile-related activities, similar to Singapore’s above-mentioned legislation. The FATF is a 36-member intergovernmental organization that sets international banking standards with respect to money laundering, the financing of terrorism, and the financing of proliferation. See the FATF website, <<http://www.fatf-gafi.org/>>.

systems (SA-2’s and SA-3’s) found on the vessel can be employed to “guard nuclear production, storage, and missile sites.”¹¹⁶ He noted that North Korea often used these systems to protect its nuclear sites from adversaries and possessed an estimated arsenal of 179 SA-2’s and 133 SA-3’s.¹¹⁷ Additionally, with respect to the two disassembled MiG-21 warplanes and related components, Ong-Webb contended that the warplanes could be armed to take down enemy fighters despite their typical use for training purposes, noting that North Korea’s air force uses a substantial number of MiG-21’s.

As a result of Ong-Webb’s arguments, the district court judge hearing the case ruled that Chinpo’s provision of financial services related to these weapons systems amounted to the financing of WMD proliferation as prohibited by Singaporean law. As previously noted, Singapore’s regulations banned the provision of financial assets or resources that “may reasonably be used to contribute to” North Korea’s nuclear weapons programs.

On appeal, however, the High Court of Singapore rejected this finding, declaring that the connection between remitting funds to cover transit fees of a vessel carrying the conventional arms seized in Panama and North Korea’s nuclear and missile programs was too tenuous to meet statutory standard.¹¹⁸ Examining UNSCR 1718 (2006) and relevant Singaporean laws, the High Court declared that the law:

... regulates only transfers that can be used to acquire assets that have a direct contribution to the nuclear proliferation efforts of the DPRK, i.e., the development of nuclear weapons. This is borne out in para 8(a)(ii) of Resolution 1718 by which the UNSC directed Member States to prevent the “supply, sale or transfer to the DPRK” of the assets set out in two lists supplied by France and supported by 36 other Member States. The UNSC believed that the assets set out on the two lists “could contribute to the DPRK’s nuclear-related ... programmes. [Emphasis, spelling, and ellipsis as in original.]”¹¹⁹

The two lists supplied by France to which the High Court referred are those used by 37-member Nuclear Suppliers Group, one list containing items especially designed or prepared for nuclear use and the other list containing nuclear-related dual-use items. The Nuclear Suppliers Group uses these lists to control exports of these items to ensure they are not used for nuclear-weapon-related

116 David Iaconangelo, “How North Korea’s Merchant Ships Became a Target for UN Sanctions,” *CS Monitor*, August 28, 2016, <<http://www.csmonitor.com/World/Asia-Pacific/2016/0828/How-North-Korea-s-merchant-shipsbecame-a-target-for-UN-sanctions>>.

117 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 35. /0828/How-North-Korea-s-merchant-shipsbecame-a-target-for-UN-sanctions>. *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 35.

118 High Court of Singapore, *Chinpo Shipping Co (Pte) Ltd and Public Prosecutor*.

119 High Court of Singapore, *Chinpo Shipping Case (Appeal) Judgment*, paragraph 61.

purposes. The conventional weapons carried by the *Chong Chon Gang*, in contrast, could not be directly used in a nuclear program.¹²⁰

On this basis, the High Court found Chinpo Shipping not guilty of violating the anti-proliferation financing provision of Singapore’s regulations and annulled the SD\$80,000 fine imposed by the district court judge.

3.2. LEGAL PROCEEDINGS REGARDING VIOLATION OF SINGAPOREAN FINANCIAL RULES

As noted, the district court also convicted Chinpo of running a remittance business without a valid remittance license in addition to its proliferation financing conviction.¹²¹ The High Court also considered this matter in Chinpo’s appeal and affirmed the lower court’s second conviction.

In its judgment on the case, the Singaporean district court revealed that between April 2, 2009, and July 3, 2013, Chinpo used its account in the Bank of China to conduct 605 outward remittances on behalf of various North Korean entities, which amounted to more than US\$40 million.¹²² Because of international banks’ reluctance to deal with North Korea, the court noted, entities such as OMM could not open bank accounts in Singapore and conduct fund transfers there. Chinpo Shipping agreed to act as OMM’s payment agent, charging DPRK entities US\$50 for each transaction.¹²³ Ship owners and ship operators, including OMM, transferred revenue received for their freight services to Chinpo’s account in the Bank of China’s Singapore branch, often disguising the origin of the funds, and then instructed Chinpo via e-mail to transfer various amounts to other parties. The prosecutor in the case argued that Chinpo’s outward remittances constituted “one of the largest amounts ever remitted illegally” in a four-year period.¹²⁴

Chinpo, however, never obtained a license to conduct these remittances as required by the Monetary Authority of Singapore (MAS). This licensing requirement seeks to prevent money laundering and terrorism financing in addition to allowing MAS supervision of licensed institutions’ implementation

120 The High Court also rejected the argument that the surface-to-air missiles among the vessel’s cargo contributed to North Korea’s nuclear program because they could be used to defend the country’s nuclear sites. The court noted that the expert witness who had introduced this argument had acknowledged that the missiles and the other conventional armaments “do not perform a nuclear role...”; High Court of Singapore, *Chinpo Shipping Case (Appeal) Judgment*, paragraph 73.

121 Anna Fifield and Monica Miller, “Singaporean Company Guilty of Transferring Money for North Korea,” *The Washington Post*, December 14, 2015, <https://www.washingtonpost.com/world/singaporean-company-guilty-of-transferring-money-for-north-korea/2015/12/14/e88f322a-a26a-11e5-8318-bd8caed8c588_story.html>.

122 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 152.

123 If Chinpo conducted more than one operation in a day for the same ship owner, it charged only US\$50; Andrea Berger, “Thanks to the Banks: Counter-Proliferation Finance and the Chinpo Shipping Case,” *38 North*, December 16, 2015, <<http://38north.org/2015/12/aberger121615/>>.

124 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 169.

of obligations, including due diligence practices and reporting clients’ suspicious activities.¹²⁵ According to Singaporean regulations, such remittance companies must also conduct enhanced due diligence (EDD) on any person or company located in jurisdictions known to have inadequate AML/CFT legislation and practices in place. North Korea is one of these jurisdictions and had been declared deficient in this respect in “public statements” issued by the FATF.¹²⁶

In addition, EDD should have been applied to the high-risk situations associated with OMM and its activities in this case. Since Chinpo’s DPRK business partners, including OMM, were all North Korean companies operating in a high-risk industry, namely shipping, Chinpo had reason to know that it dealt with high-risk businesses, which EDD practices could have further illuminated. Performing EDD thus could have led Chinpo to question the activities of its DPRK clients and even consider terminating its business relationships with them. However, Chinpo failed to both obtain a license from the MAS and conduct all necessary financial controls before carrying out money transfers. Operating without a license allowed Chinpo not only to avoid supervision by MAS but also to violate Singaporean law.

Therefore, on appeal, the High Court affirmed the lower court’s conviction of Chinpo on the remittance charge and sustained the lower court fine of SD\$100,000. The High Court reinforced the point that Chinpo had realized financial gain from this activity, noting the lower court’s finding that Tan had received an interest free loan of more than SD\$1 million from a North Korean party linked to Tan’s remittance activities.¹²⁷

4. ANALYSIS AND LESSONS OF THE CASE

Investigations after the *Chong Chon Gang* incident revealed how Chinpo managed to use its bank account to facilitate North Korean entities’ sanctions evasions for many years without detection. Two key factors appear to have permitted these violations to occur for such a long period of time: first, Chinpo’s unquestioning execution of instructions from OMM and other North Korean entities along with its failure to inquire into the nature of the transactions it facilitated; and, second, the failure of the Bank of China to exercise appropriate scrutiny of Chinpo’s activities.

125 This entails reviewing customers and their transactions more closely at account opening and more frequently throughout the term of their relationship with the bank. For a general discussion, see “Customer Due Diligence— Overview,” *Federal Financial Institutions Examination Council Bank Secrecy Act/Anti-Money Laundering Infobase*, <https://www.ffeec.gov/bsa_aml_infobase/pages_manual/OLM_013.htm>.

126 For the FATF’s latest Public Statement, which continues to list North Korea, see: “High-Risk and Non-Cooperative Jurisdictions,” June 23, 2017, <<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2017.html>>. For background on the FATF see note 27, above.

127 *High Court of Singapore, Chinpo Shipping Case (Appeal)*, paragraph 114.

4.1. ANALYSIS OF CHINPO’S ACTIONS

During investigations of the *Chong Chon Gang* incident, authorities observed that Chinpo Shipping had not conducted any due diligence, including questioning the purposes or sources of money transactions from the DPRK. The company also did not put forward evidence of any prior effort to understand the purpose of the financial transfers that it carried out based on OMM’s instructions and the information OMM provided about cargo aboard its vessels. Although Chinpo claimed to have been unwittingly involved in OMM’s arms smuggling attempt when it paid the *Chong Chon Gang*’s costs of passage through the Panama Canal, the company had many reasons to suspect that the money transfers it carried out for OMM in this case could contribute to North Korea’s illicit programs.

First, before the seizure of *Chong Chon Gang*, when the Bank of China reviewed the planned payment of the east-bound transit of the vessel through the Panama Canal, the bank asked for details of the cargo loaded on the vessel and its consignee, as well as for the bill of lading. Because Chinpo did not know the details about the cargo, OMM provided the bill of lading to Chinpo on which OMM declared the cargo as 10,201 metric tons of hot rolled steel plates.¹²⁸ The Bank of China rarely questioned the business activities of its long-standing client, Chinpo, but the bank’s unusual enquiries about the cargo aboard the *Chong Chon Gang* should have alerted Chinpo that the vessel might be engaged in high-risk activities.

Additionally, OMM’s requests for changing the vessel’s name in financial transactions should have also prompted Chinpo to question OMM’s money transfers. OMM asked Chinpo whether it had already listed the ship’s name as *Chong Chon Gang* for the received freight, and if not, OMM asked Chinpo to declare the vessel name falsely as MV South Hill 2.¹²⁹ In this request, OMM attempted to conceal the prior activities of the *Chong Chon Gang* and obscure the source of the funds that Chinpo would transfer for the Panama Canal costs. Despite this request, Chinpo did not apparently make any effort to learn the purpose of the remittance transactions or conduct any due diligence regarding these transactions.

Third, concerning the two outward transfers to the Panamanian shipping agent, CB Fenton and Co, SA, the Bank of China asked Chinpo to provide the following information: “contract to support the remittance to CB Fenton, invoice to support the remittance amount, purpose of the remittance, information relating to Chinpo’s role in this shipping arrangement.”¹³⁰ Because Chinpo did not know the details of these payments, it asked OMM for further information. Chinpo had been a client of the Bank of China for 20 years, which knew of the company’s North Korean business, but this was one of the few times that the bank inquired about Chinpo’s outward remittances.¹³¹ Even after the bank’s inquiries regarding the *Chong Chon Gang*’s cargo and Chinpo’s payments, however, Chinpo did not raise questions regarding the appropriateness of OMM’s activities.

128 Ibid.

129 Ibid.

130 Ibid.

131 Ibid.

Chinpo claimed it simply maintained OMM’s funds by receiving its freight payments for OMM and using these funds pursuant to OMM’s instructions. Arguing that the monies it transferred for OMM did not belong to Chinpo, Tan asserted that Chinpo lacked the right to question the origin or uses of OMM’s funds, and Chinpo applied the same principle applied to other entities it serviced. Chinpo would only obtain supporting documents from the vessel managers if the bank involved in a transfer asked for them. The district judge in the Chinpo prosecution, however, found that Chinpo did have a legal duty to make due diligence inquiries and penalized it for failing to do so.

The investigations also found that beginning in 2010, Chinpo asked its DPRK clients to exclude vessel names in in-bound deposit forms to avoid Bank of China’s scrutiny. Similarly, Chinpo omitted vessel names in out-bound transfer forms when conducting fund transfers for DPRK companies. To explain this practice, Tan argued before the court that when ship names had been included, US banks (which became involved in processing US dollar transactions) would ask additional questions and seek documents regarding ship owners and the freight charges at issue.¹³² Tan further contended that, on some occasions, the banks he dealt with refused to process the transaction orders after long delays. To avoid such difficulties, Tan had ceased mentioning vessel names on transfer documents.¹³³

In addition, Tan also claimed that one of the employees of the Bank of China advised him not to include vessel names in remittance forms.¹³⁴ Whether instructed by an employee of the Bank of China or not, Tan and Chinpo clearly obfuscated the involvement of DPRK entities by not disclosing ship names in financial documents. However, the court did not find that Chinpo had engaged in this practice “deliberately and with intent” to advance North Korea’s prohibited programs.

4.2. ANALYSIS OF THE BANK OF CHINA’S ACTIONS

The investigation of the Chinpo case disclosed how the Bank of China’s weak implementation of financial controls directly contributed to the bank’s role as a conduit for financing North Korea’s shipping activities. The preventive measures that the bank failed to execute included those regarding customer due diligence, determination of beneficial ownership, special scrutiny of high-risk countries and businesses, and reporting of suspicious transactions involving Chinpo Shipping and Tan.

Although Tan had been a customer with the Bank of China for more than twenty years and, according to Tan, the bank knew of his North Korean business, the bank apparently did not subject Tan and Chinpo to even basic due diligence scrutiny. Considering Chinpo’s business and personal relationship with North Koreans and the rogue country’s deceptive techniques for sanctions evasion, the Bank of China had a duty to investigate issues, such as the beneficial ownership of Chinpo’s account at the bank. The investigation highlighted Chinpo and OMM’s unique business relationship when the prosecutor questioned one of Chinpo’s employees and she repeatedly referred to OMM

132 Ibid.

133 Ibid.

134 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 144.

as Chinpo’s owners.¹³⁵ Later, the employee denied the existence of an ownership relation between the two companies by claiming a grammatical error in her earlier reference to OMM. However, as a practical matter, Chinpo undoubtedly acted as OMM’s agent for all purposes, not merely for OMM’s shipping activities in Singapore. If the bank had observed the intermediary role of Chinpo as a North Korean payment agent controlled by OMM, it might have taken action to curtail dealings with Chinpo. Furthermore, if the bank had scrutinized Chinpo’s account activities and/or the pattern of its transactions, the bank might have discovered the firm’s role as an agent for a number of North Korean entities in addition to OMM and acted to restrict its dealings in those cases.

Because of the bank’s poor implementation of due diligence practices, it did not recognize (or simply ignored) the inconsistencies between Chinpo’s economic profile and the massive circulation of funds in its account. As a result of Chinpo’s position as a payment agent, the company held substantial amounts of funds belonging to DPRK entities, ranging from US\$3.6 million to US\$6.8 million between 2008 and 2012.¹³⁶ Moreover, Chinpo’s outward remittances amounted to more than US\$40 million between 2009 and 2013. In contrast to the huge sums flowing into and out of Chinpo’s accounts, Chinpo’s provision of ship servicing activities fell off dramatically during this period, declining from supporting fifty-seven vessels in 2010 to supporting only four in 2013.¹³⁷ Chinpo Shipping was a small family-run company in the shipping services business and had experienced financial difficulties over the years, so its dealings with disproportionate amounts of money relative to its sector and economic conditions should have triggered concern at the Bank of China.

Moreover, the bank should have regarded Chinpo’s business dealings with North Korean entities and its apparent friendship with North Koreans as high-risk, in themselves. These obvious red flags, even excluding any concerning the arms smuggling incident, should have been sufficient to cause the bank to frequently monitor and question Chinpo’s account activities. Considering the risk associated with Chinpo, the bank should have regarded the company as a high-risk customer and conducted EDD, inquiring more deeply into the purposes and sources of Chinpo’s transactions or subjecting its transaction requests to approval by a senior Bank of China officer. If the Bank of China could not mitigate the risks posed by Chinpo, it should even have considered terminating its business relationship with the firm and filing one or more SARs with relevant Singaporean authorities. Given the confidential nature of filing SARs, whether the bank took this step cannot be determined from public sources. However, the bank’s poor implementation of other financial controls suggests that it did not do so.

During the trial, Tan did not specify which Bank of China employee advised him to strip vessel names from transactions, nor did the trial provide clarity as to whether the alleged information stripping resulted from a policy of the Bank of China or represented the actions of a rogue employee violating the bank’s rules. Regardless, the Bank of China had the ultimate responsibility for the behavior of its employees and for ensuring effective implementation of its due diligence requirements.

135 Ibid.

136 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 141.

137 *Chinpo Shipping Case (District Court)*, Written Judgment, paragraph 157.

This history suggests there may have been a number of important inquiries for the MAS to pursue regarding the past and current effectiveness of the Bank of China’s preventive financial measures, including CDD procedures, beneficial ownership inquiries, EDD practices, and suspicious activity reporting.¹³⁸

4.3. ANALYSIS OF THE EFFICIENCY OF BANKS’ PREVENTIVE MEASURES

Proliferation finance specialist Andrea Berger has suggested that the Chinpo Shipping case reveals the success of worldwide financial institutions’ implementation of North Korean sanctions.¹³⁹ She argues that North Korean companies, including OMM and its staff, could not maintain bank accounts around the world because banks rejected North Korean business. Wells Fargo, she notes, declined to process Chinpo’s outward remittance to a North Korean ship owner, V-Stars Limited, for \$41,560 due to compliance concerns.¹⁴⁰ In another example, the United Overseas Bank in Singapore closed the bank account of Tan’s other company, Tonghae, on the grounds that Tonghae dealt with DPRK entities.¹⁴¹ Berger further adds that the delays and rejections of financial transactions by various banks, as Tan highlighted, also shows the disruptive impact of effectively implemented financial controls. As a result of such risk-minimizing practices and due diligence implementation, North Korean entities were forced to seek alternative ways to conduct money remittances, including employing Chinpo and other foreign companies and individuals as their payment agents.

This restriction of access to the financial system undoubtedly impacted DPRK entities as Berger argues. However, working through Chinpo, OMM and other North Korean entities performed over 600 transfers worth US\$40 million between 2009 and 2013. Thus, on the one hand, this case reflects success in that many financial institutions denied DPRK-related parties’ requests for financial services. On the other hand, however, the serious failure of the Bank of China to effectively implement financial control measures badly tarnished this success.

138 As for whether the Bank of China might be subject to US sanctions for allowing transactions on behalf of DPRK entities, see: Joshua Stanton, “Treasury Designates Singaporean Shipping Company for North Korea Weapons Trade, but What About the Bank of China?” *One Free Korea Blog*, July 24, 2015, <<http://freekorea.us/2015/07/24/treasurydesignates-singaporean-shipping-company-for-n-korea-weapons-trade-but-what-about-the-bank-of-china/>>.

139 Andrea Berger, “Thanks to the Banks: Counter-Proliferation Finance and the Chinpo Shipping Case,” *38 North*, December 16, 2015, <<http://38north.org/2015/12/ab Berger121615/>>. Ms. Berger is currently a Senior Research Associate at the James Martin Center for Nonproliferation Studies.

140 *Chinpo Shipping Case*, Written Judgment, April 29, 2016, Paragraph 61.

141 Prosecution’s Submissions at the Close of the Trial, Paragraph 71.

5. CONCLUSION

Thanks to the discovery of Chinpo’s involvement in the *Chong Chon Gang* arms smuggling attempt and the Bank of China’s Singapore branch’s subsequent scrutiny of Chinpo’s bank account, Chinpo’s engagements additional DPRK entities also came to light, and Bank of China closed Chinpo’s account.¹⁴² This case proved the investigative value of pursuing the financial dimensions of an illicit smuggling case, an important lesson for the future.

North Korea poorly disguised its clandestine banking activities through Chinpo and left numerous tell-tale indicators of illicit activity. Any financial institution with a capable CDD program would have observed multiple “red flags” that would have exposed Chinpo’s North Korean connections and likely led to rejecting Chinpo’s transaction requests, as seen in the case of Wells Fargo, and closing Chinpo’s accounts, as seen in the case of United Overseas Bank. However, for whatever reason, the Bank of China failed to act on these indicators. Nonetheless, the Chinpo Shipping case suggests that if banks widely and consistently implement the customer and transaction monitoring tools recommended by the FATE, North Korea’s ability to finance its proliferation activities could be significantly constrained.

The UN Security Council’s financial sanctions strategy for addressing North Korean proliferation activity has mutated significantly since it first imposed sanctions in 2006. The Security Council no longer seeks merely to block transactions of concern and penalize parties directly involved in proliferation activities, but it now also aims to isolate the North Korean banking sector more generally to pressure the Kim regime to restrain its nuclear and missile programs. As highlighted in the 2016 report of the 1718 Committee Panel of Experts, North Korea has resorted increasingly to banking through entities based abroad, such as Chinpo Shipping, to defeat these restrictions.¹⁴³ Hopefully, compliance officers will further analyze this case as they seek to protect their financial institutions from future DPRK abuses. Regulatory authorities should also draw lessons from this episode. The most important lesson, perhaps, is the need for those authorities to carefully draft laws and regulations to cover all aspects of Security Council resolutions and effectively enforce the implementation financial controls in all institutions under their supervision.

142 As noted, the Chinpo Shipping case was partly reversed on appeal, and Tan was not found guilty of the proliferation finance offense. If Singapore’s regulation providing for compliance with UN Resolutions had fully included UNSCR 1718, however, the regulation would have required a prohibition on the financing of conventional arms, which the resolution also prohibited. That, in turn, could have provided a solid foundation for convicting Tan on a separate count of facilitating a violation of that embargo.

143 UNSCR 1718 Committee (DPRK), “Panel of Experts Report for 2016,” February 27, 2017, <http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/150>.



nonproliferation.org



Middlebury Institute of
International Studies at Monterey
James Martin Center for Nonproliferation Studies