Inter Korean Cooperation in the Fisheries Industry: 
Lessons from the ECSC

Martyn de Bruyn

Introduction

Inter-Korean relations have changed, since President Lee Myung-bak took office in February 2008. President Lee and his ruling Grand National Party have argued that the engagement policy of his predecessors has been a failure since much of the large-scale economic support provided to the North over the course of the program was diverted to its nuclear experiments. Their renewed North Korea policy “Vision 3000, Denuclearization and Openness,” rendered South Korea’s economic aid conditional upon North Korea’s complete denuclearization.¹ The North, disappointed and angered, threatened armed conflicts along the border, fired a series of long- and short-range missiles and conducted its second nuclear test. Tension on the Korean peninsula has newly escalated and the Korean détente made during the Kim Dae-jung and Roh Moo-hyun administrations has been jeopardized. During the Kim and Roh regimes the basic structure of the six-party process included the United States and Japan hewing to hard-line positions, while South Korea and China were considered as soft. The dynamic has shifted with conservatives once again returning to power in South Korea and taking a new hard-line stance whereas the Obama administration seems more willing to present diplomatic options.

An important reason that inter-Korean relations returned to a particularly low point, including the danger of a military confrontation, is also tied to the lack of institutional infrastructure that functions as a stabilizer for the relationship. The current armistice between North and South Korea is but a temporary truce, not a means of more permanently preventing a return to military action. Unlike the ad-hoc cease-fire pact, institutions can provide a far more secure system. Well-functioning institutions provide consistency for political actions among involved parties and these actions and their rationales are not isolated but woven into a broader fabric of anticipating norms and regulations.

In this paper I am looking at the European Coal and Steel Community (ECSC) as a model for creating trusting relations between adversaries. In particular I am interested to see whether the neofunctionalist logic of institutional economic cooperation will work in the Korean context. This paper first addresses the theoretical context of neofunctionalism and its application to the Korean peninsula. The next section, addresses institutionalized economic cooperation in the fisheries industry. This section especially focuses on important economic and political reasons for both South and North Korea need to collaborate in the Yellow Sea (or West Sea, as it is known to Koreans). In the conclusion I discuss the potential for trust building through collaboration in the fisheries industry.

The Theoretical Context: Neo-functional Institutionalism

Neofunctionalist institutionalism was developed by Ernst Haas and Leon Lindberg to interpret the development of European integration in the 1950s from the European Coal
and Steel Community to the two treaties of Rome. The primary characteristics of Neofunctionalism were: 1. Development of supranational institutions that were endowed the authority to act in a specific policy area; 2. Bottom up pressure from non state actors pushing for solutions to inter-state problems; 3. Integration in one policy area is stimulating further integration in related policy areas as part of a spillover process. In the case of Europe the cooperation started in the basic industries of coal and steel and soon developed further economic integration among the six founding nations. The objective of the ECSC was a common market for coal, iron ore and scrap, and steel by eliminating all taxes, customs, and other restrictive practices. The Schuman Declaration of May 9, 1950 set out the basis institutional architecture of the ECSC, which included a High Authority, Council of Ministers, Common Assembly, and Court of Justice. The nine members of the High Authority were in direct control over the common market in coal and steel. National ministers regularly met in the Council and the Common Assembly functioned as advisory board to the Council. The Count of Justice was established for dispute settlement between the member states. The ECSC Treaty expired after 50 years on July 23, 2002, but the rather elaborate institutional architecture still forms the basis of the current EU.

The focus of this paper is to apply the neofunctionalist logic to the Korean peninsula and not to prescribe the construction of the ECSC institutional architecture. It is not the institutions themselves but rather the effect they produced in the European subcontinent that is most worthy of exporting to the Korean peninsula. The effect is of course the creation of peace, stability, and prosperity in Western Europe. The success of the ECSC is largely a reflection of the successful institutional trust building between France and Germany. The Schuman Plan was received well by the Adenauer
administration because it was seen as a means to reestablish Germany within the European family of nations. For France it helped with the reconstruction of the economy and provided security as it put two industries that are essential for warfare under the control of an independent centralized authority.

While there are parallels between the relationship between France and Germany and the relationship between the two Koreas there are many more contrasts. The application of Neofunctionalism to the Korean peninsula is not completely without reservations. The influence of non-state actors, essential for putting pressure on the government that results in spillovers, is basically non-existent in North Korea. Germany and France also both had democratic governments and capitalist economies. The similarities in their economic and political systems made cooperation in the ECSC easier than will be the case between the two Koreas. That being said successful cooperation in one policy area may very well lead to more integration in related policy areas. More importantly, the institutional approach that was successful in creating trusting relations between France and Germany may fare better than gradualist ad hoc approaches in establishing trust among the two Koreas. The format of the six-party talks, for example, is a gradual approach to achieving consensus and narrowing differences. Meetings of the six parties are ad hoc and based for the most part on overcoming a series of crises in inter-Korean relations.² Although the six-party talks have been successful in getting the interested regional parties to sit around the table and discuss their security concerns, they have done little to overcome the deep mistrust between the two Koreas, and the United States and North Korea in particular. The gradual approach to peace and security building,

as practiced under the six part talks, has not been successful in creating trusting relations among the state parties involved.

Can we then institutionalize the six-party talks? For the six-party talks to be successful, the agreements among the participating states need to be enforceable. Only an institution that is independent of the six parties can supervise the implementation of agreements. The institutionalization of the six-party talks, through norms, rules, and regulations, can enhance their effectiveness and build trust among the member states. It is, however, not surprising that the six-party talks have not been institutionalized because the parties involved are unlikely to surrender their decision making power over national security issues to an independent body. Success of trust building institutions is more likely in non-security areas such as economic cooperation.

These institutions can be exported to the Korean peninsula to create an environment in which trusting relations can be built. An institutional approach, guided by the experience of the European Union, can assist in the development of trust as it provides the two parties with an “effective voice” and “breathing space” in the deliberative process. Effective voice guarantees all parties some influence on the final product of the deliberation, and breathing space allows leaders to compromise without suffering electoral consequences. Institutions provide leaders with a set of rules that set the terms of the negotiations and a framework for solving problems. This framework enables leaders to assert their “effective voice” and increases their stake in the outcome of the process. Institutions further allow leaders to make concessions at the supranational

---

level even if such compromises are unpopular at the domestic level. Regular meetings between high-level government officials can be well prepared by diplomatic staff negotiating away from the watchful eye of the media. Insulation from public opinion creates the necessary breathing space for decision makers. The EU might be considered an easy case because conditions in Europe favored cooperation and compromise.\textsuperscript{5} Trust building on the Korean peninsula would represent a harder case in that the parties involved are still at war and political conditions for compromise are far less favorable. Given the nature of security relations in Northeast Asia, institution building would have to expand beyond the ad hoc framework of the six-party talks.\textsuperscript{6} In the next section I will discuss the potential of a fisheries community.

**Korean Fisheries Community: Cooperation beyond Six-Party Talks and Kaesong**

An Inter-Korean Summit was held on 4 October 2007 in Pyongyang between President Roh Moo-hyun and North Korean leader Kim Jong-il. This was only the second meeting between leaders of the two Koreas since the country was divided more than half a century ago. At this summit, the two Korean leaders signed the eight-chapter “Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity”. In it, the two leaders reconfirmed the principle set out in the first inter-Korean summit in June 2000 – reducing tension on the Korean peninsula and advancing peace and prosperity through economic, social and cultural exchanges. They also agreed to create a special peace and cooperation zone in waters just off their west-coast border.

\textsuperscript{5} Hoffman, ibid., 308.
\textsuperscript{6} Park, ibid.
President Roh Moo-hyun understood the crippling cost of unification that will be imposed on South Korea should it be achieved through a hard-landing scenario. A far better scenario, and the only one likely to afford some degree of self-determination in the process, was preservation of the status quo including the avoidance of policies that may provoke a North Korean collapse. For him waiting for the North Korean system to collapse or looking like you are trying to make that happen does not in any way help the work of unification. His pragmatic approach to this issue was reflected in a bundle of economic and social programs that were implemented and further developed in working with North Korea including the construction of the Kaesong Industrial Complex, joint tourist industries in the mountain Geumgang, and cross-border railway travel.

President Roh returning to Seoul after the summit said that “the core point, the one critical point of the summit was the declaration calling for a peace and economic cooperation zone at the Koreas’ maritime border in the Yellow Sea.” Since he came into office, Roh put great emphasis on inter-Korean security and fisheries talks through which the two governments could prevent further military clashes in the Yellow Sea. At the summit, Roh suggested to link the issue of the joint fishing zone to the creation of a joint industrial complex in the North’s port city of Haeju. The two leaders also agreed that the maritime border area from the Han River estuary to the Yeonpyeongdo islands would be designated as a “peace sea.” They agreed not to permit any military activities in the waters, but only peaceful uses, such as maritime farming, rare species preservation and

---

eco-friendly business development. The border area would be incorporated into a broader inter-Korean economic development project. As a follow-up plan, then South Korean Minister of Maritime Affairs and Fisheries Kang Moo-hyun stated in October 2007 that “the historic summit between the two leaders has made possible the peaceful utilization of these controversial waters. Comprehensive details, such as the size, location, and number of ships and a management plan for the joint-fishing zone will be [soon] addressed.”

The cooperation plan with North Korea through maritime and fisheries affairs goes back to November 1988 when South Korea’s Hyundai Corporation imported 40 kg of corb shell from the North. Since then various fishery products, including Alaska pollack, clam, and giant octopus, have been increasingly exported to the South, making the ratio of fishery products 25 percent of the total imports from North Korea in early 2000. This is a great increase compared to the early 1990s when the ratio was only about 3 percent. Since the June 2000 summit between Kim Jong-il and Kim Dae-jung, officials of the two governments have discussed economic and political collaboration in maritime and fisheries affairs (see Table 1).

---

9 Ibid.
11 At the non-governmental level, the initiative role of the Hanns Seidel Foundation (HSS) is worthy of note. As part of the assistance program to North Korea’s capacity-building, HSS Korea proposed to create “the Integrated Fisheries Foundation Center” (IFFC) in North Korea. The activity plans include sharing “the German experience with maritime and fisheries cooperation before unification and the course of fishery policy
<table>
<thead>
<tr>
<th>Level of Meeting</th>
<th>Date and Place</th>
<th>Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministerial Talks</td>
<td>December 2000, Pyongyang</td>
<td>Agreed to collaborate on fisheries at the governmental level; The North expressed the offer of an East Sea fishing zone</td>
</tr>
<tr>
<td>Ministerial Talks</td>
<td>October 2002, Pyongyang</td>
<td>Agreed to further discuss the use of the East Sea</td>
</tr>
<tr>
<td>Ministerial Talks</td>
<td>June 2005, Seoul</td>
<td>Agreed to formulate and operate working-level consultations for maritime cooperation</td>
</tr>
<tr>
<td>Economic Cooperation</td>
<td>July 2005, Seoul</td>
<td>Signed and exchanged the Inter-Korean Maritime Agreement and Subsequent Agreement.</td>
</tr>
<tr>
<td>Economic Cooperation</td>
<td>July 2005, Kaesong</td>
<td>Agreed to designate a joint fishing zone, cooperate to prevent illegal fishing vessels from entering, develop maritime products and technology; cooperate over third-party entry into the fishery zone</td>
</tr>
<tr>
<td>Defense Ministers</td>
<td>June 2006, Panmunjom</td>
<td>The North insisted its position on the NLL; the previous plan on the joint fishing zone in the Yellow Sea was practically broken off</td>
</tr>
<tr>
<td>Economic Cooperation</td>
<td>June 2006, Jeju</td>
<td>Agreed to set timetables for a working-level consultative meeting on after unification” and continuing assistance to the IFFC “through exchange programmes and training programmes in Germany.” Sun-hee Um, Sung-gul Hong, Soo-jung Choi, “Gookjehyupryoekul tonghal Bookhan Soosankaehalsausp Jaewonjodal bangang” [Fund Supply Options through International Cooperation for North Korea’s Fisheries Development], Policy Research 2008-05 (Seoul: Korea Maritime Institute, 2008): 167-168.</td>
</tr>
</tbody>
</table>
Economic Cooperation Committee December 2007, Seoul Agreed to promote entry of vessels and fishing in a designated area in the Northern side of the East Sea and cooperate with fish farming.


A. Economic Significance of the Yellow Sea

The Yellow Sea is a strategically significant area as it can advance inter-Korean peace and security as well as economic prosperity. From an economic perspective the following three major points can be addressed. First, collaboration in the Yellow Sea can greatly contribute to easing North Korea’s food shortage. North Korea’s west coast stretches about 2,500 kilometers along a jagged coastline. The flat, shallow seabed of the Yellow Sea combined with a mixture of warm and cold ocean currents and rich supplements from several large rivers, lakes, and streams make this among the world’s most productive fishing grounds. In addition, this area has not been overdeveloped commercially, as have many other coastal areas off the peninsula, and still contains natural marine conditions and abundant fisheries. The fisheries industry fits North Korea’s economic need and

conditions at the moment because it does not require a great amount of high tech investment. Unlike the agriculture industry that necessitates fertilizers and pesticides, production costs of the fisheries industry are relatively low. At the moment, the most abundant fisheries zone in the Yellow Sea only gets limited access because this area is a politically sensitive marine border.\(^\text{13}\)

Second, marine products can be an important source for North Korea’s foreign currency income. While North Korea desperately needs foreign currency, it has faced a variety of barriers for imports and exports. The Western world led by the United States adopted a general policy of military containment, diplomatic isolation, and economic sanctions against North Korea while the Soviet Union completely stopped the subsidized oil shipments and the monetary aid to North Korea. In spite of such political difficulties, however, North Korea’s national environment provides a positive perspective for the development of fisheries. North Korea is already equipped to export marine products by utilizing Kimchaek, Hungnam, Shinuiju, Wonsan and other major ports as well the three main rivers – Taedong, Tuman, and Yalu – which not only contain considerable commercial fish themselves but are also efficient means of transportation.

Third, inter-Korean cooperation can combat illegal fishing in waters by Chinese boats. Since the enactment of the United Nations Convention on the Law of the Sea (UNCLOS) in 1994, costal states were granted the right to declare sovereign rights and resource control over an Exclusive Economic Zone (EEZ) up to 200 nautical miles off its coastline.\(^\text{14}\) China and South Korea quickly ratified the UNCLOS and signed a Sino-

\(^{13}\) Jong-hee Kang et al., ibid., 182
South Korean agreement for cooperative fisheries management in the Yellow Sea in 1998 (which took effect in 2001). Through this agreement, South Korea and China reaffirmed each country’s exclusive rights over fishery resources and fishing activities in its own EEZ, while in the waters where their EEZ claims overlap, they agreed to exercise equal rights and manage species through the Korea-China Joint Fisheries Committee. Yet, the number of Chinese boats caught poaching in South Korea’s EEZ has actually increased since 2001. According to South Korea’s maritime police and coast guard, South Korea captures several hundred Chinese fishing vessels violating the EEZ each year. Hundreds of South Korean fishermen sued the Beijing government in March 2005, claiming they suffered a huge loss of fish due to illegal Chinese fishing.¹⁵ The demand for tougher sanctions against this illegal activity has risen when a coast guard officer was found dead in the sea off the southwestern port city of Mokpo in September 2008 after a clash with illegal Chinese fishermen.¹⁶ Within the same month but in a separate incident, a North Korean patrol fired on another Chinese fishing boat wounding the vessel’s captain.¹⁷ The violation of the agreement by Chinese fishing boats has been of great concern for both South and North Korean authorities because it could bring unwanted clashes and diplomatic friction. Kim Jong-il and Roh Moo-hyun in their 2007 summit agreed to

establish a joint fishing zone near the disputed maritime border in the Yellow Sea which
would also help prevent Chinese vessels from illegal intrusion and fishing.

B. Political Significance of the Yellow Sea

The Yellow Sea border between North and South Korea has been the stage of numerous
direct confrontations between the military forces of both nations. The maritime border
between the two Koreas is known as the Northern Limit Line (NLL), which was
established unilaterally by the US led UN Coalition forces in 1953. North Korea was not
consulted on the establishment of the NLL, and has never officially recognized the NLL
as maritime border. The North, however, did not protest against the NLL until 1973,
twenty years after its establishment.\(^{18}\) The North Korean protest against the NLL did not
lead to an immediate confrontation between the two sides. The situation escalated in June
1999 when North Korean fishing boats crossed the NLL during the peak of the blue crab
fishing season. During an exchange of fire between North and South Korean patrol boats
at least two North Korean vessels sank and about thirty sailors perished. A few months
later in September 1999, North Korea declared that it no longer recognized the sea border
with the South adding that “the North Korean army would defend a new border by what it
called various means and methods.”\(^ {19}\) In June 2002, again during the blue crab season,
two North Korean patrol boats crossed the NLL setting off a confrontation with the South

\(^{18}\) Sung-kul Hong, Hun-dong Lee, Hak-bong Jang, “A Study on the Effective Execution
of the Inter-Korean Cooperation Fund in the Fisheries Sector,” Special Research 2006-34
(Seoul: Korea Maritime Institute, 2006): 69-73; Terence Roehrig “North Korea and the
Republic of Korea’s Maritime Boundaries” International Journal of Marine & Coastal

\(^{19}\) “South Korea Resolute on Sea Border,” BBC News (September 3, 1999),
that killed six South Korean sailors and wounded nine others. The third incident between
Navy ships of the two Koreas near the NLL occurred in November 2009. South Korean
officials reported that a North Korean naval vessel had crossed the NLL and had been
fired on by South Korean warships. This skirmish reportedly killed one North Korean
sailor and injured three others while seriously damaging the North Korean vessel. North
Korean authorities denied that the vessel had crossed the NLL and demanded an apology
from South Korea for what Pyongyang described as a “grave armed provocation by the
South Korean forces in the waters of the north side.” North Korean authorities
suggested that the vessel had been investigating an unidentified object that intruded into
its side of the NLL. An observer argues that illegal Chinese fishing boats were in fact in
the area, suggesting North Korea may have been chasing them out of its waters. On
March 26, 2010 the South Korean warship Cheonan sank near Baengnyeong Island after
presumably being hit by a North Korean torpedo. Forty-six Korean sailors died in the
incident. North Korea has denied any involvement in the accident and the United Nations
have condemned the attack without directly blaming the North. These incidents highlight
the continued tension in the Yellow Sea and stress the importance for a sustainable
solution.

Before a fisheries community can be established the situation surrounding the
NLL should be resolved. This is, however, not that easy for two reasons: First, the North
has a legitimate claim that the NLL has been drawn to close to its border; Second, South

20 “Korean Navies Exchange Fire,” CNN News (November 10, 2009),
December 1, 2009).
21 John Pike, “Northern Limit Line (NLL) West Sea Naval Engagements,”
accessed December 1, 2009).
Korea has a strategic interest in the status quo of the current NLL. Under international law the maritime border between two adjoining states is of equal distance from the coastline of both states, and the maritime border of one state cannot block another state from having access to international waters. North Korea has a legitimate claim on both counts against the NLL as drawn up by the UN Coalition: “the NLL would probably not stand as a legitimate maritime boundary under the ‘equitable principles’ that have evolved from the decisions based on Articles 74 and 83 of the Law of the Sea Convention, because it denies North Korea access to adjacent sea areas.”

As Terence Roehrig suggests, an international court would likely find that the NLL would have to be shifted southward. Similarly, international ocean law scholar Jon van Dyke argues that “South Korea should be prepared to give some maritime area to North Korea, because the Northern Limit Line cannot be justified as a legitimate maritime boundary.” South Korea is not likely to agree to accept international arbitration on the NLL because it deems an extension of the North’s territorial waters a direct security threat. South Korea will only be willing to shift the NLL southwards when doing so does not increase its vulnerability to an attack from the North. The establishment of an official Korean Fisheries Community may be just the type of initiative that can diminish the tension in the Yellow Sea and allow both states to draw up a mutually beneficial maritime border. Once the conflict over the NLL has been settled the point of the fisheries community is to develop a joint fisheries zone in which the fishermen of both nations cooperate.

22 van Dyke, ibid., 531.
23 Roehrig, ibid., 17.
24 van Dyke, ibid., 536.
Conclusion

In the landmark inter-Korean summit in October 2007, President Roh Moo-hyun and North Korean leader Kim Jong-il agreed that leaders of the two Koreas should meet “frequently” in the future to discuss pending issues and hold regular inter-Korean summits. Because President Roh left office soon after the summit, the bulk of the implementation of the ambitious agreement was left to his successor, President Lee Myung-bak. Upon his return from the summit, President Roh said: “I don’t want to set an additional burden on the next government but to facilitate future progress for the next government and North Korea.” President Roh and his advisors believed that peace and security in Northeast Asia depends on improved relations between the two Koreas. Building trusting relations cannot be achieved by frequent summits or grand designs alone. In order to improve security relations between the North and South, two options can be considered as discussed previously in this chapter. A rather obvious option is to strive to remedy security concerns by building a security community. The six-party talks are primarily aimed at the denuclearization of the Korean peninsula. North Korea is offered a number of incentives, including economic and energy support, and the normalization of its relations with the United States, in exchange for abandoning its nuclear weapons program. The six-party talks have been established as a crisis management tool in response to Pyongyang’s nuclear proliferation, but they can potentially be institutionalized into a Northeast Asian Security Community. This can, however, not be done overnight. As the European experience suggests, a common

26 Salmon, ibid.
security community is much more difficult to establish than a trade based regional
community. In the 1950s the European Coal and Steel Community and later the European
Economic Community were successfully launched while simultaneously the European
Defense Community failed.

The Fisheries Community is modeled after the European Coal and Steel
Community. The six founding nation of the ECSC used cooperation in these basic
industries as a starting point for European integration on a much greater scale. Jean
Monnet, the chief architect of European unity, knew instinctively that the history of two
world wars could not simply be overcome by summits and the signing of grand plans.
European economic integration would have to show real benefits to the citizens of the six
ECSC member states. Similarly, economic cooperation on the Korean peninsula cannot
succeed without direct benefits for North and South Korean citizens. The Fisheries
Community provides two direct benefits, namely food and security. The Yellow Sea has
been the theater of direct military confrontations between both Koreas. If this sea border
can transcend into an area of peace and mutual prosperity, it will provide an impetus for
further cooperation in other areas and industries.