

# U.S. Issues New North Korea and Syria Shipping Advisories

March 27, 2019

On Thursday, March 21, 2019, the U.S. Departments of State and Treasury and the United States Coast Guard updated their joint advisory on North Korea's shipping practices that seek to evade U.S. and United Nations sanctions.<sup>1</sup> On Monday, March 25, 2019, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") issued a similar advisory regarding petroleum shipments to Syria from Iran and elsewhere<sup>2</sup> Like previous versions of the North Korea advisory, the new advisories describe practices to conceal the origin and destination of illicit cargo, including ship-to-ship transfers at sea and the disabling or manipulating of a ship's Automatic Identification System ("AIS").

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The new advisories, however, are more specific than previous guidance in recommending compliance best practices for insurers, oil traders and others. These new advisories follow in the wake of a recent report by a U.N. Security Council Panel of Experts on North Korea sanctions, which described North Korea's deceptive practices in detail and included similar recommendations.<sup>3</sup>

The North Korea guidance was issued at the same time as OFAC announced the imposition of sanctions against two Chinese shipping companies for assisting North Korea's evasion of international sanctions.<sup>4</sup> The next day, U.S. President Trump tweeted that recent North Korea sanctions would be withdrawn.<sup>5</sup> It was initially thought that the President was referring to Thursday's designation of the two shipping companies, but later reports have suggested he was referring to proposed sanctions that had not yet been announced.<sup>6</sup> To date, neither the designation of the two shipping companies nor the newly issued advisory has been withdrawn.

<sup>1</sup> U.S. Dep't of State, U.S. Dep't of the Treasury & U.S. Coast Guard, North Korea Sanctions Advisory, [Updated Guidance on Addressing North Korea's Illicit Shipping Practices](#) (March 21, 2019).

<sup>2</sup> U.S. Dep't of the Treasury, OFAC Advisory to the Maritime Shipping Industry, [Sanctions Risks Related to Petroleum Shipments Involving Iran and Syria](#) (Mar. 25, 2019).

<sup>3</sup> Letter dated 21 February 2019 from the Panel of Experts established pursuant to resolution 1874 (2009) addressed to the President of the Security Council, [UN Doc. No. S/2019/171](#).

<sup>4</sup> U.S. Dep't of the Treasury, Press Release, [Treasury Designates Two Shipping Companies for Attempted Evasion of North Korea Sanctions](#) (March 21, 2019).

<sup>5</sup> Donald J. Trump (@realDonaldTrump), Twitter ([Mar. 22, 2019, 10:22 a.m.](#)).

<sup>6</sup> E.g., Alan Rappoport, [Trump Overrides Own Experts on Sanctions, in Favor to North Korea](#), N.Y. Times, Mar. 22, 2019 (print version published with headline *A Defiant Trump Mutes North Korea Sanctions*, Mar. 23, 2019, at A1).

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**Sanctions-evasion maneuvers.** The advisories identify multiple methods of sanctions evasion that have been employed to conceal that cargo has originated from or is destined for North Korea or Syria, including disabling AIS or manipulating AIS data, physically altering vessel names and identification numbers, ship-to-ship transfers, and falsifying cargo and vessel documents. The North Korea advisory also identifies specific locations where illicit ship-to-ship transfers are common.

**Recommended risk-mitigation measures for the oil and insurance industries.** While the previous version of the North Korea advisory simply identified shipping practices warranting scrutiny, Annex 3 to the new advisory identifies specific recommendations drawn from the UN Panel of Experts report. These include recommendations for oil companies, oil refiners, global commodity traders and others that supply oil to tankers, as well as recommendations for the maritime insurance industry.

The recommended practices include:

- Pre-transaction research on the AIS history of vessels that operate in the East China Sea to identify any evidence suggesting disabling or manipulating AIS. For insurance companies, the advisory recommends that this research take place before extending coverage and again when a claim is submitted;
- For insurers, contractual provisions stating that disabling or manipulating AIS constitutes grounds for investigation, which may lead to cancellation if illicit activity is discovered;
- An “AIS switch-off clause” and AIS screening for at-risk vessels operating in relevant regions (though the advisory does not provide further specifics, it appears to be suggesting a contractual provision that would prohibit shutting off a vessel’s AIS signal as well as monitoring to detect noncompliance); and
- For companies supplying oil to tankers operating in the South China Sea, knowledge of the ultimate end-user of the products.

The Syria advisory recommends similar practices, such as monitoring for AIS manipulation and reviewing applicable shipping documentation. In addition, the Syrian advisory encourages developing a strong anti-money laundering/countering the financing of terrorism policy and conducting know-your-customer due diligence.

**Other recommendations.** Separately, Annex 3 of the North Korea advisory includes guidance for UN member states, port-state control authorities in Southeast Asia and East Asia, shipping industry associations and flag registries.

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**Penalties for sanctions violations.** Participating in or insuring shipments in violation of U.S. sanctions against North Korea, Syria or Iran, even inadvertently, can lead to civil penalties up to \$295,141 or twice the value of the underlying transaction. Willful violations may result in criminal prosecution. Non-U.S. entities that knowingly engage in certain transactions with U.S. sanctions targets, even where the transaction has no connection to the United States, may become sanctions targets themselves, as illustrated by the two Chinese shipping companies targeted for sanctions on March 21 as a result of shipments to North Korea.

Please do not hesitate to contact us with any questions.

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**Upcoming Seminar on EU Sanctions.** Please join us on Friday, April 5, 2019, from 8:00-10:00 am EDT, for a breakfast seminar to discuss EU sanctions and their implications for multinational companies. We will discuss, among other topics:

- EU Blocking Regulations;
- Differences between US and EU Russia sanctions regimes;
- Impact of EU General Data Protection Regulation (GDPR) on international sanctions compliance programs; and
- Brexit considerations.

You can register [here](#) to attend in person or register [here](#) to attend via webcast.

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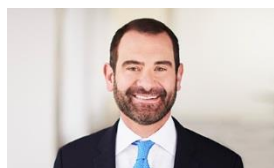
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