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U.S. POLICY TOWARD NORTH KOREA AFTER THE SECOND SUMMIT

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BEFORE THE

SUBCOMMITTEE ON EAST ASIA, THE PACIFIC, AND INTERNATIONAL CYBERSECURITY POLICY

OF THE

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CONTENTS

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TUESDAY, MARCH 26, 2019

U.S. SENATE,
SUBCOMMITTEE ON EAST ASIA, THE PACIFIC, AND
INTERNATIONAL CYBERSECURITY POLICY
COMMITTEE ON FOREIGN RELATIONS
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Cory Gardner, chairman of the subcommittee, presiding.

Present: Senators Gardner [presiding], Markey, and Young.

OPENING STATEMENT OF HON. CORY GARDNER, U.S. SENATOR FROM COLORADO

Senator GARDNER. This hearing will come to order.

I'd like to welcome everyone to the first hearing of the Senate Foreign Relations Committee subcommittee on East Asia, the Pacific, and international cybersecurity policy. Glad to be participating again in this Congress with my good friend and ranking member, Senator Markey. During the 115th Congress, our subcommittee was the most active subcommittee on the Foreign Relations Committee, holding nearly a dozen hearings and, really, that guided us into our legislation on the Asia Reassurance Initiative Act, a generational achievement for U.S. policy in the Indo-Pacific. I sincerely hope that we can keep this subcommittee bipartisan and productive in this Congress as well, as it has been.

We're at a real inflection point in our policy toward North Korea. At the outset, we should commend the Trump administration for moving beyond press-released diplomacy in a genuine attempt to resolve a very serious national security issue that has bedeviled multiple administrations, both Democrat and Republican alike. But dealing with Kim Jong-un and the Kim family has been one series of rope-a-dopes. Deception is certainly a key to the strategy that they have led for generations.

Our team, led by Secretary Pompeo and special representative Steve Biegun, deserve major credit for attempting to move the ball forward. Unfortunately, despite the pomp and circumstance, commemorative coins, prime-time TV coverage, the summit in Singapore and most recently in Hanoi have not moved us any closer to the goal enshrined in U.S. and international law to complete, verifiable, and irreversible dismantlement/denuclearization of North Korea's illicit nuclear, missile, chemical, biological, and radiological weapons programs.

While there has been no missile or nuclear testing for 15 months—that is a very good thing—North Korea still remains a nuclear threat to the United States and our allies. This incontrovertible fact was most recently confirmed by the administration's own 2019 Worldwide Threat Assessment released by the Director of National Intelligence on January 29th. The summit pageantry has also not resulted in any significant changes in North Korea's atrocious human rights record. For the Kim regime, it's a time of choosing: continue the failed game plan of father and grandfather or open a new chapter of opportunity. This is where we are unfortunately falling short. But make no mistake, the blame for the lack of progress lies squarely with Pyongyang.

So where do we go from here? We must always remember that the goal of any negotiations with Pyongyang must only be to bring the regime into compliance with its international obligations; no more, no less. This is also the United States law, as enshrined by the North Korea Policy Enhancement Act and the Asia Reassurance Initiative Act. Until such time as the regime chooses to comply, we must pursue the policy of maximum pressure, including full sanctions enforcement, robust military posture, and regime isolation and coordination with our allies and partners around the globe. North Korea's enablers must recognize the destabilizing effect and proliferation risk of a nuclear North Korea. Maximum pressure means sanctioning Korea's enablers. Strategic patience failed. We must not repeat it. That should be our message both to the administration and especially to our friends in Seoul, who seem especially eager to advance the cause of inter-Korean cooperation without a tangible change in behavior from Pyongyang.

To examine these and other questions, we've assembled an excellent panel of witnesses today. I look forward to hearing from you both, but I'll first turn to Senator Markey for his comments.

STATEMENT OF HON. EDWARD J. MARKEY,
U.S. SENATOR FROM MASSACHUSETTS

Senator MARKEY. Thank you, Mr. Chairman, very much, and thank you for convening this hearing and your continued willingness to focus on the challenges posed by North Korea.

And I want to thank our witnesses, as well, for your willingness to participate. You both are experts with extensive governmental experience, and I am glad you are here to help us shed some light on what American policy towards North Korea should be, and I look forward to learning from both of you.

At the same time, it must be said, we still need to have an open hearing with government witnesses to discuss the administration's strategy for denuclearizing North Korea. I want to thank the chairman for trying to secure those witnesses, and I urge the Trump administration to make them available so that the American people can hear firsthand about what objectives our negotiators are trying to achieve and how they are going about achieving them.

After all, a fundamental component of a transparent American government is public debate. Congress has an obligation to ask for administration witnesses, and the executive branch has an obligation to testify. The American people deserve nothing less. Although President Trump's special representative for North Korea, Steve

Biegun, gave a classified briefing to members following the Hanoi summit, there has been very little congressional interaction before or since. History shows us that diplomacy with North Korea falters without clear and regular communication between the executive and legislative branches.

Now, the topic of today's hearing is North Korea's policy after the Hanoi summit. But determining the future policy direction requires us to understand how we got here. To be clear, Kim Jong-un, a third-generation dictator, is to blame for flouting international condemnation by drastically expanding his nuclear weapons capabilities, bringing the threat to America's door. He has abused the North Korean population almost beyond comprehension and engages in every type of illegal and destabilizing activity. But U.S. policy matters as well. Upon taking office, President Trump engaged in a war of words with Kim Jong-un that unnecessarily risked actual war on the peninsula. Unsurprisingly, taunts of fire and fury did not succeed in lowering the nuclear threat from North Korea. The bluster did not yield results. Kim Jong-un did not capitulate.

Thankfully, the President turned away from the military threats, perhaps under the mistaken belief that they were working, and towards engagement. As a proponent of diplomacy and an observer of the U.S.-North Korean nuclear negotiation history, I believe his unorthodox approach of leader-level summits was worth trying. But to have a chance of succeeding, we, at the very least, needed robust, working-level negotiations with empowered American diplomats along with comprehensive and sustained sanctions enforcement. Unfortunately, we have not had any of these components. American engagement was too little, too late, and the President's itchy Twitter finger undermined our diplomats at every turn. Why is it, for example, that Kim Jong-un appeared to believe that he could get a better deal from President Trump than he could through working-level talks? President Trump's fawning about being in love sent the signal to Kim that the U.S. President might be willing to give significant concessions to North Korea without meaningful steps towards denuclearization.

Although I am relieved that President Trump did not give away the store in Hanoi, negotiations that are well-planned and strategic must continue. And while we need to continue to analyze the summit's outcome, we need to plot the course forward, and there are many unanswered questions.

Steve Biegun said that "We are not going to do denuclearization incrementally." So, then, how is the administration going to achieve North Korean denuclearization at all, given the unlikelihood of a major deal up front? How is the administration going to get back to the table? How is the administration going to ensure that China, Russia, and other enablers of North Korea's bad behavior will fully enforce existing sanctions, especially when the President seems intent on easing pressure? And what message does it send to the rest of the world if we don't prioritize sanctions enforcement? What would be the implications on the global nonproliferation regime? Has the Trump administration sufficiently raised human rights issues with the North Koreans?

I am eager to hear from our expert witnesses today on these and other questions because although I am extremely skeptical that Kim Jong-un is willing to abandon his nuclear weapons program, we must continue to pursue diplomacy, which is the only solution to dealing with North Korea. And I very much hope that the administration, with its ham-handed approach to date, has not squandered a rare opportunity to make progress.

So I thank you, Mr. Chairman, and I look forward to exploring all of those issues with our expert panel.

Senator GARDNER. Thank you, Senator Markey.

Our first witness is Dr. Victor Cha, who is a Senior Adviser and Korea Chair at the Center for Strategic and International Studies, CSIS. From 2004 to 2007, Dr. Cha served as Director for Asian Affairs at the National Security Council, where he was responsible primarily for Japan and Korean Peninsula, Australia, New Zealand, and Pacific Island nation affairs. He was also the Deputy Head of Delegation for the United States at the Six-Party Talks in Beijing and received two outstanding service commendations during his tenure at the National Security Council.

Dr. Cha is no stranger to this committee—whether you like it or not, the subcommittee—having testified here both in the 115th Congress and in the 114th Congress as well. I welcome come back Dr. Cha. Thank you very much for your service and being here today.

Of course, our next witness—I'll introduce you both right now and then we'll start with Dr. Cha—is Ms. Kelly Magsamen, who is Vice President for National Security and International Policy at the Center for American Progress. Previously, she was the Principal Deputy Assistant Secretary of Defense for Asian and Pacific Security Affairs and also performed the duties of Assistant Secretary of Defense, where she was responsible for defense and security policy for all of Asia and served as principal adviser to the Secretary of Defense. Prior to her tenure at the Pentagon, she served on the National Security Council staff for two presidents and four national security advisers.

I welcome Ms. Magsamen, and thank you very much for your service, as well.

Dr. Cha, we'll begin with your testimony.

STATEMENT OF DR. VICTOR CHA, SENIOR ADVISER AND KOREA CHAIR, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON, DC

Dr. CHA. Thank you, Chairman Gardner, Ranking Member Markey. It's a pleasure to be with you to discuss options for U.S. policy on North Korea after the second summit.

There were high expectations at the second meeting in Vietnam last month after the absence of progress on denuclearization commitments made in Singapore the previous summer. Not only were the two leaders unable to deliver an agreement with tangible steps on denuclearization, they also dispensed with the joint statement signing, and in a solo press statement, the President said that sometimes "you have to walk. This was just one of those times."

Nonetheless, the Hanoi summit has left us with no clear diplomatic road ahead on this very challenging security problem, a trail

of puzzled allies in Asia, and a promise of no more made-for-TV summits, at least for the foreseeable future. The question is where do we go from here? While I do not think this will mean a return to the fire and fury days of 2017 when armed conflict was possible, as you both referred to, we have learned a number of lessons from Hanoi going forward.

First, the North Korean position at Hanoi reflects little change in their negotiating strategy despite holding the audience of the U.S. President. President Trump essentially tested the critical thesis that had hung over previous negotiations for decades; that is, the North Koreans will not truly show their hand and take big steps unless we talk directly to the leadership. Yet, what we found in Hanoi was that North Korea stuck stubbornly to its same negotiating strategy, which is to negotiate its past when it comes to its nuclear programs, but not its present nor its future. What this means is that Pyongyang is only willing to put on the table elements of its program that it no longer really needs, such as an old nuclear test site or an old plutonium reactor, while preserving their present and their future—their nuclear weapons arsenal, fissile material, missile bases, uranium program. In exchange, however, they want real concessions from their negotiating counterpart, like sanctions relief.

Second, I believe that both sides walked away from the summit with the core belief that pressure works. In the case of the United States, the fact that the North Korean leader prioritized sanctions relief above all other concessions taught us that the sanctions are indeed working. Similarly, the fact that the North Koreans came to Hanoi with a bad deal in hand intimates a belief that President Trump was under pressure to take less than half a loaf. Furthermore, revelations by CSIS and other think tanks documented North Korean activity at the Sohae satellite launch facility to return the site to normal operating status after an initial dismantlement earlier in the summer of 2018. This again suggests the North believes more pressure is necessary to soften up the U.S. position. This does not suggest a rocket launch or nuclear test is imminent, but it does suggest that the situation could take a downward turn before a resumption of diplomacy.

Third, the U.S. should be prepared for other regional partners to start lobbying us to change our position. Whenever we reach an impasse with North Korea and the diplomacy, third parties know that it is impossible to move the intransigent North Koreans. So, invariably, they come to the United States to find a solution. So as unreasonable as the North is, those that want to see continued diplomatic progress, like the South Koreans and the Chinese, will invariably come to us, complain about the North's behavior, empathize with our frustrations, and then ask Washington to be more flexible.

Fourth, we should expect North Korea to retrench in the aftermath of the summit. The outcome constituted a major embarrassment for the North Korean leader, and it would not surprise me if there were personnel changes as a result of the field summit. The question is when they reemerge, whether North Korea will cycle back to a provocation track or whether they will look for a diplomatic path forward. Our data research at CSIS shows that when

bilateral negotiations break down with the United States and North Korea over the past three decades the likelihood of provocations happening within 5 months of the breakdown of negotiations is high.

Fifth, human rights continues to be neglected in the administration's summit diplomacy. It is impossible for U.S. denuclearization diplomacy to succeed without integration of the human rights issue. Because of the sanctions levied by this body, there is no company or international financial institution that will enter North Korea given human rights violations in the supply chain. Thus, the President's promises of casinos and condominiums on the beaches of North Korea in return for denuclearization ring hollow without beginning a real dialogue on human rights.

Finally, we are left with the question of who benefits from a pause in the diplomacy. We believe that time is on our side because of the continued bite of economic sanctions. But the North believes their continued production of weapons, materials, and missile designs puts added pressure on the United States. In either case, President Trump may be realizing the limits of his bromance diplomacy with North Korea. If he loses interest, then we are unlikely to see any progress for the remainder of his term in office, which will make Americans less secure, not more secure.

Thank you.

[The prepared statement of Dr. Cha follows:]

PREPARED STATEMENT OF DR. VICTOR CHA

Chairman Gardner, Ranking Member Markey, and distinguished members of the committee, thank you for the opportunity to appear before this committee to discuss options for U.S. diplomacy on North Korea after the second Trump-Kim summit.

There were high expectations at this second meeting of American and North Korean leaders in Vietnam last month after the absence of progress on denuclearization commitments made at the first summit in Singapore last summer. Not only were the two leaders unable to deliver an agreement with tangible steps on denuclearization, they also dispensed with the joint statement signing, cancelled the ceremonial lunch, and skipped the joint press conference. In a solo presser, the President said that sometimes you "have to walk, and this was just one of those times." [1]

The President indeed may have avoided getting entrapped into a bad deal at Hanoi. What North Korea put on the table in terms of the Yongbyon nuclear complex is a fraction of their growing nuclear program that does not even break the surface of their underlying arsenal and stockpiles of fissile materials, not to mention missile bases and delivery systems. And what they sought in return, in terms of major sanctions relief on five U.N. Security Council resolutions that target 90 percent of their trade, would have removed one of the primary sources of leverage, albeit imperfect, on the regime. In this instance, no deal was better than a bad deal.

Nevertheless, the Hanoi summit has left us with no clear diplomatic road ahead on this challenging security problem, a trail of puzzled allies in Asia, and the promise of no more made-for-television summit meetings for the foreseeable future. The question remains: where do we go from here?

When leaders' summits fail to reach agreement, diplomacy by definition has reached the end of its rope. President Trump and Secretary Pompeo put the best face they could on in Hanoi, talking about closer understanding and continued good relations between the two sides as a result of the meetings, but the failed summit leaves a great deal of uncertainty going forward. South Koreans will frantically seek meetings with Washington and Pyongyang to pick up the pieces. The North Koreans already have sent an envoy to China to chart next steps.

While I do not think this will mean a return to the "Fire and Fury" days of 2017 when armed conflict was possible, we have learned a number of lessons from Hanoi going forward.

First, the North Korean position at Hanoi reflects little change in their negotiation strategy despite holding the audience of the U.S. President. This was perhaps

the most disappointing outcome of the summit as a long-timer observer and participant in past nuclear negotiations. President Trump essentially tested the critical thesis that had hung over previous negotiations for decades. That is, the North Koreans will not truly show their hand and take big steps unless we talk directly to the leadership. Critics of the Six Party talks made that observation countless times to us when we were negotiating. Yet, what we found in Hanoi was that North Korea stuck stubbornly to its same negotiating strategy, which is to negotiate its "past" when it comes to its nuclear weapons programs, but not its "present" or its "future." What this means is that Pyongyang is only willing to put on the table elements of its program that it no longer really needs—such as an old nuclear test site or the old plutonium reactor at Yongbyon, while preserving their "present"—nuclear weapons arsenal, fissile material, missile bases, and uranium program—and their "future," which are promises on future production bans. In exchange, however, they want real concessions from their negotiating counterpart like sanctions relief.

Second, I believe that both sides walked away from the summit with the core belief that "pressure works." In the case of the United States, the fact that the North Korean leader prioritized sanctions relief above all other U.S. concessions taught us that the sanctions are indeed working. There were many other things that could have been asked for—including the exchange of liaison offices and even a peace declaration ending the Korean War—but the North Korean leadership made clear that only one thing mattered, which just reinforced that the maximum pressure campaign is having an impact. For some in the administration like National Security Advisor John Bolton, this means the pressure should continue and even increase, not abate.

Similarly, the fact that the North Koreans came to Hanoi with a bad deal in hand intimates a belief that President Trump was under pressure to take less than half-a-loaf. Apparently in working level talks in the run-up to the summit, U.S. negotiators made clear that the offer of Yongbyon for sanctions relief was not nearly workable and yet the North showed up in Hanoi with the same position (and with no fallback position). Furthermore, revelations by CSIS and other think tanks documented North Korean activity at the Sohae satellite launch facility to return the site to normal operating status after initial dismantlement earlier in the summer of 2018 again suggests that the North believes more pressure is necessary to soften up the U.S. position.[2] This does not suggest that a rocket launch or nuclear test is imminent, but it does suggest that the situation could take a turn downwards before a resumption of diplomacy.

Third, the U.S. should be prepared for other regional parties to start lobbying us to change our position. This is what I once referred to as the dilemma of American reasonableness.[3] Whenever we reach an impasse with North Korea in the diplomacy, third parties know that it is impossible to move the intransigent North Koreans; therefore, they invariably come to the U.S. to find a solution. Coming out of Hanoi, both the Chinese and South Koreans acknowledge openly that Pyongyang missed a golden opportunity. After numerous visits to the White House by Kim's envoys, trips by Pompeo to Pyongyang, and two summit meetings with the U.S. President (a meeting they have sought for 60 years), the North was given the chance to make historic progress. Yet, the best they could manufacture was a minimalist position that one would have expected to hear as an opening gambit at the working level rather than in the key negotiation between the two top leaders. Yet as unreasonable as the North is, those who want to continue to see diplomatic progress, like the South Koreans and Chinese, will invariably come to the United States, complain about the North's behavior, empathize with our frustration, and then ask Washington to be more flexible.

Fourth, we should expect North Korea to retrench in the aftermath of the Hanoi summit. The outcome constituted a major embarrassment for the North Korean leader and it would not surprise me if there were some personnel changes as a result of the failed summit. The question is when they re-emerge whether Pyongyang will be cycling back to a provocation track or focused on finding a diplomatic way forward. In a bizarre Tweet last week, on March 22, President Trump appeared to unilaterally pull back additional Department of the Treasury sanctions against the North Korean regime in a bid not to upset the momentum; however, our data research at CSIS shows that when bilateral negotiations break down between the U.S. and North Korea over the past three decades, the likelihood increases of a North Korean provocation within 5 months.[4]

Fifth, human rights continue to be neglected in the administration's summit diplomacy with North Korea. The only relevant statement in this regard was the President's defense of the North Korean leader's professed ignorance of the murder of American college student Otto Warmbier. The President had an opportunity to ask for a full accounting of what happened to Otto as well as a statement of regret. It

is impossible for U.S. denuclearization diplomacy to succeed without integration of the human rights issue. Because of the sanctions levied by this body, there is no company or international financial institution that will enter North Korea given human rights violations in the supply chain. Thus, the President's promises of casinos and condos on the beaches of North Korea in return for denuclearization ring hollow without beginning a real dialogue on human rights.

Finally, we are left with the question of who benefits from a pause in the diplomacy. We may believe that time is on our side because of the continued bite of the sanctions, but the North may believe their continued production of weapons, materials, and missile designs puts added pressure on the United States. In either case, President Trump may be realizing the limits of his "bromance" diplomacy with North Korea. If he loses interest, then we are unlikely to see any progress for the remainder of his term in office, which will make Americans less, not more secure.

Notes

[1] "Remarks by President Trump in Press Conference Hanoi, Vietnam," The White House, February 28, 2019.

[2] Joseph Bermudez, "After Hanoi Summit: Rebuilding of Sohae Launch Facility," CSIS Beyond Parallel, March 5, 2019; "North Korea's Tongchang-ri: Rebuilding Commences on Launch Pad and Engine Test Stand," 38 North, March 5, 2019.

[3] Victor Cha, "Delisting North Korea," The Washington Post, October 13, 2008.

[4] Lisa Collins, "25 Years of Negotiations and Provocations: North Korea and the United States," CSIS Beyond Parallel, October 2, 2017.

Senator GARDNER. Thank you, Dr. Cha.

And Ms. Magsamen.

STATEMENT OF KELLY MAGSAMEN, VICE PRESIDENT, NATIONAL SECURITY AND INTERNATIONAL POLICY, CENTER FOR AMERICAN PROGRESS, WASHINGTON, DC

Ms. MAGSAMEN. Chairman Gardner, Ranking Member Markey, and members of the committee, it's an honor to be invited today to give testimony on U.S. policy towards North Korea. It's also a great honor to be sitting alongside Dr. Cha, whose extensive experience on this issue is unmatched and whose analysis I seek to inform my own.

Today, after two U.S.-North Korea summits in Singapore and Hanoi, North Korea still has upwards of 60 nuclear weapons and is continuing to accumulate fissile material to make more. It retains the ballistic missile capability to threaten Hawaii, Guam, Alaska, the West Coast, and good portions of the continental United States. And North Korea also retains a conventional capacity to put Seoul and South Korea at acceptable risk. In sum, the threat has not changed.

I want to be clear at the outset that I am a strong supporter of diplomacy with North Korea, but I also want to be clear that I think the administration is doing it wrong. And while better than the days of fire and fury, this problem is not going to be solved through reality TV episodes. It's going to take deliberate, integrated, and coherent interagency effort in close partnership with the international community.

In the case of the Hanoi summit, many of us were worried about the possibility of a bad deal. The good news is that didn't happen. The bad news is that the way forward is now deeply uncertain and full of risks. We cannot be complacent in the status quo even if it is better than fire and fury, and we cannot keep grading the administration on a curve. The reality is that the Hanoi summit never should have happened. The President of the United States went into a room with Kim Jong-un for a second time with no firm

commitments and only a rough outline of possibilities as well as maximalist allusions of a grand bargain that he alone could make. It turns out this is not real estate; it's actual rocket science.

Setbacks in diplomacy are to be expected. With proper preparation, they can be managed and even clarifying for both sides. This was the case with the Reykjavík summit between President Reagan and Gorbachev. But it's always better to under-promise and over-deliver. Unfortunately, the opposite has been the case since 2017.

In my view, the U.S. team needs to get back to some first principles: First, reinforce constantly that the United States remains not just open to, but actually interested, in negotiating. This will be important for both diplomacy and international sanctions enforcement. We have no way to control what North Korea does, but we do control what we say and do.

Second, there should be no more summits without substance. We have now tested the theory that leader level negotiations will deliver better results than the hard slog of substantive diplomacy. The diplomacy leading up to the JCPOA took years of subcabinet- and cabinet-level effort, and a comprehensive deal was achieved without summits.

Third, we need a coherent interagency strategy that is supported by both the President and his national security team. The North Koreans are exploiting the divisions between the President and his team. This bifurcation is creating dysfunction in our diplomacy, dysfunction in our alliance relationships, and ultimately undermining our strategy.

Fourth, the President needs to stop ingratiating himself to Kim Jong-un. While developing a practical relationship with an adversary to advance your interest is often necessary, there are basic values a U.S. President should not abandon.

Finally, we need to set realistic objectives on realistic time horizons. While complete denuclearization should always be our long-term objective, we all know a unilateral surrender by Kim Jong-un and beach resorts suddenly popping up on the coast of North Korea are not in the cards anytime soon. This is a negotiation. The U.S. negotiating team needs to be prepared for multiple alternatives to its maximalist positions and to look for pathways to get meaningful concessions at an acceptable price. And yes, that means reconsidering a step-by-step approach and doing the hard work on possible interim deals.

We also have a lot of work ahead of us on alliance management with both Seoul and Tokyo, including the hard but increasingly necessary work of trilateral cooperation. We need to double down on sanctions enforcement before we cast our eyes on new sanctions and develop coherence in sanction diplomacy. It was clear from Hanoi that sanctions relief is a key motivator to Kim Jong-un. That is our leverage. And we need to take steps to strengthen deterrence and defense with an eye towards a long game, especially in the event that diplomacy fails and the threat continues.

Finally, I believe Congress has a tremendous role to play in our North Korea strategy. I commend the members of this committee for important oversight that you are doing and especially her close attention to human rights. In my view, the administration should

view Congress as a partner in its strategy. That's the only way we are going to be successful. Thank you very much, and I look forward to your questions.

[The prepared statement of Ms. Magsamen follows:]

PREPARED STATEMENT OF KELLY E. MAGSAMEN

Chairman Gardner, Ranking Member Markey, and members of the Committee: it is an honor to be invited to give testimony today on U.S. policy towards North Korea after the Hanoi Summit. It is also a great honor to testify alongside Dr. Cha, whose extensive experience on this issue is unmatched and whose analysis I seek to inform my own.

Today, after two U.S.-North Korea summits in Singapore and Hanoi, North Korea still has upwards of 60 nuclear weapons and is continuing to accumulate fissile material to make more. It retains the ballistic missile capability to threaten Hawaii, Alaska, the West Coast, and of course, our ally Japan and has proven the capability to range most of the continental United States. And North Korea retains a conventional capacity to put South Korea at unacceptable risk. In sum, the threat has not changed.

I want to be clear at the outset that I am strong supporter of diplomacy with North Korea, but I want to also be clear that I think the administration is doing it wrong. And while better than the days of "fire and fury," this problem is not going to be solved through reality TV episodes. It's going to take deliberate, integrated and coherent interagency effort in close partnership with the international community.

ANALYSIS OF THE HANOI SUMMIT

In the case of the Hanoi summit, many of us were worried about the possibility of a bad deal. The good news is that this did not happen. The bad news is that the way forward is now deeply uncertain and full of risks. We cannot be complacent in the status quo, even if it is better than "fire and fury." We cannot keep grading on a curve.

The reality is that the Hanoi summit never should have happened. The President of the United States went into a room with Kim Jong-un for a second time with no firm commitments and only a rough outline of possibilities, as well as maximalist illusions of a grand bargain that he alone could make. It turns out that this is not a real estate deal—it's actual rocket science.

It is also not entirely clear what happened in Hanoi—whether the President or Kim Jong-un attempted any meaningful compromises. There has been mixed reporting about what may have been offered by the North Koreans—vague promises of steps on Yongbyon in exchange for some level of sanctions relief. And reports that President Trump offered to "go big" with a much more expansive deal. Both leaders walked away with their own version of events, but what it revealed was the continued disconnect on the scope and definition of denuclearization. The fact that we do not have a clear understanding of what we are negotiating towards continues to be the basic rub. So, we are where we are.

What next for diplomacy?

Setbacks in diplomacy are to be expected. With proper preparation, they can be managed and can even be clarifying for both sides. This was the case for the Reykjavik Summit between President Reagan and Gorbachev. But it's always better to under-promise and over-deliver.

Unfortunately, the opposite has been the case since 2017. And it's putting us on a path to mismatched expectations and possible miscalculations.

In my view, the U.S. team needs to get back to some first principles:

- First, reinforce that the United States remains not just open to but actually interested in negotiating. This will be important for both diplomacy and international sanctions enforcement to demonstrate our seriousness. We have no way to control whether North Korea chooses to engage seriously but do control what we say and do.
- Second, there should be no more summits without substance. We have now tested the theory that leader-level negotiations will deliver better results than the hard slog of substantive diplomacy. The diplomacy leading up to the JCPOA took years of sub-Cabinet and Cabinet level effort and a comprehensive deal was achieved without summits.

- Third, we need a coherent interagency strategy that is supported by both the President and his national security team. The North Koreans are exploiting the divisions between the President and his national security team. This bifurcation is creating dysfunction in our diplomacy, dysfunction in our alliance relationships and ultimately undermining our interests.
- Fourth, the President needs to stop ingratiating himself to Kim Jong-un. While developing a practical relationship with an adversary to advance your interests is often necessary, there are basic values a U.S. President should not abandon.
- Finally, we need to set realistic objectives on realistic time horizons. While complete denuclearization should be our long-term goal, we all know a unilateral surrender by Kim Jong-un and beach resorts suddenly popping up on the coast of North Korea are not in the cards anytime soon or maybe even ever. This is a negotiation. The U.S. negotiating team needs to prepare multiple alternatives to its maximalist positions and look for pathways to get meaningful concessions at an acceptable price. And yes, that means reconsidering a "step by step" approach.

The Hanoi Summit was useful in that it clarified some negotiating contours: the U.S. will not allow significant sanctions relief for a meaningless deal and North Korea remains deeply interested in sanctions relief and willing to take steps but is not interested in grand bargains.

Within these contours, the administration should also consider what the outlines of an acceptable interim deal might look like. While reasonable people can debate the JCPOA, the interim Joint Plan of Action reached in 2013 demonstrated that you can in fact perform mutual confidence building measures (sanctions relief and freezing significant portions of programs) without collapsing international sanctions pressure and still reaching a final, more comprehensive deal. Elements of that interim deal could include formalizing the current freeze; additional freeze on enrichment and reprocessing; limited sanctions relief; and other confidence-building measures.

Where do we go with alliance management?

As we enter this period of uncertainty, alliance relations between the U.S. and the Republic of Korea will require a new level of mutual dexterity. I am concerned that we are not entirely on the same page with our ally despite all the efforts to portray unity. As North Korea maintains straining and splitting the U.S.-ROK alliance as one of its top objectives, active alliance management must be a critical component of the U.S. strategy as we cannot have an effective North Korea strategy without Seoul. We need to be sending senior officials to Seoul often, making good use of our alliance coordination mechanisms, and most importantly, avoiding own goals like the recent heavy-handed U.S. approach to the Special Measures Agreement negotiations.

Washington and Seoul will need to come to a mutual understanding of how to handle the stress tests to the alliance that likely lie in the months ahead, including a potential return to a provocation cycle by the North, new sanctions enforcement measures, or setbacks in inter-Korean diplomacy such as the recent unexpected North Korean withdrawal of its personnel from the Kaesong liaison office. North Korea will seek every opportunity put pressure on Seoul, and we should anticipate and prepare for those moves together.

Meanwhile, Tokyo is undoubtedly relieved that a bad deal was not reached in Hanoi. But to be clear, the lack of progress towards denuclearization is also not in Japan's interest even if the current freeze on nuclear and ballistic missile testing provides some temporary comfort.

There is no doubt Prime Minister Abe is happy that North Korean ballistic missiles are not flying over Japan. Despite President Trump's public promises to Prime Minister Abe that he would raise Japanese abductees with North Korea during negotiations, his words absolving Kim Jong-un of any responsibility for the death of Otto Warmbier probably offer little comfort to Japan of the President's sincerity. Frankly, the President's words should give us all pause. At the same time, a little coordination with Tokyo can go a long way: surprises like the unilateral suspension of military exercises feed Japanese anxiety about U.S. diplomacy with North Korea.

But the most important alliance management effort that the United States should be taking right now is working to improve relations between Seoul and Tokyo, which may be at their lowest point since the restoration of relations in 1965. This will require consistent high-level effort by the United States, including at the leader level. During this period of diplomatic uncertainty, the North Koreans need to look out and see that lack of diplomatic progress is bringing the U.S., Seoul and Tokyo closer together and not farther apart—that delay is not cost-free with respect to its regional security interests. In this regard, the recent bicameral Congressional legis-

lation to emphasize the importance of trilateral cooperation was an extremely important political signal. The President should also put his political weight behind these efforts.

What next for the pressure campaign?

It is important to remember that the goal of sanctions is to support diplomacy—they are not an end in themselves. And while sanctions will not bring North Korea to its knees, it was clear from Kim Jong-un's own behavior at the Hanoi Summit that the pressure is working. North Korea remains focused on meaningful sanctions relief as its primary objective. It is important to note that the North Korean economy has had negative growth for 3 years in a row.

In the absence of North Korean provocations, the logical focus now should be on aggressive sanctions enforcement rather than new sanctions. Maintaining the current level of pressure on North Korea will be no easy task and requires full time, high-level attention. The U.N. Panel on Experts on North Korea outlined several areas where sanctions enforcement is falling short. In this regards, the administration's decision this week to designate the two Chinese shipping companies for sanctions evasion was the right decision. The confusing presidential tweet afterwards was not. It portrayed stunning incoherence—an incoherence that North Korea, China and others will exploit.

And if serious diplomacy restarts, the administration should explore what limited sanctions relief might support an interim agreement without necessarily removing leverage. Here, it will be important to ensure that U.N. sanctions that deal directly with North Korea's nuclear and ballistic programs remain in place. However, the administration can look to temporary and proportional sanctions relief—through waivers and exemptions—with built in snap-back provisions to incentivize North Korea to not just take but sustain increasingly meaningful steps.

How do we maintain adequate deterrence?

During this period of diplomatic uncertainty, it will also be especially important that the United States maintains an adequate deterrence posture vis-à-vis North Korea. The sustained suspension of major alliance joint exercises will present some challenges in this regard. While modifying the exercises and finding creative alternatives can maintain readiness, it is not a complete substitute for the high-end exercising. This training and exercising is frankly even more important for the readiness of South Korean forces than American forces. That said, I do believe sustained suspension is necessary for now to ensure that the window for diplomacy is not closed prematurely. Unfortunately, when the President made the unilateral decision to suspend the exercises temporarily after Singapore, he all but guaranteed that any future resurrection would be framed as provocative. In that regard, again, we are where we are. In the event of serious North Korean provocations, the administration should clearly revisit its position.

Regardless of the ups and downs of diplomacy, the U.S. and its allies should be preparing for the long game on deterrence with respect to North Korea. If diplomacy ultimately fails, we may find ourselves in a long-term deterrence and containment scenario. That is going to require a fresh look at defense and intelligence requirements to ensure that North Korea cannot proliferate its technology and material, as it has in the past. It is going to require that the U.S. take steps to ensure adequate defense of our allies and our homeland.

THE ROLE OF CONGRESS

I want to commend the members of this subcommittee for their active attention to the North Korea challenge. Active congressional oversight on this issue is essential and Congress has the right to understand and help shape U.S. policy. As a former Defense Department official, I can guarantee you that active congressional oversight is the best way to ensure that U.S. strategy is grounded in the interests of the American people.

That said, I would also encourage Congress to also think carefully about its role in the pressure campaign. While Congress can usefully play the bad cop to add leverage to negotiations and keep pressure on the White House, as it did in the case of the Iran, it needs to be well-coordinated with our diplomatic strategy. This is where the administration could do a much better job of briefing and coordinating with Congress and viewing it as an equal partner. What made our Iran pressure campaign so successful in 2010 in bringing Iran to the table was that we had a well-sequenced campaign of U.N., European and U.S. congressional sanctions.

One area where more pressure can and should be applied in the near term by Congress as well as the international community is on human rights. However, instead of just purely punitive measures against the regime, we should explore ways

to improve the lives of the North Korean people. The State Department took some steps in this regard earlier this year, lifting travel restrictions on aid workers and lifting some restrictions on humanitarian supplies. But there is far more than can and should be done. According to the United Nations, humanitarian funding for North Korea is at a 10-year low. In 2012, it was $117.8 million. In 2018, it was $17.1 million.

Full funding of U.N. and other NGO programs providing critical food and medical relief to the North Korean people is essential to demonstrating that the United States remains a compassionate global leader. Further, the position of Special Envoy for North Korean Human Rights Issues remains vacant, and this body should demand the administration quickly fill it.

CONCLUSION

We all want diplomacy to succeed, but the United States must demonstrate to the world that any failure of diplomacy rests squarely with Kim Jong-un. We should avoid generating easy opportunities for North Korea to split us from our allies. We must be steady, deliberate and coherent in how we execute our strategy instead of looking for big splashy wins and made for TV moments. Only then can we set the conditions for real progress.

Thank you again for the opportunity to testify today before this committee. I look forward to your questions.

Senator GARDNER. Thank you, Ms. Magsamen.

I'll begin with questions. I want to start with legislation that Senator Markey and I have worked together on, the Gardner-Markey Asia Reassurance Initiative signed into law on New Year's Eve this past year. Within that legislation, there is a provision that states that not later than 90 days after the date of the enactment, which will be tomorrow, and every 180 days thereafter for the following 5 years, the Secretary of State or designee shall submit a report to the appropriate congressional committees that describes actions taken by the United States to address the threats posed by and the capabilities of the Democratic People's Republic of Korea.

Each report will have a summary of ongoing efforts by the United States, talking about our strategies and policies including assessments of the strengths and weaknesses of such strategies and policies; policies to achieve peaceful denuclearizations, to eliminate the threat posed by ballistic missiles, a potential roadmap toward peaceful denuclearization, specific actions that DPRK would need to take for such a roadmap to become viable, a summary of U.S. strategy to increase international coordination and cooperation, the description of actions taken by the United States to fully implement United Nations Security Council resolutions, other actions. It goes on and on.

This report is due tomorrow. I've had multiple conversations with the State Department and Department of Defense about this report.

Dr. Cha and Ms. Magsamen, are you hearing that this report is imminent, it's been published, it's just waiting to be filed tomorrow?

Dr. CHA. Chairman Gardner, I have not—unfortunately, I have not heard that. I think that provision within ARIA is a very important one because it speaks to exactly the thing that Ms. Magsamen was saying, which is the absence of any transparency on the policy. I think this body as well as the American public have given the administration a lot of rope in terms of their efforts to try to do this in a very unconventional way using backdoor diplomacy, not a lot of transparency—not just for the Congress, but even within the interagency, there hasn't been a lot of transparency—because the

President wanted to try it his own way. And so he's done that. He's done that twice. And there couldn't have been a bigger sign of failure then what happened at Hanoi.

So I think it's high time that there's more transparency, there's a regularization of the process, again, as Ms. Magsamen said, and this is not just simply an issue of something passed by Congress that requires administration action. This is actually something that can help their diplomacy, because the North Koreans have had three agreements with the United States that have come apart because administrations have changed. And so the most credible sign to the North Koreans that something we negotiate is going to stand the test of time will be if there is congressional buy-in.

So I think at this particular point, as there is not a clear road ahead, I think we really need to reset. And a big part of that is having the Congress have much more insight and input into how we are thinking about this policy.

Senator GARDNER. Ms. Magsamen, are you hearing the same thing?

Ms. MAGSAMEN. Well, I agree with—I haven't heard anything about the report unfortunately, but I do agree with Dr. Cha; the only way we're going to be successful in the strategy is if we have a unified front between the President, the executive branch, within the interagency, and the U.S. Congress.

I think, you know, looking back to my experience on Iran, one of the things that made us very successful in the pressure campaign was the fact that we worked closely with the U.S. Congress on the pressure campaign, the sanction strategy around 2010. And I think that was a hugely important effort. And that's how the administration should be looking at the Congress. It should be looking at the Congress as a partner in its efforts, to what Dr. Cha said.

Senator GARDNER. One thing in your statements, both of you talk about the need for clear diplomatic paths ahead, that that seems to be something that we're lacking right now. That provision in the Asia Reassurance Initiative gives a very clear directive to the administration to let Congress know the buy-in that you've both talked about I think is absolutely critical, and it gives our allies in South Korea a roadmap to where we would like to head, and it certainly lays out to North Korea how we will expect them to abide by international law and indeed U.S. law.

Dr. Cha, you mentioned in your opening statement that North Korea has not changed and—their strategies. But, you know, the U.S. has. And we've not gotten a single thing in return. Could you talk a little bit about the ways that you're seeing the U.S. policy change toward North Korea as we sit here and speak today? What has changed about U.S. policies? And match that up against an unchanging North Korea determination to continue its nuclear policy.

Dr. CHA. Happy to. So there are a few things that have changed. The first is—well, the first is the summit-level meeting. This was something that the North Koreans have wanted for decades. It was something the United States has held back for a variety of reasons, not just tactically, but on principle; without real, genuine evidence of North Korea rejoining the international community of nations, it just did not make sense to put the President in front of the worst

dictator, the worst human rights abuser in modern history. And so we've changed that. We have given that up.

The other thing is that we've—when I participated in the Six-Party Talks, we did talk about a peace regime on the Korean Peninsula as well as liaison offices and possible normalization of relations with North Korea. But that was always considered to be something that would become towards the end of a process, or at least while a denuclearization process was well under way. And again, these were things that it looked like, at least prior to Hanoi, were being willfully put on the table by the United States as the price for entry into the negotiations.

Third is that while I think every administration reserves the right, because the policy is so difficult, to have a degree of space when it comes to dealing with negotiating with North Korea, this administration, again, used very unconventional means, back channels that had really no advising that was given either to this body or even to members of their own administration nor allies. And I think that's something that's quite different.

And what has remained consistent on the North Korean side is, and to me, this was the most disappointing part of the Hanoi summit, was the position that they walked in with was a position I think that was well-aware to us in advance, to the U.S. side, and was unreasonable and I think for many was seen as sort of an opening gambit. But the fact that they came in with the same position at the leadership level with the U.S. President, a position that you would expect them to take in a working-level meeting in the first round was the same position they held until the meeting with the President was very disappointing and really showed a lack of flexibility and unwillingness, really, to negotiate in earnest.

Senator GARDNER. Thank you. And Dr. Cha, just to summarize, I mean, you basically have this summit that has now been offered twice. We have this sort of normalization of relations with North Korea that may be on the table now. You have unconventional means with no sort of advising of allies or administration colleagues. You have this position of Kim Jong-un that has not changed that we knew going in. And I'll add to that list we now have sanctions that are being waived by the President after Treasury, by law, issues them. And it seems that we have now changed dramatically, and the one consistency is Kim Jong-un's nuclear program.

I think this body ought to be growing more and more frustrated with the U.S. continuing to change our policy while Kim Jong-un sits back and continues to develop fissile material, nuclear weapons without doing a doggone thing except watch the United States change its negotiating position.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, and I agree with you completely.

Thank you for being here. On Friday, President Trump caused confusion when he tweeted, "It was announced today by the U.S. Treasury that additional large-scale sanctions would be added to those already-existing sanctions on North Korea. I have today ordered the withdrawal of those additional sanctions." But of course, no new sanctions had been announced. The Treasury Department

announced two additional designations a day earlier, but those represented regular updates to existing sanctions.

Both of you are international relations experts. You have spent your career studying the nuances of how governments achieve policy goals. How important is signaling in international relations, especially when we are in negotiations? What are the implications of sending mixed or muddled messages? How did President Trump's tweet from Friday affect U.S. messaging? Ms. Magsamen?

Ms. MAGSAMEN. Thank you, Senator. About a year ago, January 2018, I gave testimony before the Senate Armed Services Committee about North Korea, this same topic. And I said the most important part of our strategy has to be clear and consistent strategic messaging. And I think Friday's events over the issuing of sanctions and the sort of alleged waiving of sanctions, potentially new sanctions, I think creates confusion, and it demonstrates to the North Koreans that there's divisions within the administration potentially on these issues, which, those divisions are the ones they will exploit.

To Dr. Cha's point, when the President walked into the Hanoi summit, they had the same position knowing that there was division within the administration, so they were going to try to test their position with the President of the United States directly. So I think it's essential that the President and his national security team be on the same page on their strategy. This is something that, for the North Koreans, they will exploit every possible division. For our allies, it creates complete confusion over who has the ball, whose view is prevailing within the administration. And I think that's really bad for our strategy.

You know, I think with respect to sanctions, I think Treasury's actions last week were completely appropriate. They were with respect to sanctions enforcement of existing sanctions. And so what they were doing I think was really important. As we look now in this period of uncertainty, sanctions enforcement is going to be essential going forward. So I was very confused by what the President did through his tweet on Friday, and I'm certain that our allies in the international community—including the financial community, the business community—they're all very confused about where we're going.

Senator MARKEY. Yeah.

So, obviously we're concerned about this, Dr. Cha, and its potential signaling to Russia and China that we're not really sincere in implementing the already-existing sanctions, allowing for additional slippage in terms of the pressure on North Korea for them to change their behavior. Could you talk about your response to what happened last week?

Dr. CHA. Yes. So I think, like all of us, everybody was quite confused by the tweet. I would agree with everything that Ms. Magsamen said. I think it reinforces the worst tendencies of—the worst tendencies that have actually led us to where we are right now, which is two summits and absolutely no progress. If anything, North Korea has increased its weapons stockpile since the Singapore summit.

So the problem is that these sanctions—the North Korean leader made clear what mattered to him at Hanoi. It wasn't a peace re-

gime. It wasn't liaison offices. He had his time with the President, and the one thing he focused on was sanctions relief. So we know that that—as Ms. Magsamen said too—that is our leverage. That is our point of leverage. That is what they value. And for us—for the President then to go out and essentially undercut his own leverage in dealing with this problem, it doesn't make a great deal of sense and, again, reinforces this tendency for the North Koreans to believe that they can abandon the working-level discussions, which tend to be harder, it's a harder slog, and think they can just go for the home run or the touchdown, if you will, which is with the President of the United States.

I would add to what Kelly said in that not only did they believe coming to Hanoi that they could make a run at the President and see if they could change his position, they didn't have a fallback position. They didn't have a plan B, which meant they really believed that they could bypass the U.S. national security establishment and try to cut a deal with the President.

Senator MARKEY. Okay, great. Thank you.

Now, Ms. Magsamen, let me go to you again. The U.N. Panel of Experts report raises concerns about a "massive increase in illegal ship-to-ship transfers of petroleum products and coal," but these transfers rely on brokers like the overseas representatives of the RGB, a North Korean intelligence agency. The U.N. report states that one known broker for ship-to-ship transfers is an individual based in Shenyang, China. Elsewhere, the report implies that China is not closing the bank accounts of family members of North Koreans' overseas representatives when those accounts are used to evade sanctions, allowing North Korea to maintain its access to the global financial system. And finally, the report notes that the Chinese messaging and payment platform WeChat is "the primary means" of communication for ship-to-ship transfers in the East China Sea and the Yellow Sea.

What should the Trump administration do to tighten China sanctions enforcement? Is it likely the Chinese government has conducted appropriate outreach to banks and payment platforms to encourage proactive compliance with global sanctions?

Ms. MAGSAMEN. Thank you, Senator. It's a very important question. I think, you know, sanctions enforcement has to be at the top of the priority list right now in this period of time. And I think the administration has done a pretty good job of putting in place very important sanctions since 2016.

I do think that it's time for the administration to potentially dedicate some high-level, senior, almost cabinet-level or subcabinet-level effort to this. In the case of Iran strategy, we had Under Secretary of the Treasury Stuart Levey at the time going around the world working on sanctions enforcement around the world. I think a similar effort needs to be taken now. Somebody at the Treasury Department or the State Department needs to be appointed full-time in charge of sanctions enforcement on North Korea. I think that'd be hugely valuable. It's not clear to me that Steve Biegun or others have that kind of time, given all the other challenges they've got to face. So, and part of that has to be China. Part of that has to be sitting on China all the time, every day, ensuring that the Chinese are taking action.

Now, whether or not the trade dispute currently between the President and Beijing is interacting or affecting any of this is not clear to me. I think the President needs to make clear to President Xi Jinping that this is an essential priority for the United States that sanctions enforcement for North Korea is going to be the top of the list regardless of whatever negotiations are going on, on the bilateral trade issues. I think it's important that the President reinforce that directly with Beijing.

Senator MARKEY. Beautiful.

Dr. Cha.

Dr. CHA. I think this point about reinforcing this message to China is very important at the highest levels. I mean, not just—but consistently across all levels of the U.S. government. So even as members of U.S. Congress travel, it's an important message to send because, you know, the Chinese used to make the argument when we called for them to put more sanctions on things as remote as this—ship-to-ship transfers, payments through WeChat—the argument they used to make is that, you know, we're a big country, it's very decentralized, we can't do all this stuff. But the reality is when they want to, they can. And they did, in the last quarter of 2017, put very serious sanctions on North Korea. So they have the capacity to do this if the will is there, and the will, will not be there if the United States is not on all channels sending this very important message.

The other thing I'd like to add is that when we talk about increasing sanctioning on North Korea, this is not increasing sanctioning because the Hanoi summit failed; it's increasing sanctioning because they are violating current sanctions so that there's a question of enforcement of existing sanctions, existing law, and also because they continue to proliferate, they continue to develop weapons and fissile material, and they continue to violate human rights. That's why the sanctions are there.

Senator MARKEY. So what do you make of the fact that the administration has only designated 34 individuals, entities, and vessels in connection to North Korea even as the latest U.N. Panel of Experts report details serious shortcomings in sanctions enforcement, and through this lack of action, the Trump administration has boxed itself in. The world has the impression that simply adding entities to our North Korea sanctions list is a serious escalation instead of just routine maintenance, which is really what it is. What message is that sending?

Ms. MAGSAMEN. Well, I think it sends a message that the administration needs to update its messaging at the highest levels about what we're actually trying to do. I think it's very important that we be clear and consistent with the international community about sanctions enforcement so it doesn't become an escalatory situation, as you point out, Senator.

Senator MARKEY. Beautiful.

Dr. CHA. The thing I would add is that, I mean, what the Panel of Experts did highlight is that North Korean efforts to circumvent sanctions are robust, and they're effective. They're effective at doing this. So part of this is not the administration's fault, in the sense that North Korea is finding workarounds. But once we iden-

tify what those workarounds are, we have to go after them right away.

And so the statement that you described, Senator that the President made on—was it Friday? I mean, that just completely undercuts the whole philosophy behind why we pursue sanctions.

Senator MARKEY. Thank you.

Thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Markey. And I want to correct one of my comments earlier—it's good news for the State Department—they actually have a few more days. Tomorrow's not March 31st. So they have a few more days to get this report done.

In a letter that Senator Markey and I sent to Secretary Pompeo and Secretary Mnuchin March 14th, and I'm going to submit this for the record if there's no objection, but in this letter, we reminded the administration about the March 31st report that would lay out the roadmap, diplomatic security strategic roadmap as it relates to North Korea. We reminded them of this deadline, in law that the President signed on the 31st of December and we also talked about this pace of sanctions. And here's what we said:

"Unfortunately, it appears that the pace of U.S. sanctions designations with regard to North Korea has slowed considerably. According to research conducted by the Foundation for Defense of Democracies, since March 31, 2017, the Trump administration sanctioned 182 persons and entities for North Korea sanctions violations; however, after February 23, 2018, the Treasury Department has issued only 26 new designations despite ample evidence of illicit behavior from Pyongyang and its enablers."

[The information referred to above is located at the end of the hearing.]

Senator GARDNER. So you have this slowing of pace. The law requires—the North Korea Sanctions Enhancement Act requires that the U.S. investigate and designate those who violate our sanctions. If they don't, then it requires a waiver from the administration.

So I think we've only received one or two waivers, perhaps a few more, but, clearly, Treasury knows of more violators. So are they going to move forward with this or not? Is the administration going to continue to offer waivers? And I assume that we should be expecting waivers, then, for the sanctions that apparently the President waived on Friday. I assume that has to follow the law, because the law says that they should be sanctioned, and that's what Treasury was doing. So I guess we anticipate those waivers.

There seems to be this willingness to give up sanctions, but yet, going back to the question I asked before, nothing in return. So on Friday, the sanctions were lifted or waived, or waived off, and there was nothing that we got in return.

I mean, Ms. Magsamen, are you aware of anything the United States got in return or for the waivers of those sanctions?

Ms. MAGSAMEN. Certainly not.

Senator GARDNER. And Dr. Cha.

Dr. CHA. No. I mean, the one thing that was reported in the press was that the North Koreans had left the inter-Korean liaison office and then they came back, but there's no way that one could say one caused the other.

Senator GARDNER. Well, and even if it did, Dr. Cha, I think that the concern is that their bad behavior gets rewarded.

Dr. CHA. Oh, absolutely.

Senator GARDNER. So they walk away of their own volition, we give them something in return, and they come back to something they walked away from.

Dr. CHA. Right, which they would consider a major success.

Senator GARDNER. My growing concern is that we had this successful maximum-pressure doctrine that was put in place and that it was beginning to work. My concern is that we are slow-walking back into strategic patience. And I hope we can get clarity with this report that's due on March 31st. We'll have an opportunity to hear from General Stilwell tomorrow at a confirmation hearing. We're going to talk about this. But my concern is that the administration is slow-walking back into a strategic patience.

Now, strategic patience led to the continued production. I guess it's the status quo. I guess maybe it's no different than we are in today, right now. If the United States simply gives up on this progress or just decides to live with a nuclearized North Korea, the risk of that is unacceptable. And the proliferation risk—could you explain the proliferation risk if we don't change course right now with North Korea?

Dr. CHA. Sure. I mean, it's multidimensional. As you know well, Chairman, that the one most concerning thing, of course, is the growth of the homeland security threat as North Korea perfects long-range delivery systems to mate with their nuclear warheads. The other is the concern about sale. North Korea unfortunately has sold every weapons system it has ever developed, from small arms to ballistic missiles. The Ghauri missile, the Shahab missile are all first-generation North Korean ballistic missiles.

As some of our research has shown, North Korea has at least 20 undeclared missile bases that are part of the mainstay of their short-, medium-, and long-range ballistic missile program, none of which appear to be part of any sort of ongoing negotiation.

So you're absolutely right. There is—if we fall back into a sort of patience, strategic patience, if you will, policy, this will do nothing to stem the collaboration threat.

Senator GARDNER. In September—and Ms. Magsamen, I don't know if you wanted to comment on that or not.

Ms. MAGSAMEN. I will say I do think that we have to keep the door open to diplomacy. I think that's the only way this threat is ever going to be addressed in the end game. I do not think that sanctions alone are going to produce the result that we want, so I do think it's important that the administration continue to try to pursue diplomacy with Korea.

I think the most important thing that we could be doing right now is alliance management. I think we are entering a period that's going to be a little bit topsy-turvy in this regard with respect to the strategic comparatives that Seoul has, where Tokyo is and their concerns, the fact that trilateral cooperation has pretty much collapsed and the relationship between South Korea and Japan is falling apart.

I think there's got to be a sort of maintenance level of diplomacy among our allies right now to ensure that we are all working on

the same sheet of music, that we all anticipate what the North Koreans are going to throw our way, what the Chinese are going to throw our way and the Russians are going to throw our way, and that we work collectively to address it in this period of time.

Senator GARDNER. And something like the report that's required by law due March 31st would help us meet those sort of concerns you have, correct?

Ms. MAGSAMEN. Absolutely. I think it's really important that the administration lay out its strategy and work in partnership with Congress to effectuate it.

Senator GARDNER. In September of last year, Secretary Pompeo made the following statement, talking about some of the conversations they've had with Steve Biegun and the invitation of various Korean officials to the negotiations: This will mark the beginning of negotiations to transform U.S.-DPRK relations through the process of rapid denuclearization of North Korea to be completed by January 2021 as committed by Chairman Kim and to construct a lasting and stable peace regime on the Korean Peninsula, Secretary Pompeo said.

Are we on the same time frame, rapid denuclearization by 2021, Dr. Cha?

Dr. CHA. It certainly doesn't appear to be the case, Chairman. The one thing if I could add to the point about sanctions, the North Korea Sanctions Policy Enforcement Act, the provision ARIA, is that this also has international support. I mean, if the EU3, other countries, with the exception of China, maybe, and Russia, this sanctions policy has had universal support among all U.N. member states, backed by 11 U.N. Security Council resolutions, in addition to existing congressional legislation.

Senator GARDNER. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

The U.N. Panel of Experts report on North Korea tells the story of one U.S. effort to stop North Korea from importing refined petroleum products above the U.N.'s cap of 500,000 barrels. In July of 2018, the United States notified the U.N.'s North Korea Sanctions Committee that the Kim regime had hit its import limit back in May of that year in part by relying on illicit ship-to-ship transfers, yet Russia repeatedly objected to the numbers and evidence collected by the United States.

In September, despite U.S. documentation of 148 deliveries of refined petroleum products to North Korea along with images and explanations of the process by which transfers occurred, Russia asked to put the U.S. request "on hold."

Question: In Russia, they seem to be in denial. And so, is Russia protecting the Kim regime because Russia profits from continued sales of refined petroleum products, because Russia has an interest in undermining the effectiveness of U.S. sanctions on North Korea, or because Russia has a broader interest in undermining all U.S. sanctions? Dr. Cha?

Dr. CHA. Yes, I saw that data as well, and it was very concerning. I think the issue with Russia is, I do agree that they see interest in and of itself in undermining broader U.S. policy efforts on the Korean Peninsula and in Asia. When it comes to North

Korea in particular, I have found over the past decades that Russian policy is very self-serving. So it could simply be for the fact that they are making money off these ship-to-ship transfers, that they would do it that way. It was the same reason that they were willing to offer North Korea civilian nuclear reactors and technology when the international community was against providing those things to them and was trying to convince them of alternative energy sources if they were to give up their plutonium reactors.

So there's a very self-serving nature to their policy on the Korean Peninsula, and this piece of data appears to fit with that longer-term behavioral trend.

Ms. MAGSAMEN. I agree with Dr. Cha, and I'm very glad you raised it, Senator, because I do think there's a lot of American focus on Chinese enforcement of sanctions, but we have a similar problem on the Russia front, so I'm glad you raised it. More attention needs to be put on the Russia sanctions enforcement issue, and I agree with Dr. Cha that they generally want to make money, they want to play spoiler. And so really watching the Russia flank on sanctions enforcement is going to be very important going forward.

Senator MARKEY. Okay, great.

Now, let me follow up with the next question. The State Department recently estimated that in 2018 there were—this is an unbelievable number—100,000 North Korean citizens working as overseas laborers primarily in Russia and China. And in addition, the State Department explicitly named 35 other countries in which these workers were present. Another report from the firm C4ADS noted that despite mandatory sanctions authority targeting employers of Korean workers, relatively few employers have faced any action at all.

Question One: North Korean overseas laborers work under oppressive conditions, and the Kim regime uses them to generate hundreds of millions of dollars in revenue every year. Why do you think we haven't taken more action in the Trump administration against companies that continue to employ North Korean workers, and what should the administration be doing instead? Ms. Magsamen?

Ms. MAGSAMEN. I don't know why the administration hasn't taken more action. I do think this goes back to an earlier point I made. I think there has to be somebody in charge of sanctions enforcement across the interagency. And that person needs to be high-level, they need to be going out doing the capital-to-capital engagement on sanctions enforcement that we did during the previous administration and also in the Bush administration on Iran. I think there needs to be someone who's given this ball to run with, whether it's on Russia, shipping, or coal or, you know, overseas workers. Somebody needs to be put in charge of this full-time.

Senator MARKEY. Okay. Thank you.

Dr. Cha, according to press reports this morning, Russia and China recently told the U.N. that they sent home more than half of the workers in their countries during 2018. How credible do you think that self-reporting is, and do you expect China and Russia and the other countries to meet the U.N. deadline of December

22nd of this year to repatriate to North Korea all North Koreans earning income in their countries?

Dr. CHA. As you said, Senator, they are obligated by the U.N. to do this. Self-reporting—well, I would believe the self-reporting like I believe China's self-reporting on their economic trade with North Korea, which is I don't believe it very much.

Yes, the solution here, at least from a U.S. policy perspective, is secondary sanctioning of the companies that we know are doing this, regardless of what country they're in. The other is if governments claim ignorance, then we should be providing them information on the companies that are undertaking this activity so that they could then be stopped. And if they're not stopped, then we sanction them.

Senator MARKEY. Okay. Beautiful.

Thank you, Mr. Chairman.

Senator GARDNER. Senator Young.

Senator YOUNG. Thank you, Mr. Chairman.

And I want to thank you, Dr. Cha and Ms. Magsamen, for being here today offering your thoughtful testimony.

This is really for both of you. South Korean President Moon has said that Seoul will work to get nuclear negotiations back on track in the wake of the Hanoi summit. Moon has been a critical player in the relationship between South Korea and North Korea and the United States. Do you both believe that President Moon desires to see a unified Korean Peninsula, and if so, how should the idea of a unified Korean Peninsula inform next steps in the wake of the summit? Dr. Cha?

Dr. CHA. So I think the South Korean President is committed to an engagement strategy with North Korea. The tip of the sword of that is really economic engagement using economic incentives to bring North Korea to the table. I think the ultimate goal of that is not necessarily unification, but it is to try to create at least a one country, two systems approach for the time being.

The current South Korean President hails from the progressive end of the political spectrum. And there's a long line of thinking in the progressive end of Korean politics that the goal is not unification, but it is to try to create this one country, two systems, where there is an economic marriage between the two sides, but they would allow the North Koreans to maintain sort of a separate political entity, at least for the foreseeable future. And the reason——

Senator YOUNG. Sort of a confederacy?

Dr. CHA. Yeah, a confederacy of sorts, that it's sort of a nonconflictual political solution. There's lots of human rights issues that come up with something like that. But I think that's what they're aiming towards.

And then, to your question of incentives, I don't think now is the right time for the South Korean government to be providing incentives to North Korea. It would again undercut the overall strategy that is being—that we are trying to prosecute along with our allies.

Senator YOUNG. Ms. Magsamen.

Ms. MAGSAMEN. I agree with Dr. Cha. I do think that we can't have a North Korea strategy without Seoul, however. So I think right now it's——

Senator YOUNG. Gotta have soul.

Ms. MAGSAMEN. Huh?

Senator YOUNG. It's gotta have soul.

Ms. MAGSAMEN. It's gotta have soul, of all sorts.

So I do think it's really important for the United States, the administration to sit down with South Korea right now and anticipate some of the ways that North Korea is going to seek to divide the United States from South Korea. And there are going to be stress tests along the way. I think we saw it over the weekend with the North Koreans pulling their folks out of the Kaesong complex and sending them back in. I think these are the kinds of maneuvers that the North Koreans are going to pursue. And while reunification may not be Seoul's objective, we have to remember that Kim Jong-un does have that objective of a reunified Korea. And so I think we need to be vigilant with respect to defense of South Korea as well, in terms of deterrence.

Senator YOUNG. So can you speak to China's fears, apprehension, or anxiety related to a unified democratic South Korea that is friendly to the United States? Dr. Cha?

Dr. CHA. So I think it's exactly for that reason that China opposes a unification of the Korean Peninsula, if there were ever unification. The only foreseeable way in which that could happen would be as you described, Senator, a democratic free ally of the United States that would then be directly be on China's border.

Senator YOUNG. And do they fear that more than a nuclear-armed North Korea?

Dr. CHA. Oh, I think so. I think they do, yes.

Senator YOUNG. Okay.

Ms. MAGSAMEN. Yeah, I actually, I agree, and I also think that Beijing breathed a sigh of relief after Hanoi. I think one of their nightmares was potential actual progress in the relationship. And so I think they are currently very pleased with the status quo.

Senator YOUNG. Dr. Cha, in your testimony, you state that human rights continue to be neglected in the administration's summit policy with North Korea. You continued by stating that it is impossible for U.S. denuclearization diplomacy to succeed without integration of the human rights issue.

I am deeply concerned about the horrific human rights abuses that are ongoing in North Korea and that it seemed to be left out of any conversation at the summit. What actions do you propose that this body, or more broadly, the international community take to confront this issue?

Dr. CHA. I mean, there are a number of things. One of the most important things is to call on the administration to appoint a senior envoy for North Korean human rights abuses as mandated by this body. I think their current thinking is they have folded this position into an assistant secretary-level or acting assistant secretary-level position. But the reality is that you need a senior envoy out there who will be a voice for this issue because there's no one else in the world who will be a voice for Korean human rights aside from this senior envoy. And this senior envoy, in conjunction with our ambassador to the U.N., which is also a vacant position, is critical to moving the Security Council in their vote on discussing the North Korean human rights issue on the agenda.

So there are a number of things that can be done that are very important to bring this back to the level—to the visibility that this issue had only a couple of years ago in the aftermath of the U.N. Commission of Inquiry on Human Rights and the passage of the North Korean Human Rights Act.

Senator YOUNG. Thank you.

Can I make an observation? Both you and Ms. Magsamen are in agreement that a senior envoy, a special envoy should be appointed for various purposes to be a focal point and provide leadership through the interagency on some of these different issues. We've done this in so many different areas over the years. There are dozens of special envoys. This is something we addressed over the last couple of years. And it seems to suggest that the State Department's structure is flawed. This is a whole other hearing and so forth, but just an observation, and it was something former Chairman Corker and I would discuss quite a bit. If you have the functional personnel and the geographic personnel not accomplishing these jobs optimally, and the workaround, administration after administration, Republican and Democrat alike, is to always appoint special envoys that seems to me incongruous. You don't have private entities frequently creating these czars internally. The organizations work.

And so, just for anybody, you know, for the 43 individuals who might be watching this subcommittee hearing right now——

[Laughter.]

Senator YOUNG. And just, I think as an issue of sort of, like, organizational management, it's interesting. I don't doubt or acknowledge that in some cases, special envoys—maybe this case—it's entirely appropriate because of the gravity of the situation. But it does seem to be like a very consistent fallback for the State Department in particular, and it seems to suggest some organizational failings.

So if you have any, kind of, general thoughts, great, but we don't have to spend a long time on it here.

Ms. MAGSAMEN. Well, I think it's a very good question. I mean, I do think that there are some challenges that require just kind of a high-level amount of attention and focus that an assistant secretary who has a broad scope—trust me, I have seen this from experience—has such a broad scope of responsibilities, it's very hard for them to get on the road and go to Beijing and Moscow and Tokyo and Seoul and just spend their entire time on North Korea.

So I do think there's some aspect to that. But also, I think the other option is empowering, appointing, nominating, you know, getting confirmed and empowering assistant secretaries to do that work. And in that case, we've had some failings in the last couple of years.

Senator YOUNG. We completely have. We've had failings to nominate, and then we've had extended delays in confirmation and—so that's kind of like a bipartisan affliction, and we need to solve it ASAP.

So thank you so much for being here.

Senator GARDNER. Thank you, Senator Young.

And just kind of going over a couple of the questions and comments you have made, in light of leverage that the U.S. has on sanctions, in light of continued diplomacy, in light of the offer that Kim Jong-un made at the Hanoi summit, in light of the President's decision to waive off the sanctions the Treasury called for last week, if you're Kim Jong-un today, do you have a new offer that you're willing to make to the United States, or are you just going to stick with what you're offering because the U.S. position continues to change?

Dr. CHA. Well, if we continue to do what we did on Friday and I'm Kim Jong-un, I'm just going to sit tight and have a beer and wait.

Senator GARDNER. Yeah.

Dr. CHA. Wait to see what we're going to do. You know, we end up negotiating with ourselves in the sorts of down periods of the diplomacy, and you know, the President took a very big step in that direction on Friday.

Senator GARDNER. Yeah. And again, that's my concern. I mean, we've given nothing to Kim Jong-un to have him change his mind, to change his offer, to change his position. We consistently have been, at least now, consistently changing our position and not sticking with maximum pressure, which is something that I think was effective and helped bring people to the table in negotiations.

That being said, do we need new sanctions authority to cover what Senator Markey was talking about on the petroleum side of things, things like the LEED Act, Senator Markey and I have the LEED Act, do you think the passage of something like a LEED Act-type initiative for the sanctions, creating more of an economic embargo on North Korea, would put us back into a position where it could change the negotiating posture of Kim Jong-un?

Dr. CHA. Well, I think it was made very clear at the summit by the leader himself what he values the most in our strategy, and that has been the economic pressure. Because we have to remember that the North Korean leader is not term limited. And he's planning on ruling not for 5 years, but for 50 years. And it's very clear that the pressure that has been brought to bear thus far, in no small part because of this body, albeit imperfect, has really made an impact. And that is why that is the one—he didn't ask for peace on the Korean Peninsula. He did not ask for normal political relations with the United States. He asked for one thing, and that was sanctions relief because he can't rule like this for 50 years.

So this is the leverage point, as Ms. Magsamen said, and things like the LEED Act are a very important step forward.

Senator GARDNER. Ms. Magsamen, on the bilateral management—alliance management, excuse me, in the bilateral and trilateral relationships at stake here, what more should we be doing in that bilateral management and also to make it even more clear about the importance of Japan, South Korea, and the United States being a part of the solution?

Ms. MAGSAMEN. I think it's hugely important right now. I actually think at the trilateral level, we need to see some leadership from the President of the United States on this issue. I think he needs to make clear to both Seoul and Tokyo this is a priority for him. I think in this period of whatever lull we're calling this in diplomacy, I think the most important thing we can demonstrate to the North Koreans is more unity among the three capitals. And I think some sort of show of political unity is going to be essential in this period of time, but that's going to require the leadership of the President of the United States. It's not going to come from the Minister level or the Secretary of State level. This has to be pushed at the highest levels. We experienced that during the Obama administration when President Obama really had to push at his level on trilateral cooperation. So I think that's really the way to go at this stage.

Senator GARDNER. Thank you. And Congress, of course, has introduced language that would further bolster the trilateral relationship and cooperation and the importance of Japan, the United States, and South Korea coming together on this.

A question I wanted to ask as you talked about the dismantlement of the satellite facility, Dr. Cha, North Korea has willingly volunteered that they would dismantle various components of from time to time, but then they always seem to be able to put them back together, so a complete dismantlement doesn't ever seem to actually be achieved, because if you can put it back together, you must not have taken it apart in a way that it couldn't be put back together.

So as we look at sort of the concrete actions that we need for complete, verifiable, irreversible denuclearization, what are some outcomes that we could get from North Korea that would represent those concrete actions that might actually justify further opportunities for negotiations and diplomacy?

Dr. CHA. It's a great question, Chairman. I think the dismantlement and then reassembly of the Sohae satellite launch facility demonstrated clearly how North Korea can reverse whatever actions that it's taken. I think that was an important lesson for us to learn. And one of the things that we have to focus on is not just focusing on token dismantlement, but—not to get too technical on language, but we have to focus on disablement, actual activity——

Senator GARDNER. Salting the fields.

Dr. CHA. Salting the fields, putting sand in the gears, things that actually create a disablement platform from which you can then dismantle.

What North Korea has become an expert in doing is doing exactly what they did at Sohae, which is to take some token steps, but then easily ones that they can reverse to send a political signal in full view of commercial satellites so that they can signal to us that they are taking a step backwards again. So, going forward, if we ever get back into a negotiation with them, it is very important for our administration to understand that steps like that aren't really credible dismantlement steps.

Senator GARDNER. So actual disablement would be a concrete step of the important facilities.

Dr. CHA. Yes.

Senator GARDNER. Ms. Magsamen.

Ms. MAGSAMEN. Yeah, I do think that—while I wouldn't put new deals on the table right now, I do think that the administration does need to do some internal planning work around what interim deals could be acceptable to them. And I think part of that is what Dr. Cha addressed in terms of that kind of steps, but also, you know, even freezing of enrichment and reprocessing at various facilities. These can be things that we look for in an interim deal in exchange for very limited and reversible sanctions relief with potential snapback, for example.

I think, you know, I looked back at—you know, there's a lot of debate about the Iran nuclear deal, but in 2013, the joint plan of action was successful and did show that you could pursue an interim deal and still maintain sanctions leverage to get a final deal. So I do think that the administration does need to do some internal planning about what would be acceptable to them, where our redlines are, what we think would be a meaningful step, and have that prepared in the event that diplomacy reemerges.

Senator GARDNER. And that kind of a roadmap or plan was something that you could cover in a March 31st report that is due by law; is that correct?

Ms. MAGSAMEN. Potentially, although I'm not sure I would publicize everything in my plan, but——

Senator GARDNER. But there is an option for a classified annex if they would like to do that.

Ms. MAGSAMEN. But certainly, they could certainly brief the Congress about what their plans are.

Senator GARDNER. Well, thank you for that.

Dr. Cha, Ms. Magsamen, is there any further comment, final comments you'd like to make?

Dr. CHA. I just want to add to what Kelly said about why this sort of report that you are acquiring on March 31st becomes important, because in order—and you all know this well—in order to write a report like that, you have to have an interagency process where they agree on choices that they're going to make. So are we going to, if we get disablement, then talk about temporary suspension of sanctions that can be snap-backed, or are we going to instead coordinate with the South Koreans to say, "And then you can provide some assistance." I mean, these are choices and policy that have to be made far in advance of a negotiation, and, you know, a document like this forces the administration to sit down and work through what are the choices that they want to make in terms of a strategy going forward.

Senator GARDNER. Thank you.

Ms. Magsamen, final comments?

Ms. MAGSAMEN. I completely agree. It is a forcing function.

And then the final comment is thank you again, Chairman, for this committee's leadership on this issue and the oversight of the North Korea challenge. It's hugely important. Thank you.

Senator GARDNER. Well, thank you very much for your time and testimony. Thank you both for this great opportunity and for your responses.

For the information of all the members who are here, the record will remain open until the close of business Thursday, including for

members to submit questions for the record. We just ask that you provide a timely response to those questions. They will be made part of the record.

Senator GARDNER. And so, with the thanks of this committee, thank you very much. This hearing is now adjourned.

[Whereupon, at 10:47 a.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

LETTER TO SECRETARY MICHAEL R. POMPEO AND SECRETARY STEVEN T. MNUCHIN SUBMITTED BY SENATOR EDWARD J. MARKEY

United States Senate
WASHINGTON, DC 20510

March 14, 2019

The Honorable Michael R. Pompeo
Secretary
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Steven T. Mnuchin
Secretary
U.S. Department of Treasury
1500 Pennsylvania Ave, NW
Washington, DC 20220

Dear Secretary Pompeo and Secretary Mnuchin:

We write to urge that you re-commit U.S. government efforts toward robust enforcement of current U.S. and United Nations sanctions with regard to North Korea, and to deliver to Congress in a timely manner a key report on North Korea strategy, as required by U.S. law.

On March 5, 2019, the United Nations Report of the Panel of Experts, established pursuant to United Nations Security Council Resolution 1874, stated: "The nuclear and ballistic missile programmes of the Democratic People's Republic of Korea remain intact and the country continues to defy Security Council resolutions through a massive increase in illegal ship-to-ship transfers of petroleum products and coal." The report noted that North Korea continues to violate the arms embargo imposed on the regime"[f]inancial sanctions remain some of the most poorly implemented and actively evaded measures of the sanctions regime." The report further described suspected cases of prohibited North Korean arms sales to Syria, Sudan, Libya, and Yemen, including potential sales of ballistic missiles and other equipment to Houthi rebels.

This status quo is unacceptable and is contrary to the Administration's "maximum pressure and engagement" doctrine. As you know, relevant U.S. law, including the North Korea Sanctions and Policy Enhancement Act (Public Law 114-122) and the Asia Reassurance Initiative Act (Public Law 115-409), mandates the imposition of U.S. sanctions for behaviors described in the UN Panel of Experts report, including human rights violations and malign activities in cyberspace.

Unfortunately, it appears that the pace of U.S. sanctions designations with regard to North Korea has slowed considerably. According to research conducted by the Foundation for Defense of Democracies, since March 31, 2017, the Trump administration sanctioned 182 persons and entities for North Korea sanctions violations. However, after February 23, 2018, the Treasury Department has issued only 26 new designations, despite ample evidence of illicit behavior from Pyongyang and its enablers.

While we welcome continuing diplomacy to achieve the complete, verifiable, and irreversible denuclearization of North Korea, the evidence presented by the UN Panel of Experts and the noticeably slowing pace of U.S. sanctions designations require a correction of course and more urgent attention to sanctions enforcement efforts in your respective agencies.

Section 210 (d) of the Asia Reassurance Initiative Act also requires that the Secretary of State, in consultation with the Secretary of Treasury, submit an unclassified report (with a classified annex, if necessary) by March 31, 2019 that "describes actions taken by the United States to address the threats posed by, and the capabilities of, the Democratic People's Republic of Korea." We seek your commitment to deliver this report to Congress on time, and with each of the necessary elements required by the letter of the law included.

Thank you for your urgent attention to this important matter. We stand ready to work with each of your agencies to ensure diplomatic efforts with North Korea are backed by the robust sanctions enforcement necessary to ensure those efforts can be successful.

Sincerely,

Cory Gardner
United States Senator

Edward J. Markey
United States Senator