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Sisyphean Diplomacy: The Dangers of Premature Negotiations with North Korea

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Bruce Klingner

Senior Research Fellow, Northeast Asia

The Heritage Foundation

My name is Bruce Klingner. I am the Senior Research Fellow for Northeast Asia at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

The security situation on the Korean Peninsula is dire and worsening. There is a disturbingly long list of reasons to be pessimistic about maintaining peace and stability in northeast Asia.

- North Korea’s growing nuclear and missile capabilities are already an existential threat to South Korea and Japan and will soon be a direct threat to the continental United States. Pyongyang’s decades long quest for an unambiguous ability to target the United States with a nuclear-tipped ICBM may be entering endgame.
- Pyongyang undertook a robust nuclear and missile test program in 2016, achieving several breakthroughs, expanding its threat to our allies and U.S. troops in the region. Recent missile launches shows Pyongyang will continue its provocative behavior under the Trump Administration.
- Kim Jong-un declared the regime has “reached the final stage of preparations to test-launch an intercontinental ballistic missile” and would continue to build up “the capability for preemptive strike.” Pyongyang declared “The ICBM will be launched anytime and anywhere.”
- Pyongyang has repeatedly vowed it will never abandon its nuclear arsenal and dismissed the potential for denuclearization negotiations.
- China reacted viscerally to the allied deployment of the THAAD ballistic missile defense system. Beijing has repeatedly shown it is more willing to punish defense responses than the threatening behavior that precipitated them.
- North Korea used VX – a chemical weapon of mass destruction – to assassinate the half-brother of Kim Jong-un in a crowded civilian airport.
- U.S. policymakers, lawmakers, and experts assess that the time for dialogue with Kim Jong-un has passed and that the U.S. must impose augmented sanctions to tighten the economic noose on North Korea. Though it is the proper policy, it carries the risk of strong reactions by Pyongyang and Beijing.
- There is growing concern in South Korea about U.S. capabilities, resolve, and willingness to defend their country, particularly once North Korea demonstrates an unambiguous ability to threaten the U.S. mainland with nuclear weapons.
- The impeachment of Park Geun-hye will bring a liberal successor who may pursue policies at odds with U.S. objectives.
- There is growing advocacy for preemptive military actions against North Korea, mimicking regime comments of its own preemption plans. This raises the risk of military conflict, either intentionally or through miscalculation.

Negotiations with North Korea: Abandon hope all ye who enter here

As the Trump Administration conducts its North Korea policy review, it faces a perfect storm of Asian headaches, threats, and crises. Initial indications are that the administration will emphasize improving defense capabilities, particularly ballistic missile defense; augmenting pressure tactics on the regime; and seeking ways to get Beijing to fully enforce UN sanctions.

While the door will remain open for diplomatic engagement, it will likely only be a secondary objective due to North Korea's recent provocative behavior and the international consensus to pressure the regime for its repeated violations of UN resolutions and international laws.

Advocates for engagement will insist that the only way to constrain Pyongyang's growing nuclear arsenal is to rush back to nuclear talks without insisting on preconditions. But there is little utility to such negotiations as long as Pyongyang rejects their core premise, which is abandonment of its nuclear weapons and programs.

Ninth time the charm? Promoting another attempt at a negotiated settlement of the North Korean nuclear problem flies in the face of the collapse of Pyongyang's previous pledges never to develop nuclear weapons or, once caught with their hand in the nuclear cookie jar, subsequent promises to abandon those weapons.

Pyongyang previously acceded to the 1992 North–South Denuclearization Agreement, the Non-Proliferation Treaty, the International Atomic Energy Agency (IAEA) safeguards, the Agreed Framework, three agreements under the Six-Party Talks and the Leap Day Agreement – all of which ultimately failed. A record of zero for eight does not instill a strong sense of confidence about any future attempts.

For over 20 years, there have been official two-party talks, three-party talks, four-party talks and six-party talks to resolve the North Korean nuclear issue. The U.S. dispatched government envoys on numerous occasions for bilateral discussions with North Korean counterparts. The U.S. and its allies offered economic benefits, developmental assistance, humanitarian assistance, diplomatic recognition, declaration of non-hostility, turning a blind eye to violations and non-implementation of U.S. laws.

Seoul signed 240 inter-Korean agreements on a wide range of issues and participated in large joint economic ventures with North Korea at Kaesong and Kumgangsan. Successive South Korean administrations, including those of conservative Presidents Lee Myung-bak and Park Geun-hye, offered extensive economic and diplomatic inducements in return for Pyongyang *beginning* to comply with its denuclearization pledges.

There have been extensive unofficial outreach efforts through visits by philharmonic orchestras, soccer teams, Olympic teams, cheerleading teams and so on. Yet, all of these official and unofficial initiatives failed to induce political and economic reform or moderate North Korea's belligerent behavior.

It is also difficult to have a dialogue with a country that shuns it. North Korea closed the “New York channel” in July 2016, severing the last official communication link. Pyongyang walked away from senior-level meetings with South Korean counterparts in December 2015, precipitating the collapse of inter-Korean dialogue. In the Joint Security Area on the Demilitarized Zone (DMZ), North Korea refuses to even answer the phone or check its mailbox for messages from the U.S. and South Korea.

Hope springs eternal. Despite these failures, there has been a renewed advocacy by some experts to negotiate a nuclear freeze. The proposals all share a common theme in calling for

yet more concessions by the U.S. to encourage Pyongyang to come back to the negotiating table in return for a commitment by the North to undertake a portion what it is already obligated to do under numerous UN resolutions.

Been There, Done That. A nuclear freeze was already negotiated with the February 2012 Leap Day Agreement in which the U.S. offered 240,000 tons of nutritional assistance and a written declaration of no hostile intent. In return, North Korea pledged to freeze nuclear reprocessing and enrichment activity at the Yongbyon nuclear facility, not to conduct any nuclear or missile tests and to allow the return of International Atomic Energy Association inspectors to Yongbyon.

That agreement crashed and burned within weeks. Indeed, all eight denuclearization agreements with North Korea were variants on a nuclear freeze. Yet that does not seem to deter freeze proponents from advocating another try. Hope is a poor reason to ignore a consistent track record of failure.

North Korea Not Interested in Denuclearization. Nuclear freeze proponents have provided no rationale for why yet another attempt at negotiations would be any more successful than previous failures. Nor have they provided any evidence indicating a North Korean policy shift away from its declared rejection of denuclearization.

Indeed, the strongest case against diplomacy can be found in the regime's own words, in which the highest levels of the regime, including Kim Jong Un, have repeatedly and unambiguously made clear that Pyongyang will never abandon the "treasured sword" of its nuclear arsenal and that the Six-Party Talks are "null and void."

Pyongyang has indicated that no level of economic benefits could address the security concerns that the regime cites as justification for its nuclear programs. As such, there is no utility in offering such assistance. Indeed, opening North Korea to outside economic assistance is an anathema to the regime since it allows the contagion of outside influence to reach the populace.

Similarly, since North Korean nuclear weapons are purported to be a response to the "hostile policy" of the U.S., then no South Korean offers of economic assistance or security measures could dissuade Pyongyang from its nuclear programs.

Too High a Price. What would the U.S. and its allies have to offer to achieve a freeze? Those things that were previously offered to no effect? Or would Washington and others have to provide even greater concessions and benefits? The regime has an insatiable list of demands, which include:

- **Military demands** – the end of U.S.-South Korean military exercises, removal of U.S. troops from South Korea, abrogation of the bilateral defense alliance between the U.S. and South Korea, cancelling of the U.S. extended deterrence guarantee, postponement or cancellation of the deployment of THAAD to South Korea and worldwide dismantlement of all U.S. nuclear weapons;
- **Political demands** – establishment of formal diplomatic relations with the U.S. signing of a peace treaty to end the Korean War, and no action on the UN Commission of

- Inquiry report on North Korean human rights abuses;
- **Law enforcement demands** – removal of all UN sanctions, U.S. sanctions, EU sanctions and targeted financial measures; and
 - **Social demands** against South Korean constitutionally protected freedom of speech (pamphlets, “insulting” articles by South Korean media, and anti-North Korean public demonstrations on the streets of Seoul).

Consequences of a bad agreement. A freeze would be a *de facto* recognition and acceptance of North Korea as a nuclear weapons state. Doing so would undermine the Non-Proliferation Treaty and send the wrong signal to other nuclear aspirants that the path is open to nuclear weapons. Doing so would sacrifice one arms control agreement on the altar of expediency to get another.

A nuclear freeze agreement without verification would be worthless. North Korea’s grudging admission of its prohibited highly enriched uranium program made verification even more important and difficult. The more easily hidden components of a uranium program would require a more intrusive verification regime than the one that North Korea balked at in 2008.

A freeze would leave North Korea with its nuclear weapons, which already threaten South Korea and Japan. Such an agreement would trigger allied concerns about the U.S. extended deterrence guarantee, including the nuclear umbrella, to South Korea and Japan. Allied anxiety over U.S. reliability would increase advocacy within South Korea for an independent indigenous nuclear weapons program and greater reliance on preemption strategies.

Pyongyang may be willing to talk – but not about the topic of paramount U.S. concern: the denuclearization required by UN resolutions to which Pyongyang previously committed several times, but failed to fulfill.

Tightening the Economic Noose - Targeting North Korea’s Cash Flow

Increased financial sanctions, combined with the increasing pariah status of the regime from its human rights violations, are leading nations to reduce the flow of hard currency to North Korea. While sanctions only apply to prohibited activities, even legitimate North Korean enterprises are becoming less profitable.

Numerous countries are severing their business relationships with North Korea by suspending economic deals, curtailing North Korean worker visas, and ejecting North Korean diplomats.

- **South Korea** terminated its involvement in the inter-Korean economic venture at Kaesong. South Korea’s action severed a critical source of foreign currency for North Korea. Kaesong generated 23 percent of North Korea’s foreign trade (\$2.3 billion of North Korea’s annual overall trade of \$9.9 billion) and \$120 million in annual profits.¹

¹ Kim Tong-hyung, “How Impoverished but Nuclear-armed North Korea Earns Money,” *The Morning Journal*, February 12, 2016, <http://www.morningjournal.com/article/MJ/20160212/NEWS/160219852> and “S. Korea starts withdrawing nationals from Kaesong complex,” Yonhap, February 11, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/02/11/64/0401000000AEN20160211002800315F.html>.

- **Russian** state-run gas company Gazprom ended plans for energy-related projects with North Korea due to concerns arising from UN sanctions.²
- **Taiwan** implemented a complete ban on imports of North Korean coal, iron ore, and some other minerals.³
- **Uganda** directed that all North Korean military and police personnel should depart the country and that it was severing military and security ties with Pyongyang, which had been a source of revenue for the regime. There were approximately 50 North Korean military and police training officials. UN resolutions preclude North Korea from engaging in weapons trades or military training with other countries.⁴
- **Sudan** severed military ties with North Korea. In November 2016, Sudanese Foreign Minister Ibrahim Ghandour declared there were no longer any military or diplomatic cooperation with North Korea and that all diplomats had been removed.⁵
- **Namibia** halted economic ties with two North Korean state-run companies which had built a munitions factory, a violation of UN resolutions. The North Korean entities were Korea Mining Development Trading Corporation (KOMID), which is on the UN list of sanctioned entities for earning foreign cash via illicit arms deals, and its affiliate Mansudae Overseas Projects.⁶ Africa has been an important arms market for North Korea.
- **Angola** suspended all commercial trade with North Korea,⁷ **South Africa** stopped military cooperation and weapons deals,⁸ and **Uzbekistan** demanded the departure of all North Korean diplomats and the closure of the North Korean embassy.⁹
- **Bangladesh, South Africa, Burma**, and other countries have expelled North Korean diplomats for illicit activities.¹⁰

North Korean Overseas Financial Operations Suffering

- **Conventional Arms Sales.** North Korea officials tied to illegal sales of conventional arms were deported from **Burma, Egypt, and Vietnam**. Pyongyang reportedly earned \$300 million in hard currency from arms sales in 2015.¹¹ In March, **China** arrested dozens of smugglers involved in illegal arms trafficking with North Korea.
- **Overseas Restaurants.** Kim Jong-un expanded North Korean restaurants overseas to generate additional money for the regime. A high-ranking North Korean military defector estimated the regime's restaurants in **China** contributed \$200 million annually to the

² "N.Korean Arms Dealers Run Out of Safe Havens," *The Chosun Ilbo*, April 29, 2016, http://english.chosun.com/site/data/html_dir/2016/04/29/2016042901075.html.

³ Park Boram, "Tightening global sanctions hurting N. Korea's diplomatic ties, overseas commerce," Yonhap news, September 29, 2016.

⁴ Kang Jin-kyu and Jeong Yong-soo, "Uganda tells North Koreans to go back home," *Korea Joongang Daily*, June 9, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3019773>.

⁵ Leo Byrne, "Sudan cuts military ties with North Korea," NK News, November 2, 2016.

⁶ "Namibia cuts ties with North Korea state firms: South Korea government, media," Reuters, July 1, 2016, <http://www.reuters.com/article/us-northkorea-namibia-idUSKCN0ZH3PW>.

⁷ "Squeezing North Korea: Old Friends Take Steps to Isolate Regime," Reuters, September 26, 2016.

⁸ "12 Countries Downgrade Ties with N.Korea," *Chosun Ilbo*, October 4, 2016.

⁹ Lee Yong-soo, "N.Korean Embassy in Uzbekistan Shut Down," *Chosun Ilbo*, August 22, 2016.

¹⁰ Daniel Russel, "Statement Before the Senate Foreign Relations Committee, Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy," September 28, 2016.

¹¹ "N.Korean Arms Dealers Run Out of Safe Havens," *The Chosun Ilbo*, April 29, 2016, http://english.chosun.com/site/data/html_dir/2016/04/29/2016042901075.html.

regime.¹² At least 30 of North Korea's overseas restaurants have closed due to dwindling business brought on by sanctions, China's anti-hedonism rules, and the South Korean government calling on its citizens to avoid the restaurants.¹³

- **Trading Companies.** North Korean trading companies in China to earn hard currency began defaulting on payments to Chinese creditors and began having difficulty acquiring lines of credit. A North Korean source reported, "Companies under the Ministry of External Economic Affairs and other trade agencies have [since April] begun experiencing a severe foreign currency crisis." Even Prime Minister Pak Pong-ju and Office 39, the North Korean leadership's money laundering organization, suffered foreign currency shortages.¹⁴
- **Transportation Organizations. Cambodia, Mongolia and Singapore** have revoked their permission for North Korean ships to sail under their national flag, which Pyongyang had used to evade sanctions.¹⁵ North Korea's Ocean Maritime Management Company, sanctioned by the UN, has been essentially shut down and its ships denied access to ports.¹⁶ **Kuwait, Thailand, and Pakistan** no longer allow Air Koryo to land in their countries, leaving only Russia and China as allowing flights.¹⁷
- **Overseas Workers. Malta, Poland, and Qatar** have stopped issuing work visas to North Korean workers in response to human rights abuses.¹⁸ **Oman** repatriated 300 North Korean workers who had been involved in construction projects in response to greater international scrutiny.¹⁹ **Singapore** will tighten control on North Korea immigrants by revoking North Korea's visa waiver status. Singapore was one of the few countries that allowed North Korean citizens to enter without a visa.²⁰ In March 2017, Malaysia cancelled its visa waiver program with North Korea after the assassination of Kim Jong-nam at the airport in Kuala Lumpur. The South Korean foreign ministry indicated that other countries in Africa, the

¹² Choi Song Min, "From cash cow to moribund in a matter of months," Daily NK, June 8, 2016, <http://www.dailynk.com/english/read.php?cataId=nk00300&num=13932>.

¹³ Choi Song Min, "From cash cow to moribund in a matter of months," June 8, 2016, Daily NK, <http://www.dailynk.com/english/read.php?cataId=nk00300&num=13932> and Jiang Jie, "NK restaurants in China falter as staff defect, profits decline," Global Times, May 25, 2016, <http://www.dailynk.com/english/read.php?cataId=nk00300&num=13932>.

¹⁴ Joshua Stanton, "North Korean trading companies can't pay their Chinese creditors because of sanctions," One Free Korea, June 22, 2016, <http://freekorea.us/2016/06/22/north-korean-trading-companies-cant-pay-chinese-creditors-because-of-sanctions/> and Choi Song Min, "Sanctions drive trading companies to default on payments," Daily NK, June 21, 2016, <http://www.dailynk.com/english/read.php?num=13953&cataId=nk01500>.

¹⁵ Park Boram, "Tightening global sanctions hurting N. Korea's diplomatic ties, overseas commerce," Yonhap news, September 29, 2016 and ¹⁵ Daniel Russel, "Statement Before the Senate Foreign Relations Committee, Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy," September 28, 2016.

¹⁶ Daniel Russel, "Statement Before the Senate Foreign Relations Committee, Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy," September 28, 2016.

¹⁷ "N. Korea's Air Koryo operates flights to only China, Russia," Korea Times, October 25, 2016.

¹⁸ Hyun Yun-kyung and Lee Joon-seung, "Malta has stopped issuing work visas for N.Koreas: foreign minister," Yonhap, July 31, 2016,

<http://english.yonhapnews.co.kr/northkorea/2016/07/31/0401000000AEN20160731000200315.html>.

¹⁹ http://www.upi.com/Top_News/World-News/2016/12/29/Hundreds-of-North-Korea-workers-in-Oman-sent-home-report-says/2551483031058/

²⁰ Countries that continue to provide visa waiver to North Korea are Dominican Republic, Ecuador, Haiti, Malaysia, Gambia, and few other small countries. "Singapore to exclude N.Korea from visa waiver countries list in October," Yonhap, July 31, 2016,

<http://english.yonhapnews.co.kr/news/2016/07/31/0200000000AEN20160731002100315.html?input=sns>.

Middle East and Europe have also taken steps to reduce the number of North Korean laborers.²¹

Raising the Cost of North Korean Defiance

Each individual action to constrict North Korea's trade may not be decisive, but cumulatively these efforts reduce North Korea's foreign revenue sources, increase strains on the regime, and generate internal pressure. Collectively, the sanctions and measures to target North Korea's financial resources are forcing the regime to switch to less effective means to acquire and transfer currency as well as increasing stress on elites and the regime.

Sanctions and targeted financial measures serve a number of purposes:

- Enforce U.S. law and UN resolutions;
- Impose penalties on those that violate laws and sent a signal to other potential violators that prohibited nuclear programs comes with high economic and diplomatic costs;
- Raise the costs and slow the development of North Korea's development of nuclear and missile arsenals;
- Augment measures to constrain the import of items for North Korea's prohibited nuclear and missile programs;
- Strengthen non-proliferation measures;
- Disrupt North Korean illicit activities, including illegal drug manufacturing and trafficking, currency counterfeiting, money-laundering, and support to terrorist group;
- Highlight human rights abuses to drive nations away from conducting business with the heinous regime;
- Raise the risks for entities doing business with Pyongyang by eliminating their ability to access the U.S. financial network,
- Reduce North Korea's financial and trade linkages to the outside world and constrain the regime's money-making operations to induce more defections, closure of less profitable operations overseas, and a liquidity crisis;
- Use pressure from without to create greater internal pressure and fissures within the regime. Decreasing , induce more defections and acts of domestic resistance, and put regime stability at risk; and
- In conjunction with all the other instruments of national power, reshape North Korea's perception of the costs of violating UN resolutions and laws and persuade the regime to comply with UN resolutions and its previous denuclearization commitments.

Although North Korea has been subject to sanctions for decades, targeted financial measures (smart sanctions) have only been recently imposed on North Korea and half-heartedly at that due to Obama Administration timidity. It can well be argued that sanctions were not effectively imposed until 2016 with a stronger UN resolution and the Congressional-initiated North Korea Sanctions and Policy Enhancement Act. The latter was an attempt to induce the Obama Administration to more fully enforce US law.

²¹ "Poland stops receiving N. Korean workers amid sanctions," Yonhap, June 7, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/06/07/0401000000AEN20160607009900315.html>.

Follow (and Seize) The Money

North Korea adapted to increasing international pressure by altering its modus operandi, shifting networks, using shell companies, and fabricating documents. As Pyongyang shifted to Chinese brokers more integrated into the global economy, it *increased* North Korea's exposure and vulnerability to international pressure.

But U.S. law enforcement agencies didn't keep pace. Sanctions enforcement must be flexible, innovative, and adaptive to the changing tactics of the target, rather than abandoning efforts to uphold law and order as having become too difficult.

Washington should have begun including Chinese violators on the U.S. sanctions. But the Obama Administration resisted doing so. A Stockholm International Peace Research Institute study from 2014 found that 91% of US and 84% of UN targeted entities were North Korean, but that 74% of sanctions evading networks identified in the report were third country (non-North Korea) entities.

Time to Break Some China

In September 2016, the Treasury and Justice Departments sanctioned five Chinese entities for laundering money using shell companies to surreptitiously moving funds through US banks. The Hongxiang Industrial Development Corporation had engaged in \$532 million worth of trade with North Korea during 2011 to 2015. The action, required by the NKSPEA, was the first time the Obama Administration sanctioned a Chinese entity for providing assistance to North Korea's nuclear weapons program.

In March 2017, the U.S. imposed a \$1.2 billion fine on Chinese telecommunication firm ZTE for violating export sanctions to Iran and North Korea. The U.S. actions could have a chilling effect on other Chinese banks and businesses engaging with North Korea.

While sanctions opponents assert that Beijing will not go along with U.S. sanctions, Washington can influence the behavior of Chinese banks and businesses that engage with North Korea through the use of targeted financial measures. When Washington took action against Macau-based Banco Delta Asia in 2005, labeling it a money-laundering concern, U.S. officials traveled throughout Asia, inducing 24 entities – including the Bank of China -- to cease economic engagement with North Korea.

U.S. officials indicate that the Bank of China defied the government of China in severing its ties with North Korea lest the bank face U.S. sanctions itself. The action showed that U.S. government actions can persuade Chinese financial entities to act in their self-interest even against the wished of the Chinese government.

The NKSPEA mandates secondary sanctions on third-country (including Chinese) banks and companies that violate U.N. sanctions and U.S. law. It forces them to choose between access to the U.S. economy and the North Korean economy. The U.S. should penalize entities, particularly Chinese financial institutions and businesses, that trade with those on the sanctions list or export prohibited items. The U.S. should also ban financial institutions that conduct business with North Korean violators from access to the U.S. financial network.

Put North Korea Back on the Terrorist List

The Bush Administration removed Pyongyang from the State Sponsors of Terrorism list in 2008 in a failed attempt to stimulate progress in the Six-Party Talks nuclear negotiations. Since its removal from the terrorism list, Pyongyang has conducted several terrorist acts, including deadly attacks against North Korean defectors abroad:

- In 2014, North Korea conducted a cyber attack against Sony pictures for producing a film critical of North Korean leader Kim Jong-un. Pyongyang also threatened “9/11-type attacks” against U.S. theaters showing the film.
- In 2009, 2011, 2012, and 2013, Seoul concluded that North Korea was behind cyber attacks using viruses or distributed denial-of-service tactics against South Korean government agencies, businesses, banks, and media organizations.
- In June 2012, Seoul Metropolitan Police arrested a South Korean man for violating the National Security Law. The man had met in China with agents of the North Korean ruling party’s General Reconnaissance Bureau to purchase software with malignant viruses that were used to conduct a cyber-attack on Incheon International Airport.
- In May 2012, North Korea jammed GPS signals affecting hundreds of civilian airliners flying in and out of South Korea. The Korea Communications Commission stated that the signals came from North Korea.
- In April 2012, North Korean agent An Hak-young was sentenced to four years imprisonment by a South Korean court for plotting to assassinate outspoken anti-Pyongyang activist Park Sang-hak with a poison-tipped needle.
- In July 2010, two agents of the North Korean General Reconnaissance Bureau were arrested and pled guilty before a South Korean court to attempting to assassinate high-level defector Hwang Jang-Yop, who was residing in South Korea. Kim Myung-ho and Do Myung-kwan were sentenced to 10 years in jail.
- In December 2009, Thai authorities seized 35 tons of North Korean weapons, including rockets and rocket-propelled grenades that were determined to be en route to terrorist groups Hamas and Hezbollah.
- In 2009, three shipments of North Korean conventional arms bound for Iran were seized. Western and Israeli intelligence officials believe the shipments were bound for Hamas and Hezbollah. Kim admitted to being an agent of the North Korean General Reconnaissance Bureau and having been ordered to assassinate Hwang.
- In October 2008, a North Korean woman was convicted by a South Korean court for plotting to kill South Korean intelligence agents with poisoned needles.

As one component of a broader U.S. strategy toward North Korea, the Trump Administration should return Pyongyang to the State Sponsors of Terrorism List. Under 18 U.S. Code § 2331, international terrorism is defined as acts that:

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

- (i) to intimidate or coerce a civilian population;
- (ii) to influence the policy of a government by intimidation or coercion; or
- (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

Returning North Korea to the terrorist list would be a proper and pragmatic recognition of regime behavior that violated U.S. statutes. It would also have tangible impact on regime finances. It would enable invoking stronger financial transaction licensing requirements under 31 CFR Part 596 vs. 31 CFR Part 510 and remove North Korea's sovereign immunity from civil liability for terrorist acts. Redesignation would require the U.S. government to oppose loans to North Korea by international financial institutions, such as the World Bank, International Monetary Fund, and Asian Development Bank.

The designation would also assist the international effort to increase North Korea's diplomatic and economic isolation for its actions. Last year, several countries and companies severed their business relationships due to North Korea's violations, the abysmal conditions its overseas laborers worked under, and its human rights violations deemed by the UN to constitute "crimes against humanity." Designating North Korea as a state sponsor of terrorism could induce additional business partners to avoiding dealing with such a heinous regime.

Impose Sanctions for Human Rights Abuses

In July 2016, the Obama administration imposed sanctions on North Korean leader Kim Jong-un, 10 other individuals, and five entities "for their ties to North Korea's notorious abuses of human rights." It was the first time that the U.S. had designated North Korean entities for human rights abuses.

The action cut the entities off from the U.S. financial system and made it more risky for any institution to hold or move the money on behalf of North Korea. It also "has a worldwide ripple effect. Banks and financial institutions outside the U.S. use OFAC's SDN list and follow it as a measure of risk [and] compliance."²²

Sanctioning Kim Jong-un and others will not only have a direct financial impact on the North Korean regime, but could also have powerful secondary reverberations for the pariah regime. Concern over potential secondary liability, or of keeping company with perpetrators of crimes against humanity, could galvanize other nations to reduce or sever their economic interaction with such a heinous regime.

The U.S. should expand the list of human rights violating entities subject to sanctions.

Improve Information Access in North Korea²³

Promoting democracy and access to information in North Korea is in both the strategic and humanitarian interests of the United States. But getting information into North Korea is no

²² "Background Briefing on DPRK the Human Rights Abuser Report and Sanctions," Special Briefing with Senior Administration Officials, July 6, 2016.

²³ I am indebted to my Heritage Foundation colleague Olivia Enos for her advocacy on augmenting information access for this section of my testimony.

easy feat. The regimes information blockade ranges from instituting an internal internet server, to limitations on the number of accessible radio stations, to prohibitions on the type of books that can be read. Persons caught with a Bible, for example, or unapproved Western literature, often face consequences as severe as death.²⁴

International efforts to penetrate the information firewall in North Korea have thus far focused primarily on radios, DVDs, and cell phones. However, new technology is offering more innovative ways to get information into North Korea which the U.S. should incorporate into its strategy to promote information access in North Korea.

There are three main ways to access outside information in North Korea: radio; electronic devices like USB drives, DVDs, CDs; and cell phones. Emerging technology presents opportunities to disseminate information in new ways that may improve information access in the DPRK.

To find new methods of cross-border data penetration, Silicon Valley entrepreneurs and programmers gathered at Hack North Korea, an event organized by the Human Rights Foundation (HRF).²⁵ Some new ideas discussed at the event included the use of compact satellite dishes which are easily concealed and have the potential to receive signals from South Korean broadcasts, and smart balloons with a propeller and GPS unit for dropping leaflets, DVDs, and USBs more effectively. The HRF is looking for other ways to advance technologies that disrupt the DPRK's information monopoly.

The following additional steps should be taken to help increase North Koreans' access to outside information:

- Use grants appropriated under the 2004 North Korea Human Rights Act to invest in new technologies that improve information access in North Korea. Ideas generated at Google and the HRF should be further explored and once developed, applied.
- The U.S. government should encourage the South Korean government to grant NGOs access to AM frequencies. South Korea should take the approach that the more information that gets into North Korea, the better. As such, Seoul should go beyond merely funding government broadcasts. At the very least, the government should not obstruct commendable NGO efforts to improve information access in the DPRK.
- The U.S. and South Korea should evaluate radio messaging to ensure it is relevant to North Korean audiences. Interviews with defectors reveal that (1) North Koreans have limited access to NGO broadcasts, but upon leaving North Korea they realized that NGO broadcasting was more relevant than government-run broadcasts; and (2) North Koreans prefer entertainment-oriented broadcasts to the analytical and often demeaning news broadcasts disseminated through government programming.

²⁴ Fox News, "North Korea Publicly Executes 80, Some for Videos or Bibles, Report Says," November 12, 2013, <http://www.foxnews.com/world/2013/11/12/north-korea-publicly-executes-80-for-crimes-like-watching-films-owning-bible.html>.

²⁵ Human Rights Foundation, "Hack North Korea," <https://humanrightsfoundation.org/programs/hrf-programs/hack-north-korea>.

Conclusion

Washington must sharpen the choice for North Korea by raising the risk and cost for its actions as well as for those, particularly Beijing, who have been willing to facilitate the regime's prohibited programs and illicit activities and condone its human rights violations.

Sanctions require time and the political will to maintain them in order to work. While there are additional measures that can and should be applied, more important is to vigorously and assiduously implement existing UN measures and U.S. laws. We must approach sanctions, pressure, and isolation in a sustained and comprehensive way. It is a policy of a slow python constriction rather than a rapid cobra strike.

North Korea must feel unbearable pain from sanctions to the point that it sees regime existence is under threat. Pyongyang shouldn't feel a pinch from sanctions but rather a swift kick to the groin. The reality is that we are seeking to create conditions for bringing about a change in the regime while engaging in a long-term containment policy.

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