

*Economic Sanctions by Japan against  
North Korea: Consideration of the  
Legislation Process for FEFTCL  
(February 2004) and LSMCIPESS  
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**Abstract**

The Japanese government hardly imposed economic sanctions against North Korea when they launched a missile in August 1998. However, when North Korea launched missiles again in July 2006, the Japanese government began to impose strong economic sanctions because the Foreign Exchange and Foreign Trade Control Law (FEFTCL) and the Law for Special Measures Concerning Interdiction of Ports Entry by Specific Ships (LSMCIPESS) had been revised or enacted newly in 2004. It took six years since the suggestion of revising or enacting these two laws in 1998 to consummating them. Moreover, they are not cabinet-initiated legislation but lawmaker-initiated legislation. This paper explores the reasons why it took six years until the Diet members passed the bill given the relations between Japan and the United States, the relations between Japan and North Korea, and the relations between the Diet and the Cabinet in Japan.

**Key Words:** economic sanctions, the Foreign Exchange and Foreign Trade Control Law, the Law for Special Measures Concerning Interdiction of Ports Entry by Specific Ships, Japan-North Korea relations, the Diet and the Cabinet relations

## Introduction

In the immediate aftermath of the launch of seven missiles by the Democratic People's Republic of Korea (DPRK) on July 5, 2006, the Japanese government decided to impose economic sanctions that eventually prohibited port entry to the North Korean ship *Man Gyong Bong 92*. This ship was a significant link between the two countries, connecting Wonsan in North Korea and Niigata in Japan. The twelve-item response of Japan, announced by then Chief Cabinet Secretary Shinzo Abe, included a halt to visits by *Man Gyong Bong 92* to Japan as well as denying entry to North Korean government officials. It also denied landing permission for any charter flight from North Korea. It is important to note that Japan was the first country to announce sanctions against North Korea, eleven days before the United Nations sanctions banning all member states from any transactions with North Korea involving the transfer of material, technology or financial resources connected to the DPRK's missile or weapons of mass destruction programs.

After about two months, the Japanese government imposed economic sanctions against North Korea again. The Cabinet Council on September 19 froze deposit withdrawal and overseas remittances licenses for 15 bilateral groups and one individual due to their alleged involvement in the development of weapons of mass destruction in North Korea.

On October 13, in response to Pyongyang's detonation of nuclear devices, Japan's Cabinet Council came out with a new set of sanctions, which prohibited port entry by all North Korean ships and imports of all items from North Korea. It is interesting to note that Japanese sanctions over North Korea followed one after the other after the DPRK launched its missiles. Notably, there has been a significant

change in Tokyo's responses towards North Korea, especially since 1998. Tokyo responded with very few economic measures against North Korea after Pyongyang launched a missile on August 31, 1998, mainly temporarily freezing funding to the Korean Peninsula Energy Development Organization (KEDO). The latest tests conducted by Pyongyang, however, have prompted Tokyo to impose strong economic measures.

The main reason behind the change in Tokyo's approach is the introduction of a new sanctions act by the Japanese government. Under the new act, sanctions against North Korea are authorized by the Foreign Exchange and Foreign Trade Control Law (FEFTCL) and the Law for Special Measures Concerning Interdiction of Ports Entry by Specific Ships (LSMCIPESS). Economic sanctions such as the freezing of bank accounts and overseas remittances as well as sanctions on the import of goods are authorized by FEFTCL. Other embargoes such as a ban on port entry by vessels are authorized by LSMCIPESS. These laws, which were revised or newly enacted in 2004, allowed the Japanese government to impose economic sanctions against North Korea independently, without the need for support or cooperation from the UN or the United States.

There are few research studies about the revision or enactment processes for FEFTCL and LSMCIPESS. Enacted laws and their legislative backgrounds are explained in '*Toki no Hourei*,' a journal focusing on new laws in Japan.<sup>1</sup> According to some observations in the journal, the revision/enactment of FEFTCL and LSMCIPESS was typical lawmaker-initiated legislation. FEFTCL and LSMCIPESS were bills instituted by both ruling and opposition party members, and

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<sup>1</sup> See Kyoko Mori's research on FEFTCL, "Our country is able to impose economic sanctions against another country independently," *Toki no Hourei*, No. 1711 (April 2004), pp. 6-14; Rie Kurihara's research on LSMCIPESS, "The embargo of specific ships from the view of security," *Toki no Hourei*, No. 1731 (February 2005), pp. 6-14.

passed in the Diet easily.

However, some members of the Diet were of the opinion that economic sanctions could already be imposed against North Korea under these laws from 1998. Why did it take them six years to pass the bill in the Diet? This is a current issue relating to the ability of Japan to impose economic sanctions of a level demanded by the US vis-à-vis North Korea's nuclear test, because the Japanese government has to pass economic sanction laws promptly if the US demands high-level sanctions. Therefore, in this paper, to clarify the sanctions policies of Japan against North Korea, I will address the amendment and enactment processes for FEFTCL and LSMCIPESS. First, I will try to analyze the process by which Diet members passed two laws for economic sanctions after 1998, and next try to clarify the perspective of Japan's sanctions policy against North Korea. As diplomatic documents are not publicly available, I would like to use Diet records papers and press reports as materials; all Diet records in Japan are available to the public. In addition, I will refer to interviews by press reporters of Diet members connected with the legislation and to the Diet members' own diaries open to the public on the Internet.

## **About FEFTCL and LSMCIPESS**

FEFTCL and LSMCIPESS are the two great pillars of economic sanctions laws in Japan. Both allow Japan to impose economic sanctions against another country independently, without need for sanctions resolutions by the UN or cooperation by other countries.<sup>2</sup>

FEFTCL is a fundamental law governing foreign trade in Japan

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<sup>2</sup> See the following research done in Japan on the effects and purposes of economic sanctions, Makio Miyagawa, *Do Economic Sanctions Work?* (Great Britain: Antony Rowe Ltd, Chippenham, Wiltshire, 1992) and Yasunobu Okabe, "The Effectiveness of Economic Sanctions: The US Embargo against Cuba," *Gaimusho Chosa Geppo*, No. 4 (March 1994).

enacted in 1949. At that time, because Japan faced a serious shortage of foreign currency under the Bretton Woods Agreement due to the pegged exchange rate system that made the dollar the key international currency, the law included provisions that severely limited foreign trade. The Bretton Woods Agreement no longer functioned after the “Nixon shock,” when the US declared it would stop exchanging gold for dollars in 1971. The Smithsonian Agreement that revised exchange rates between the dollar and other currencies also collapsed in 1973. Countries moved to a floating exchange rate system. Therefore, the Japanese government made foreign trade free in principle by a revision of FEFTCL in 1980, and almost completely liberalized foreign trade by a further revision in 1998. At the same time, the economic sanctions measures were enacted. To impose economic sanctions, the preconditions are that “the Japanese government acknowledges that they need to fulfill in good faith treaties and other international promises concluded with Japan” or “the Japanese government acknowledges that Japan needs to contribute to international efforts for world peace.” However, the preconditions for FEFTCL were revised to include “the Japanese government specifically acknowledges the need to maintain peace and safety in Japan” in 2004. Thus, for “the maintenance of peace and safety in Japan,” the law was revised so that Japan might impose economic sanctions independently even without the cooperation of the US or the UN.

LSMCIPESS is a new law enacted in 2004. It states that “to maintain peace and safety in Japan, given the international situation surrounding Japan in recent years, the Japanese government may prohibit port entry by specific ships” (Article 1). As well as FEFTCL, this law enables Japan to impose economic sanctions independently for “the maintenance of peace and safety in Japan,” even without the cooperation of the US or the UN.

Until these two laws were approved, the Japanese government

was not able to independently impose economic sanctions on another country. These two laws allowed Japan to impose economic sanctions against North Korea when they launched missiles. However, these laws were only approved two years ago. There have been concerns in Japan about North Korea's nuclear weapons and missiles since the 1990s. In particular, when North Korea launched missiles in 1998, Japan faced a major crisis. There was a significant time lag from start of this crisis to the enactment of these two laws. Below I will consider the approval process for these laws since 1998.

### **From Appeasement to a Hard-line Policy**

After North Korea declared its secession from the NPT on March 12, 1993, the Japanese government and political parties were reluctant to support economic sanctions against North Korea, including the Liberal Democratic Party (LDP), the government party. At the 126<sup>th</sup> Diet House of Representatives Foreign Affairs Committee meeting on April 23, 1993, Foreign Minister Kabun Muto of the LDP noted, "I think that as a diplomatic policy it is not good to make one state isolated when other states cooperate internationally. So I think we should avoid rapidly punishing anything at anytime as much as possible."<sup>3</sup> This stance was representative of the opinions of the Diet and the government in Japan.

However, the Japanese government made a policy shift from appeasement to a hard-line policy because North Korea on August 31, 1998 launched what appeared to be a Taepodong, a ballistic missile developed in North Korea. Awareness of a crisis involving the protection of the country rose greatly in Japan after it was confirmed that a missile had passed through Japanese airspace and fallen into the

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<sup>3</sup>"The 126<sup>th</sup> Diet the House of Representatives Foreign Affairs Committee Proceedings No. 5 (April 23, 1993)," p. 5.

Pacific Ocean. Japan has not been attacked since 1945. Moreover, very few Japanese have any sense of crisis about defense due to the US military presence in Japan. This was the first time in about 50 years that Japanese had felt concern about the defense of the country.

The ruling LDP decided to examine countermeasures against North Korea in a party executive liaison meeting on September 1, 1998. Opinions of dissatisfaction and anger against North Korea were loudly voiced within the LDP. Even Muto, who was opposed to sanctions against North Korea when North Korea declared its secession from the NPT in 1993, strongly asserted, “We should make it clear that we cannot cooperate with KEDO and provide food aid for North Korea.”<sup>4</sup>

Hiromu Nonaka, Chief Cabinet Secretary, announced the “Government Policy in Response to the Launch of a Missile by the Democratic People’s Republic of Korea (North Korea)” on September 1. The policy included stern protests against North Korea and postponed normalization talks, food shipments and other aid, and funds to KEDO.<sup>5</sup> Additionally the Japanese government canceled permission for the operation of charter flights between North Korea and Japan on September 2.<sup>6</sup> The Japanese government had clearly begun to make a policy shift from appeasement to a hard-line policy.

In protest at North Korea’s actions and to prevent a recurrence, the “Resolution to Protest against the Ballistic Missile Launch by North Korea” was adopted in the House of Councilors on September 3. In this vote, every member of the House of Councilors in both the ruling and opposition parties agreed with the resolution criticizing the behavior of North Korea. In the Diet discussion before voting, very few people offered opinions opposed to the measures against North

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<sup>4</sup> *Yomiuri Shimbun* (Tokyo), evening edition, September 1, 1998.

<sup>5</sup> “Full text of government action policy against ‘North Korea launching the missile’,” *Yomiuri Shimbun* (Tokyo), morning edition, September 2, 1998.

<sup>6</sup> *Asahi Shimbun*, morning edition, September 3, 1998.

Korea that the Obuchi Administration of the LDP, which had replaced the Hashimoto Administration, had adopted. Only Den of the SDP opposed all measures. Hiroshi Takano of New Komeito (NK) expressed disapproval in postponing the KEDO support and Shinji Koizumi in the Japanese Communist Party (JCP) opposed the introduction of ballistic missile defense systems.<sup>7</sup>

Some in the LDP demanded a stop to remittances to North Korea. Chief Cabinet Secretary Nonaka expressed a negative view on September 2.<sup>8</sup> It is thought his view was based on problems of interpretation of FEFTCL. Norihisa Tamura, a LDP Diet member, said, “I think that a halt to remittances might be an economic sanction that can be taken by Japan. However, I have heard that it is impossible to stop remittances at once under the requirements of FEFTCL, etc., and there are arguments about the need for revisions to laws, too” in the meeting of the House of Representatives Committee on National Security held on September 10.<sup>9</sup> The LDP had already decided to examine revision of the FEFTCL in the diplomatic study committee meeting on September 7.<sup>10</sup> The problem of revising the FEFTCL surfaced when looking for a way to punish North Korea.

In addition, views in favor of limiting port entry by ships linked to North Korea emerged because “there is something wrong with doing nothing about ships while limiting the operation of aircraft.”<sup>11</sup> However, on September 4, Jiro Kawasaki, Minister of Transport (presently Minister of Finance), offered the view that the national government had no authority to limit port entry by ships because (1)

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<sup>7</sup>“The 143<sup>th</sup> Diet the House of Councilors Proceedings No. 6 (September 3, 1998),” *Official gazette*, extras, pp. 1-16.

<sup>8</sup> *Sankei Shimbun*, morning edition, September 2, 1998.

<sup>9</sup>“The 143<sup>th</sup> Diet the House of Representatives Committee on National Security Proceedings No. 3 (September 10, 1998),” p. 6.

<sup>10</sup> *Yomiuri Shimbun* (Tokyo), morning edition, September 8, 1998.

<sup>11</sup> *Sankei Shimbun*, morning edition, September 3, 1998.

port entry is covered not by a license system but rather by a notification system, and (2) the authority to permit port entry and to manage port facilities lays with the heads of local governments.<sup>12</sup> It was necessary to make new laws or to amend laws to limit port entry by ships in order to punish North Korea.

However, beyond the legal issues, it was very difficult for Japan to punish North Korea because of the US policy toward North Korea. The US government was careful in punishing North Korea. Kurt Campbell, Acting US Assistant Secretary of Defense, had already visited the Japanese prime minister's office and requested that Japan exercise care in responding to North Korea.<sup>13</sup>

The difference of opinions between the US and Japan widened further. North Korea announced on September 4 that they had launched a space satellite and the US Department of State agreed on September 14 to make an announcement on North Korea.<sup>14</sup> However, Chief Cabinet Secretary Nonaka on September 16 expressed his disagreement, saying that the Japanese government continued to hold the view that North Korea's action posed a threat to the security of Japan.<sup>15</sup> Prime Minister Obuchi repeated his view that it was a missile that had been launched. The Japan administration did not yet officially acknowledge that North Korea had put up a space satellite.

Secretary of State Madeleine Albright revealed her plans to ask Japan to lift its moratorium on funding to KEDO at an early stage in the Security Consultative Committee meeting held on September 22. In opposition to this, Foreign Minister Masahiko Takamura objected and said, "If we respond just as we do when North Korea doesn't launch a missile, we would be sending the wrong message to North

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<sup>12</sup> *Sankei Shimbun*, morning edition, September 8, 1998.

<sup>13</sup> *Yomiuri Shimbun* (Tokyo), morning edition, September 4, 1998.

<sup>14</sup> *Mainichi Newspapers*, morning edition, September 16, 1998.

<sup>15</sup> *Sankei Shimbun*, evening edition, September 16, 1998.

Korea.”

However, Takamura noted that “KEDO is the best device for preventing nuclear weapons development in North Korea. I am not saying that we will refuse to donate capital forever.”<sup>16</sup> It was difficult to resist the pressure by the US. On October 21, the Japanese government announced that it would unfreeze funding for KEDO. The Japanese government did not obtain an apology from North Korea that the people of Japan had requested, but did continue to postpone food aid and stop the operation of charter flights. Nevertheless, the Japanese government had no alternative but give up on punishing North Korea further.

### **Amendment of FEFTCL**

For imposing economic sanctions by FEFTCL, the necessary preconditions included “the Japanese government acknowledges that there is a need to fulfill treaties and other international promises that Japan has concluded in good faith” and “the Japanese government acknowledges the need especially to allow Japan to contribute to an international effort for world peace.” In stopping remittances to punish North Korea for its Taepodong launch through Japanese airspace, these preconditions were an encumbrance. Haruhiko Kuroda, Director-general of the Finance Ministry’s International Finance Bureau, said “we need international partnership as a basis for imposing economic sanctions such as a halt on remittances” in the meeting of the House of Representatives Committee on National Security held on September 10.<sup>17</sup> There was no legal means of imposing economic sanctions against North Korea independently in

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<sup>16</sup> *Yomiuri Shimbun* (Tokyo), morning edition, September 21, 1998.

<sup>17</sup> “The 143<sup>th</sup> Diet the House of Representatives Committee on National Security Proceedings No. 3 (September 10, 1998),” p. 6.

Japan. However, it was difficult to obtain the cooperation of the US and other countries that continued to appease North Korea. Therefore, support grew in the Diet for the view that the FEFTCL should be revised so that the Japanese government could impose economic sanctions against North Korea independently.

There were two key reasons for trying to revise the FEFTCL. The first was to ensure strict regulation of exports in view of the possibility that Japanese products could be converted for use in weapons by North Korea, and the second is to stop remittances to North Korea in view of the possibility that capital sent from Japan to North Korea could be used for the development of weapons in North Korea.

Kiyoshi Ueda of the Democratic Party of Japan (DPJ) worried about the possibility that exported parts made in Japan could be used in North Korean missiles, in response to the comment by Kozo Oikawa, Head of the Defense Agency Equipment Bureau, that export trade control was managed under the FEFTCL license system, said “I insist that you check on illegal exports by consolidating the powers of competent authorities, and that you devise mechanisms immediately to prevent illegal exports” in the House of Representatives the Administration of Closing of Accounts Surveillance Commission on September 29, 1998.<sup>18</sup> In the meeting of the House of Representatives Committee on National Security held on March 3, 1999, after pointing out the possibility that capital sent from Japan to North Korea could be used for developing weapons of mass destruction, Yoshihide Sakaue of the LDP remarked, “I think that we should revise and strengthen the FEFTCL for the security of Japan” in preparation for the next missile launch. Members of both opposition parties and ruling parties called for amendment of the FEFTCL.<sup>19</sup>

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<sup>18</sup>“The 143<sup>th</sup> Diet the House of Representatives the Administration of Closing of Accounts Surveillance Commission Proceedings No. 2 (September 29, 1998),” p. 2.

Some expressed disapproval with the idea of economic sanctions by the FEFTCL. In answer to Sakaue, who insisted on amendment of the FEFTCL, Masaki Oomura, Advocate General of the International Balance Section, International Bureau, Ministry of Finance, said “with regard to whether we should enable sanctions in a way that is far apart from the framework of international coordination, I think that we are limited by the purpose of the legislation because the basis of the FEFTCL is free foreign trade, in line with the principle that we can only coordinate rules to the minimum degree necessary” and expressed disapproval of economic sanctions via the FEFTCL.<sup>20</sup> According to Ichita Yamamoto, a LDP member of the House of Councilors and a key figure who passed revised FEFTCL and LSMCIPESS, the Finance Ministry was dissatisfied with the idea of revision of the FEFTCL.<sup>21</sup>

The “Council to Consider Strategic Diplomacy against North Korea” made up of Diet members from the LDP and DPJ and formed in February 1999 mainly promoted the amendment of the FEFTCL. Among the members were Shigeru Ishiba, Chairman of the Council and a LDP member of the House of Representatives, Shinzo Abe, a LDP member of the House of Representatives and later Prime Minister, Yamamoto, a LDP member of the House of Councilors, and Keiichiro Asao, a DPJ member of the House of Councilors. They convened on August 10, arranging to submit and pass a legislative bill on the amendment of the FEFTCL in the next Diet.<sup>22</sup> However, on this very same day, North Korea released a government statement on

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<sup>19</sup>“The 145<sup>th</sup> Diet the House of Representatives Committee on National Security Proceedings No. 3 (March 3, 1999),” p. 2.

<sup>20</sup>Ibid.

<sup>21</sup>“Take a hike! (May 10, 2003),” Ichita Yamamoto’s ‘Feelings are always the straight descent’ (blog by Ichita Yamamoto), <http://blog.so-net.ne.jp/ichita/archive/200305>.

<sup>22</sup>*Yomiuri Shimbun* (Tokyo), morning edition, August 11, 1999.

its policy toward Japan.<sup>23</sup> The Ministry of Foreign Affairs was dissatisfied with the content of the statement. However, they paid attention to the fact that North Korea had made the announcement in the anomalistic format of a government statement. This gave rise in Japan to a more flexible attitude toward North Korea.<sup>24</sup> A political party delegation headed by former Prime Minister Tomiichi Murayama visited North Korea from December 1-3, 1999 and announced a joint communiqué with the Workers' Party delegation that improved Japan-North Korea relations.<sup>25</sup>

The cabinet, intent on leaving open a channel for talks with North Korea, became passive to amendment of the FEFTCL. In the meeting of the House of Councilors Budget Committee on December 9, 1999, on the revision of the FEFTCL being examined because North Korea might use commercial products made in Japan for weapons, Minister of International Trade and Industry Takeshi Fukaya said "it's actually difficult under the FEFTCL to regulate general commercial items, products not regulated in foreign countries and products that can be bought in foreign countries. At the same time, new legislation on the points where it is ineffectual is very difficult now."<sup>26</sup> Thus, moves to amend the FEFTCL stopped.

Another reason cited to strengthen export trade controls was to prevent Japanese products being used for weapons in North Korea. After the September 11, 2001 attacks in the US, the Ministry of Economy, Trade and Industry put in place "catch-all controls" on September 23 without revising the FEFTCL that required export license applications even in the case of general-purpose goods when there existed the possibility that they could be used for weapons of

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<sup>23</sup> *Rodong Daily News*, August 11, 1999.

<sup>24</sup> *Yomiuri Shimbun* (Tokyo), morning edition, August 30, 1999.

<sup>25</sup> *Mainichi Newspapers*, evening edition, December 3, 1999.

<sup>26</sup> "The 146<sup>th</sup> Diet the House of Councilors Budget Committee Proceedings No. 5 (December 9, 1999)," p. 12.

mass destruction.<sup>27</sup> The scheme to prevent products made in Japan from being used for weapons in North Korea was enacted. However, a stop on remittances as sanctions was impossible. A bill that revised part of the FEFTCL was passed in the House of Representatives on April 11, 2002.<sup>28</sup> This was for the ratification of the “International Convention for the Suppression of the Financing of Terrorism” in the UN, making it obligatory for financial institutions to retain personal identification on clients, and was unrelated to sanctions.

The reason that an opinion in favor of revising the foreign exchange and foreign trade control law grew again was the Japan-DPRK Summit at which the kidnapping of Japanese citizens became clear. Prime Minister Junichiro Koizumi of the LDP visited North Korea on September 17, 2002, and a Japan-DPRK Summit was held at which was announced the Japan-DPRK Pyongyang Declaration. It turned out that North Korea had kidnapped a large number of Japanese citizens, and that many of them had already died. Moreover, North Korea hesitated at permitting a complete homecoming of even the Japanese citizens who had survived. Calls for compensations from North Korea and anger against North Korea erupted throughout Japan.

The reason for seeking to revise the FEFTCL when North Korea launched the Taepodong missile in 1998 was to prevent illegal exports and illegal remittances. However, support for the revision of the FEFTCL as a diplomatic card to play against North Korea was prompted by the kidnapping of Japanese citizens. Asao, a DPJ member of the House of Councilors, suggested at the meeting of the House of Councilors Committee on Health, Welfare and Labor on

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<sup>27</sup> *Sankei Shimbun*, morning edition, September 24, 2001.

<sup>28</sup> “The 154<sup>th</sup> the Diet the House of Representatives Association Proceedings No. 23 (1) (April 11, 2002),” *Official gazette*, extras, pp. 3-4; *Mainichi Newspapers*, evening edition, March 12, 2002.

December 3, 2002 that the government should have the authority to stop remittances to North Korea by amendment of the FEFTCL as a card to play against North Korea.<sup>29</sup> After the FEFTCL was revised, Yamamoto, a LDP member who promoted amendment of the FEFTCL, said “a card making it possible to impose economic sanctions in case of necessity is very significant in terms of pressure and deterrence.”<sup>30</sup> The purpose of revising the FEFTCL after the Japan-DPRK Summit was more to have a diplomatic card to play against North Korea than to achieve any substantial effect through economic sanctions.

In addition, sanctions against North Korea gained further support due to worsening relations between the US and North Korea. When North Korea decided to expel IAEA inspectors on December 28, Secretary of State Colin L. Powell announced the next day the “enclosure policy” of the Bush Administration, including inspections of transport to North Korea. With this change in the international situation, the LDP decided on December 29 to adopt a policy of revising the FEFTCL to impose economic sanctions such as a ban on remittances on North Korea independently.<sup>31</sup> The “Council to Consider Diplomatic Cards against North Korea” was formed in December 2002 by Yamamoto and five other young LDP lawmakers, and compiled an amendment to the FEFTCL on January 28, 2003.<sup>32</sup> Members of the Diet thus began to push again for amendment of the FEFTCL.

However, it was the Cabinet that stopped these moves by Diet Members. The original bill for the amendment of the FEFTCL had been shelved for too long. The Cabinet was not in favor of economic

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<sup>29</sup>“The 155<sup>th</sup> Diet the House of Councilors on Health, Committee Welfare and Labor Proceedings (December 3, 2002),” p. 4.

<sup>30</sup>*Sankei Shimbun*, morning edition, January 30, 2004.

<sup>31</sup>*Yomiuri Shimbun* (Tokyo), morning edition, December 30, 2002.

<sup>32</sup>*Mainichi Newspapers*, morning edition, January 29, 2003.

sanctions. In the meeting of the House of Representatives Foreign Affairs Committee on May 9, 2003, Foreign Minister Junko Kawaguchi said “economic sanctions are not the best method for producing the desired effects.”<sup>33</sup> In the meeting of the House of Representatives Select Committee on Actions in the Event of an Armed Attack on May 14, 2003, Prime Minister Koizumi said “I don’t necessarily think that economic sanctions are appropriate now.”<sup>34</sup> A LDP departmental meeting was held on May 16, and members consulted on the original bill for the amendment of the FEFTCL. However, one after the other LDP members demanded changes to the contents of the bill. Therefore the LDP put off acknowledgment of the contents of the bill.<sup>35</sup>

The reason for the Koizumi Administration having no choice but to connive at amendment of the FEFTCL was competition with the opposition party of the DPJ and concerted action with the US. In the Japan-US Summit Talks held on May 23, 2003, Prime Minister Koizumi and President Bush agreed on a plan to take stronger measures against North Korea, should the situation worsen.<sup>36</sup> Therefore, the LDP modified a part of the bill to amend the FEFTCL and acknowledged this in the combination of departmental meeting on June 4.<sup>37</sup> Nevertheless, submission of the bill to the Diet was still delayed because of the essentially cautious opinion of the government. The DPJ instituted a bill to amend the FEFTCL as a manifesto on October 31.<sup>38</sup> To oppose the DPJ, the LDP chose to

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<sup>33</sup>“The 156<sup>th</sup> Diet the House of Representatives Foreign Affairs Committee Proceedings No. 8 (May 9, 2003),” p. 13.

<sup>34</sup>“The 156<sup>th</sup> Diet the House of Representatives Select Committee on Actions in the Event of an Armed Attack Proceedings No. 10 (May 14, 2003),” p. 5.

<sup>35</sup>*Mainichi Newspapers*, morning edition, May 16, 2003.

<sup>36</sup>*Mainichi Newspapers*, morning edition, May 24, 2003.

<sup>37</sup>*Mainichi Newspapers*, morning edition, June 5, 2003.

<sup>38</sup>*Sankei Shimbun*, morning edition, November 1, 2003.

submit a bill to amend the FEFTCL to the Diet on November 21.<sup>39</sup> Prime Minister Koizumi said “I think it’s a good idea to have various alternatives when appealing to North Korea by both dialogue and pressure” and allowed the bill to amend the FEFTCL go to the House of Representatives Budget Committee on November 25.<sup>40</sup>

On December 17, NK in coalition with the LDP also sought to submit a bill to amend the FEFTCL to the Diet.<sup>41</sup> Thus, the bill to revise the FEFTCL was passed in the House of Representatives as a joint proposal by the LDP, DRJ and NK on January 29, 2004,<sup>42</sup> and was passed by the Upper House on February 9.<sup>43</sup> Only the JCP opposed the bill. The revised FEFTCL was promulgated on February 16, and came into force on February 26.

## **Enactment of LSMCIPESS**

Support for limiting port entry by North Korean ships and other transactions through economic sanctions surfaced in Japan because of the launching of a Taepodong missile by North Korea in August 1998. The reason for limiting port entry by ships was the same as with the FEFTCL to prevent illegal exports and illegal remittances, and thus keep Japanese products and capital from being used for weapons development in North Korea. However, the embargo of North Korean ships as part of sanctions against North Korea proved an empty threat because there were no laws to achieve it in Japan and because

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<sup>39</sup> *Mainichi Newspapers*, morning edition, November 22, 2003.

<sup>40</sup> “The 158<sup>th</sup> Diet the House of Representatives Budget Committee Proceedings No. 1 (November 25, 2003),” p. 5.

<sup>41</sup> *Mainichi Newspapers*, morning edition, December 18, 2003.

<sup>42</sup> “The 159<sup>th</sup> Diet the House of Representatives Proceedings No. 5 (January 29, 2004),” *Official gazette*, extras, pp. 1-8.

<sup>43</sup> “The 159<sup>th</sup> Diet the House of Councilors Proceedings No. 5 (February 9, 2004),” *Official gazette*, extras, pp. 1-24.

policy differences between the US and Japan over North Korea were substantial.

However, suspicions about illegal exports and illegal remittances by North Korea through ship traffic remained. In the House of Representatives Committee on National Security on March 3, 1999, Yoshihide Sakaue, a LDP member of the House of Representatives, questioned the authorities concerning the true state of illegal exports and illegal remittances using the *Man Gyong Bong* 92.<sup>44</sup> These suspicions have gradually grown in Japan. The major cause are bankruptcies of Chogin Credit Associations belonging to the Association of Credit Unions for Korean Residents in Japan, which has close ties to the General Association of Korean Residents in Japan (GAKRJ), a group of North Korean residents in Japan. The problem began with the bankruptcy of Chogin Osaka Credit Association on May 14, 1997. The business of the Chogin Osaka Credit Association was transferred to Chogin Kinki Credit Association on May 11, 1998. The Japanese government provided a bail-out of 310.2 billion yen in public funds. Thirteen Chogin Credit Associations went bankrupt in May 1999. The Japanese government provided public funds of 312.9 billion yen for the three Chogin Credit Associations in November 2001, and supplied a further 736.3 billion yen in public funds to Chogin Credit Associations in December 2001 and August 2002. Allegations surfaced that remittances of deposits to North Korea were the cause for the bankruptcies of the Chogin Credit Associations.

In connection with the decline of Chogin Credit Associations, Yuriko Koike, a LDP member of the House of Representatives in the meeting of the House of Representatives Committee on Finance on July 6, 1999,<sup>45</sup> asked the parties concerned about the *Man Gyong*

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<sup>44</sup>Op.cit., “The 145<sup>th</sup> Diet,” p. 3.

<sup>45</sup>“The 145<sup>th</sup> Diet the House of Representatives Committee on Finance Proceedings No. 16 (July 6, 1999),” p. 9.

*Bong 92*, pointing out the ship that busily carries goods and cash to North Korea with people arrive at the port in Niigata: “Do you actually check it in the customhouse?” Seiji Maehara, a DPJ member of the House of Representatives, also pointed out the looseness of the system for investigations in the meeting of the House of Representatives Land, Infrastructure and Transportation Committee on January 10, 2002,<sup>46</sup> saying “cash that GAKRJ has collected from the Chogin Credit Association is not only allocated for GAKRJ’s operating expenses but is also remitted to North Korea aboard the *Man Gyong Bong*.” Both DPJ and LDP members thought that GAKRJ had made illegal remittances to North Korea by ship.

Additionally, some argued that the Japanese government should use the embargo of the *Man Gyong Bong 92* as a sanction against North Korea for kidnapping Japanese citizens. Jin Matsubara, a DPJ member of the House of Representatives, insisted in the meeting of the House of Representatives Foreign Affairs Committee on April 5, 2002 on imposing economic sanctions against North Korea by embargoing its ships, and said “I think prohibiting port entry to the *Man Gyong Bong 92* and other ships would demonstrate a decisive attitude as a sanction.”<sup>47</sup> The number of people who agreed with this opinion increased further when the kidnapping of Japanese citizens became clear at the Japan-DPRK Summit on September 17, 2002.

When Powell announced the “enclosure policy” on December 29, the Ministry of Foreign Affairs began to examine revisions to the Port and Harbor Law limiting port entry by the *Man Gyong Bong*, strongly suspected of providing a loophole for illegal remittances,<sup>48</sup>

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<sup>46</sup>“The 153<sup>th</sup> Diet the House of Representatives Land, Infrastructure and Transportation Committee Proceedings No. 5 (January 10, 2002),” pp. 14-15.

<sup>47</sup>“The 154<sup>th</sup> Diet the House of Representatives Foreign Affairs Committee Proceedings No. 7 (1) (April 5, 2002),” p. 6.

<sup>48</sup>*Sankei Shimbun*, morning edition, December 21, 2002.

in seeking to cooperate with the US. The “Council to Consider Diplomatic Cards against North Korea” decided on January 29, 2003 on a policy of aiming for the enactment of a new law establishing powers to reject port entry by ships.<sup>49</sup> Initially, they considered regulating port entry by revising the Port and Harbor Law, but they determined that revision was difficult within the framework of that law and decided to enact a new law. They summarized their ideas on the new law on February 7.<sup>50</sup>

It took a good deal of time to prepare the bill for LSMCIPESS because the LDP did not even acknowledge the bill to revise the FEFTCL. They announced the outline of a bill prohibiting port entry by specific foreign ships on December 27, 2003. The associated session of the LDP acknowledged the outline of the bill on January 29, 2004. Afterwards, they modified the bill. They modified the bill to delete the clause that limited the embargo period against the ships (six months) to strengthen the authority of the government on February 13, instead of inserting a clause requiring post facto approval by the Diet. They planned to complete the procedures within the LDP by the end of February and to consult with NK and the DPJ on submitting the bill as a joint proposal in March.<sup>51</sup> The LDP Chief Secretary Abe announced that it would be submitted to the Diet at once in the conference on February 16.<sup>52</sup>

However, the LDP was faced with opposition from NK. Takenori Kanzaki, Chief Representative of NK, said that they would judge the legislation by the reaction of North Korea.<sup>53</sup> NK was not in favor of the legislation. NK finally showed a willingness to allow the bill to be submitted to the Diet on March 1.<sup>54</sup> Therefore, the LDP

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<sup>49</sup> *Yomiuri Shimbun* (Tokyo), morning edition, January 30, 2003.

<sup>50</sup> *Yomiuri Shimbun* (Tokyo), morning edition, February 8, 2003.

<sup>51</sup> *Yomiuri Shimbun* (Tokyo), morning edition, February 14, 2004.

<sup>52</sup> *Mainichi Newspapers*, morning edition, February 17, 2004.

<sup>53</sup> *Yomiuri Shimbun* (Tokyo), morning edition, February 17, 2004.

decided on a policy of submitting the bill with NK to the Diet.<sup>55</sup> However, NK did not agree with the contents of the bill prepared by the LDP. The LDP and NK consulted on the contents of the bill on March 10. However, they did not reach an agreement on the requirements for the imposition of sanctions.<sup>56</sup> NK finally accepted the contents of the bill in consultation with the LDP on March 17.<sup>57</sup>

The differences of opinion regarding the bill between the DRJ and LDP were greater than those between NK and the LDP. The DPJ “Project Team for North Korea Issue (chairman: House of Representatives member Masaharu Nakagawa)” prepared its own bill. The LDP bill targeted interdiction of ships making port calls to specific foreign countries or registered in specific foreign countries. On the other hand, the DPJ bill focused interdiction efforts on specific ships and aircraft. In addition, the DPJ included a clause revoking the law if it became no longer necessary, a provision that was not in the LDP bill.<sup>58</sup> The DPJ had decided to submit their own bill to the Diet alone on March 16 while the LDP and NK ironed out their differences of opinion.<sup>59</sup> The DPJ brought a measure to the Diet on March 31.<sup>60</sup> The LDP and NK also submitted their bill to the Diet on April 6.<sup>61</sup> The LDP, NK, and DPJ began to coordinate the contents of the bills in the Diet.

It was not Diet members but the Cabinet that was the most opposed to enacting the bill. Prime Minister Koizumi was especially opposed to economic sanctions against North Korea. When Yoshio

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<sup>54</sup> *Mainichi Newspapers*, evening edition, March 1, 2004.

<sup>55</sup> *Sankei Shimbun*, morning edition, March 2, 2004.

<sup>56</sup> *Sankei Shimbun*, morning edition, March 11, 2004.

<sup>57</sup> *Mainichi Newspapers*, morning edition, March 18, 2004.

<sup>58</sup> *Asahi Shimbun*, morning edition, March 30, 2004.

<sup>59</sup> *Yomiuri Shimbun* (Tokyo), morning edition, March 17, 2004.

<sup>60</sup> *Sankei Shimbun*, morning edition, April 1, 2004.

<sup>61</sup> *Mainichi Newspapers*, morning edition, April 7, 2004.

Urushibara, a NK member of the House of Representatives, demanded that he show a willingness to impose sanctions against North Korea under the FEFTCL, Koizumi rejected this in the meeting of the House of Representatives Budget Committee on March 3, 2004. Urushibara criticized Koizumi, saying that “the current diplomacy of the Japanese government stresses dialogue with North Korea too much!”<sup>62</sup>

Koizumi visited Pyongyang again on May 22, 2004. Kim Jong Il,<sup>63</sup> General Secretary of the Workers’ Party in North Korea, promised, “I will observe the Japan-DPRK Pyongyang Declaration,” including an extension of the moratorium on missile launch tests. Koizumi then promised, “I will not impose economic sanctions as long as you abide by the Pyongyang Declaration.”<sup>64</sup> The promises exchanged between Koizumi and Kim Jong Il made it impossible for the Japanese government to impose economic sanctions as long as the DPRK government did not violate the Pyongyang Declaration.

The Association of the Families of Victims Kidnapped by North Korea began criticizing Koizumi because he was not able to resolve the problem of the kidnapping of Japanese citizens. Eight people from among families of Japanese abductees that the North Korean government would not begin repatriating chose to return to North Korea. This is quite an understandable move by the victims. Koizumi was not able to confirm the fate of the remaining Japanese abductees but did achieve the return of Charles R. Jenkins, a deserter from the US military and the husband of one of the Japanese abductees (he and their daughters came to Japan on July 18, 2004, and now live in Japan).

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<sup>62</sup> “The 159<sup>th</sup> Diet the House of Representatives Budget Committee Proceedings No. 18 (March 3, 2004),” p. 7.

<sup>63</sup> I spelled the name of people in the first-name-given order in this paper. But the exception is Kim Jong Il, because the given-name-first order is common about him.

<sup>64</sup> *Asahi Shimbun*, morning edition, May 23, 2004.

A DPJ member of the House of Representatives, Yukio Hatoyama, questioned Koizumi in the House of Representatives plenary session on May 25, 2004: “Please answer clearly... whether you would impose economic sanctions against North Korea if North Korea does not resolve the problem of the kidnapping of Japanese citizens. If it is impossible for you to make progress toward resolving the kidnapping of Japanese citizens, I would declare that we in the Diet are determined to demand stronger responses from the government.” Koizumi answered, “I have no intention of imposing economic sanctions against North Korea for the kidnapping of Japanese citizens at present.”<sup>65</sup> Koizumi was strongly opposed to economic sanctions.

Members of the Diet united across political parties against Koizumi. The LDP, NK, and DPJ agreed on the contents of amendments to the LSMCIPESS bill on the day that Koizumi opposed economic sanctions. The LDP conceded to the DPJ the clause enabling the law to be revoked. However, the clause that the DPJ had requested that included aircraft as targets of interdiction was deleted.<sup>66</sup> LSMCIPESS was passed in the House of Representatives plenary session on June 3,<sup>67</sup> and was passed in the Upper House Plenary Meeting on June 14.<sup>68</sup> LSMCIPESS was promulgated on June 18, and came into force on June 28.

However, the Koizumi Administration did not in the end impose economic sanctions against North Korea to resolve the kidnapping of Japanese citizens. It was only after North Korea launched missiles and

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<sup>65</sup> “The 159<sup>th</sup> Diet the House of Representatives Proceedings No. 35 (May 25, 2004),” *Official gazette*, extras, pp. 7-9.

<sup>66</sup> *Sankei Shimbun*, morning edition, May 26, 2004.

<sup>67</sup> “The 159<sup>th</sup> Diet the House of Representatives Proceedings No. 37 (June 3, 2004),” *Official gazette*, extras, pp. 4-5.

<sup>68</sup> “The 159<sup>th</sup> Diet the House of Councilors Proceedings No. 30 (1) (June 14, 2004),” *Official gazette*, extras, p. 1.

violated the Pyongyang Declaration clearly that it imposed economic sanctions against North Korea. From this viewpoint we may say that the differences of opinion on economic sanctions against North Korea between the Cabinet and the Diet continued until North Korea itself violated the Pyongyang Declaration.

### **Perspectives on Japan's Economic Sanctions against North Korea**

North Korea's launch of a Taepodong missile in August 1998 prompted Japan to impose economic sanctions against North Korea independently. Politicians in Japan then came up with the idea of imposing economic sanctions against North Korea via FEFTCL and LSMCIPESS. We cannot confirm whether Diet members investigated or considered the actual effects of economic sanctions because of the lack of documentary material. However, we can determine that the purpose in the beginning was to make it difficult for North Korea to develop weapons of mass destruction by stopping funds and Japanese products bound for North Korea. The clarification of the kidnapping of Japanese citizens shifted the purpose of economic sanctions to that of a diplomatic card against North Korea. From this perspective, we may say that, in passing the revised FEFTCL and LSMCIPESS, Diet members sought more to put pressure on North Korea than to achieve actual effects through sanctions. In addition, it took a considerable amount of time to pass the revised FEFTCL and LSMCIPESS.

There were two reasons for this. First was the US policy regarding North Korea. The US had continued an appeasement policy toward North Korea and had showed its opposition to Japan imposing economic sanctions against North Korea. Moreover, the US demanded that Japan release the funding to KEDO that it had frozen. Therefore, the Japanese government gave up on imposing economic sanctions

against North Korea.

Second was that the Cabinet, intent on leaving open a channel for talks with North Korea, opposed economic sanctions. It was young lawmakers such as Yamamoto and Abe that tried to pass the revised FEFTCL and the LSMCIPESS. They actually formed two groups of Diet members called the “Council to Consider Strategic Diplomacy against North Korea” and the “Council to Consider Diplomatic Cards against North Korea” respectively to begin preparing bills for revising FEFTCL and LSMCIPESS. However, these efforts made no progress at all in the face of opposition from the Cabinet.

However, two incidents helped Diet lawmakers to pass revisions to FEFTCL and LSMCIPESS. The clarification of the kidnapping of Japanese citizens in the Japan-DPRK Summit in 2002 tilted public opinions in Japan in favor of economic sanctions against North Korea. The opinions of many lawmakers converged in passing the revised FEFTCL and the LSMCIPESS, whether they were from the largest opposition party DPJ or the government parties LDP and NK. This overwhelmed the opposition of the Cabinet.

Second is that the US had begun to adopt a hard-line policy against North Korea. The Koizumi Cabinet, which emphasized relations with the US, did not have any intent of imposing sanctions against North Korea actually, but had no choice but to connive at the passage of the bills.

The Koizumi Cabinet trod warily until the last minute in approving the bills and declared that they would not impose economic sanctions against North Korea as long as North Korea did not violate the Japan-DPRK Pyongyang Declaration. Indeed, it was only after North Korea had launched missiles and clearly violated the Pyongyang Declaration that Japan imposed economic sanctions against North Korea. Moreover, because the Koizumi Administration was coming to an end, Chief Secretary Abe, who had worked to prepare the bills, actually took charge of the sanctions.

The present Prime Minister is not Koizumi, who resisted passage of the bills, but Abe, who had encouraged passage. From this viewpoint we may say that the present cabinet hardly has any differences of opinion with the Diet on imposing economic sanctions against North Korea. In addition, because public opinions in Japan after the launching of missiles and the nuclear tests by North Korea also strongly demanded economic sanctions against North Korea, the ruling and opposition parties have almost identical policies on imposing economic sanctions against North Korea. Moreover, the present US government is as positive as the Japan government to the idea of imposing economic sanctions against North Korea. It could be said that there are now few of the encumbrances that made passing the economic sanction laws initially so difficult.

Therefore, conditions for passing economic sanctions laws against North Korea are clearly ripe in contemporary Japan. This means that it is certainly possible that the Japanese government will respond by passing new laws when the US and the UN demand that even greater economic sanctions be imposed against North Korea. They may institute sanction plans not corresponding to the present laws in Japan, such as ship inspections in reaction to nuclear tests by North Korea. However, we can safely state that the Japanese government is able to meet demands for economic sanctions plans by passing the new laws. It also allows Japan to take joint actions with the UN and the US. If Japan cannot undertake joint actions with either the UN or the US, Japan will be left behind in the international community. It is no exaggeration to say that the fate of Japan's present economic sanctions against North Korea depends on the policies, not of North Korea, South Korea, and China, but of the UN and in particular, the US.