

**U.S. Department of State
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**Testimony before the House Foreign Affairs Committee
Subcommittee on Terrorism, Nonproliferation, and Trade**

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Introduction

Chairman Poe, Ranking Member Keating, and distinguished members of the Subcommittee, thank you for inviting me to join my colleague Special Representative for North Korea Policy Sung Kim to testify today about the process for designating a country as a State Sponsor of Terrorism and North Korea's designation in 1988.

Even without being currently designated as a State Sponsor of Terrorism, North Korea remains among the most heavily sanctioned countries in the world. It is subject to a wide array of layered and severe unilateral sanctions based on its announced nuclear detonations, ballistic missile activity, proliferation activities, human rights violations, and status as a communist state. North Korea has also been sanctioned under multiple UN Security Council resolutions for its ongoing nuclear and ballistic-missile related activities which constitute a clear threat to international peace.

The Process to Designate a State Sponsor of Terrorism

Mr. Chairman, Special Representative Kim already expressed our shared concern for the global security threat posed by North Korea and summarized clearly our policy and tools of deterrence, diplomacy, and pressure.

As requested, today I would like to outline the criteria and process of designating a country as a State Sponsor of Terrorism.

In order to designate a country as a State Sponsor of Terrorism, the Secretary of State must determine that the government of such country has repeatedly provided support for acts of international terrorism.

The standard for applying and rescinding this designation are set out in the three separate statutes: Section 620A of the Foreign Assistance Act (22 USC 2371),

Section 40 of the Arms Export Control Act (22 USC 2780), and Section 6(j) of the Export Administration Act (50 USC app 2405(j)). The standard for designation is the same in all three.

In making such a determination, the Secretary's evaluation generally includes, but is not limited to, the following criteria, consistent with legislative history:

- Allowing the use of its territory as a safe haven from extradition or prosecution for terrorist activity;
- Furnishing arms, explosives, or lethal substances to individuals, groups, or organizations with the likelihood that they will be used in terrorist activities;
- Providing logistical support, such as transportation, to individuals, groups, or organizations involved with terrorist activities;
- Providing safe houses or headquarters for any individuals, groups, or organizations involved with terrorist activities;
- Planning, directing, providing training or assisting in the execution of terrorist activities;
- Providing direct or indirect financial backing for terrorist activities; and
- Providing direct or indirect diplomatic facilities such as support or documentation intended to aid or abet terrorist activities.

A State Sponsor of Terrorism designation is made only after careful review of all available evidence to determine if a country meets the statutory criteria for designation. Such a designation implicates a number of laws; the four main categories of sanctions include:

- A ban on arms-related exports and sales;
- Restrictions over exports of dual use items;
- Restrictions on foreign assistance;
- Imposition of miscellaneous trade and other restrictions, including potential liability in U.S. courts for acts that fall within the "terrorism exception" of the Foreign Sovereign Immunities Act.

North Korea's 1988 Designation as a State Sponsor of Terrorism

The Secretary of State designated North Korea as a State Sponsor of Terrorism on January 20, 1988, for repeatedly providing support to acts of international terrorism, particularly the bombing of Korean Airlines flight 858 on November 29, 1987 that killed 115, and the Rangoon bombing of 1983, that killed 17, including four South Korean cabinet ministers.

After a thorough review conducted in accordance with the relevant statutory criteria, on October 11, 2008, North Korea's State Sponsor of Terrorism designation was rescinded.

North Korea's Certification Status Today

In May 2015, the United States recertified North Korea as a country "not fully cooperating" with U.S. counterterrorism efforts pursuant to Section 40A of the Arms Export and Control Act, as amended. In making this annual determination, the Department of State reviewed North Korea's overall level of cooperation with U.S. efforts to combat terrorism, taking into account U.S. counterterrorism objectives with North Korea and a realistic assessment of North Korea's capabilities.

Of note, the standards are different for certification as a Not Fully Cooperating Country versus designation as a State Sponsor of Terrorism: the determination of whether a country is "not fully cooperating" is made based on a review of the country's cooperation with U.S. counterterrorism efforts whereas a State Sponsor of Terrorism determination is based on whether a country has repeatedly provided support for acts of international terrorism.

In addition to annually reviewing North Korea's certification as a Not Fully Cooperating Country, the Department of State regularly reviews the available information and intelligence on North Korea to determine whether the facts indicate that it should be once again designated as a State Sponsor of Terrorism. As the President said last December, "[W]e don't make those judgments just based on the news of the day; we look systematically at what's been done."

Conclusion

I thank you and the Subcommittee for the opportunity to appear today to outline the process to designate a State Sponsor of Terrorism and its history with respect to North Korea. I am happy to answer your questions.