

**“Maximum Pressure and Engagement – Still Pulling Punches on U.S.
Policy Toward North Korea”**

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Assessing the Maximum Pressure and Engagement Policy Toward North Korea

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My name is Bruce Klingner. I am the Senior Research Fellow for Northeast Asia at The Heritage Foundation. It is an honor to appear before this distinguished panel to discuss the North Korean threat to our nation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

North Korea's test launch of an ICBM that could eventually threaten the American homeland has energized debate over both how the U.S. should respond to the launch as well as the parameters of President Trump's long-term policy toward Pyongyang.

The imminence of Pyongyang's crossing of the ICBM threshold has triggered greater advocacy for a U.S. preemptive military attack to prevent North Korea from attaining its objective. But preemptive attacks on test flights that do not clearly pose a security threat could trigger an all-out war with catastrophic consequences. While the U.S. should be steadfast in its defense of its territory and its allies, it should save preemptive attack for indications of imminent North Korean attack.¹

Conversely, other experts continue to push for a return to the failed approach of negotiations, insisting it is the only way to constrain Pyongyang's growing nuclear arsenal. But there is little utility to such negotiations as long as Pyongyang rejects their core premise, which is the abandonment of its nuclear weapons and programs.²

Dialogue requires a willing partner. But, by word and deed, North Korea has repeatedly and emphatically shown it has no intention of abandoning its nuclear weapons. Pyongyang has made clear in both public statements and private meetings that denuclearization is off the table and there is nothing that Washington or Seoul could offer to induce Pyongyang to abandon its nuclear arsenal.³

The best way to engage in negotiations would be after a comprehensive, rigorous, and sustained international pressure strategy. Such a policy upholds U.S. laws and UN resolutions, imposes a penalty on those that violate them, puts in place measures to make it more difficult for North Korea to import components -- including money from illicit activities -- for its prohibited nuclear and missile programs, and further constrain proliferation.

Successive U.S. administrations have talked tough about imposing pressure on the North Korean regime but instead engaged in timid incrementalism in imposing sanctions and defending U.S. law. There are, of course, no easy solutions to the long-standing North Korean problem. But the most sensible is to increase pressure in response to Pyongyang's repeated defiance of the international community while ensuring the U.S. has sufficient defenses for itself and its allies and leaving the door open for diplomatic efforts.

¹ Bruce Klingner, "Save Preemption for Imminent North Korean Attack, The Heritage Foundation, March 1, 2017, <http://www.heritage.org/missile-defense/report/save-preemption-imminent-north-korean-attack>.

² Bruce Klingner, "The Trump Administration Must Recognize the Dangers of Premature Negotiations with North Korea," The Heritage Foundation, May 11, 2017, <http://www.heritage.org/global-politics/report/the-trump-administration-must-recognize-the-dangers-premature-negotiations>.

³ Bruce Klingner and Sue Mi Terry, "We participated in talks with North Korean representatives. This is what we learned," The Washington Post, June 22, 2017, https://www.washingtonpost.com/opinions/we-participated-in-talks-with-north-korean-representatives-this-is-what-we-learned/2017/06/22/8c838284-577b-11e7-ba90-f5875b7d1876_story.html.

The Growing North Korean Threat

The security situation on the Korean Peninsula is dire and worsening. North Korea's growing nuclear and missile capabilities are already an existential threat to South Korea and Japan and will soon be a direct threat to the continental United States. Pyongyang's decades long quest for an unambiguous ability to target the United States with a nuclear-tipped inter-continental ballistic missile may be entering endgame.

North Korea has likely already achieved warhead miniaturization, the ability to place nuclear weapons on its medium-range missiles, and a preliminary ability to reach the continental U.S. with a missile.⁴

ICBM. Pyongyang crossed the mobile ICBM threshold on July 4th by launching a missile that could range the United States. North Korea's first launch of the Hwasong 14 ICBM was flown on a high trajectory so as not to overfly Japan and also potentially test a reentry vehicle which would protect a nuclear warhead during its flight.

The missile flew 930 kilometers but could have traveled 7000 km or further had it been flown on a normal trajectory. The regime brags of its capability to directly threaten the United States with nuclear weapons.

An ICBM is classified as any missile longer with than 5500 km range -- Anchorage is 5500 km from North Korea. It is not currently known if the missile was tested its full potential. But expert analysis of previous North Korean static rocket engine tests assessed the missile may be able to reach New York or Washington when deployed.

The successful ICBM launch is the latest breakthrough in the regime's robust nuclear and missile test program. Last year, Pyongyang successfully conducted two nuclear tests, a long-range missile test, breakthrough successes with its Musudan road-mobile intermediate-range missile and submarine-launched ballistic missile, re-entry vehicle technology, a new solid-fuel rocket engine, and an improved liquid-fuel ICBM engine.

IRBM. This year, North Korea revealed several new missiles during a military parade, some of which experts have still not yet been identified. Pyongyang successfully tested a second IRBM, the Hwasong-12, which flew even further than the Musudan. Both missiles can now threaten U.S. bases in Guam, a critical node in the defense of the Pacific, including the Korean Peninsula. During meetings in Europe last month, North Korean officials told me that both the Hwasong-12 and Musudan will be deployed to military units soon.

MRBM. Last year, North Korea conducted No Dong medium-range missile flights and announced that they were practicing preemptive air-burst nuclear attacks on South Korea and U.S. forces based there. A North Korean media-released photo showed the missile range would encompass all of South Korea, including the port of Busan where U.S. reinforcement forces would land.

⁴Bruce Klingner, "Allies Should Confront Imminent North Korean Nuclear Threat," Heritage Foundation *Backgrounder* No. 2913, June 3, 2014, <http://www.heritage.org/research/reports/2014/06/allies-should-confront-imminent-north-korean-nuclear-threat>.

In 2017, North Korea fired a salvo of four extended-range Scud missiles and then announced it had been practicing a nuclear attack on U.S. bases in Japan. The regime also launched the new KN-15 medium-range ballistic missile—its first successful solid-fueled missile fired from a mobile launcher.

SLBM. In August 2016, North Korea conducted its most successful test launch of a submarine-launched ballistic missile which traveled 500 kilometers (300 miles). South Korean military officials reported that the missile was flown at an unusual 500-km high trajectory. If launched on a regular 150-km high trajectory, the submarine-launched missile might have traveled over 1,000 km.

South Korea does not currently have defenses against submarine-launched ballistic missiles. The SM-2 missile currently deployed on South Korean destroyers only provides protection against anti-ship missiles. South Korea has recently expressed interest in the U.S.-developed SM-3 or SM-6 ship-borne systems to provide anti-submarine launched missile defense.

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

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

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

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

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

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

It is difficult to have a dialogue with a country that shuns it. North Korea closed the “New York channel” in July 2016, severing the last official communication link, until allowing dialogue recently to facilitate the return of the comatose and dying U.S. citizen Otto Warmbier.

Pyongyang walked away from senior-level meetings with South Korean counterparts in December 2015, precipitating the collapse of inter-Korean dialogue. In the Joint Security Area on the Demilitarized Zone (DMZ), North Korea refuses to even answer the phone or check its mailbox for messages from the U.S. and South Korea. North Korea has already repeatedly rejected several attempts at engagement by newly-elected South Korean President Moon Jae-in, dismissing them as "nonsense."

Hope springs eternal. Despite these failures, there has been a renewed advocacy by some experts to negotiate a nuclear freeze. The proposals all share a common theme in calling for yet more concessions by the U.S. to encourage Pyongyang to come back to the negotiating table in return for a commitment by the North to undertake a portion what it is already obligated to do under numerous UN resolutions.

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

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

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

- **Military demands** – the end of U.S.-South Korean military exercises, removal of U.S. troops from South Korea, abrogation of the bilateral defense alliance between the U.S. and South Korea, cancelling of the U.S. extended deterrence guarantee, postponement or cancellation of the deployment of THAAD to South Korea and worldwide dismantlement of all U.S. nuclear weapons;
- **Political demands** – establishment of formal diplomatic relations with the U.S. signing of a peace treaty to end the Korean War, and no action on the UN Commission of Inquiry report on North Korean human rights abuses;
- **Law enforcement demands** – removal of all UN sanctions, U.S. sanctions, EU sanctions and targeted financial measures; and
- **Social demands** against South Korean constitutionally protected freedom of speech (pamphlets, “insulting” articles by South Korean media, and anti-North Korean public demonstrations on the streets of Seoul).

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

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

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

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

Sanctions: An Important and Variable Component of Foreign Policy

Critics of coercive financial pressure question its effectiveness because they have not yet forced Pyongyang to abandon its nuclear and missile programs, but neither did repeated bilateral and multilateral negotiations or unconditional engagement. Adopting such a narrow viewpoint overlooks the multifaceted utility of sanctions, which:

1. **Show** resolve to enforce international agreements and send a resolute signal to other nuclear aspirants. If laws are not enforced and defended, they cease to have value;
2. **Impose** a heavy penalty on violators to demonstrate that there are consequences for defying international agreements and transgressing the law and send a signal to other potential violators that prohibited nuclear programs comes with high economic and diplomatic costs;
3. **Constrain** North Korea's ability to acquire the components, technology, and finances to augment and expand its arsenal by raising the costs and slow the development of North Korea's development of nuclear and missile arsenals;
4. **Impede** North Korean nuclear, missile, and conventional arms proliferation. Targeted financial and regulatory measures increase both the risk and the operating costs of North Korea's continued violations of Security Council resolutions and international law;
5. **Disrupt** North Korean illicit activities, including illegal drug manufacturing and trafficking, currency counterfeiting, money-laundering, and support to terrorist group;
6. **Raise the risks** for entities doing business with Pyongyang by eliminating their ability to access the U.S. financial network;
7. In conjunction with other policy tools, seek to **modify** North Korean behavior and persuade the regime to comply with UN resolutions and its previous denuclearization commitments.

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

North Korea must be held accountable for its actions. To refrain from doing so is to condone illegal activity and give *de facto* immunity from U.S. and international law and to undermine UN resolutions. The U.S. must employ a comprehensive, integrated strategy that goes even beyond sanctions and diplomacy to include a full-court press against North Korean regime's actions and indeed its stability.

Washington should lead a world-wide effort to inspect and interdict North Korean shipping, aggressively target all illicit activity, sanction entities including Chinese banks and businesses that are facilitating Pyongyang's prohibited nuclear and missile programs, expand information operations against the regime, highlight and condemn Pyongyang's crimes against humanity, and wean away even North Korea's legitimate business partners.

Successive U.S. presidents have declared North Korea is a grave threat to the United States and its allies. The U.S. Treasury Department has called North Korea a "threat to the integrity of the U.S. financial system."⁵ Yet, the U.S. has not backed up its steadfast words with commensurate actions.

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

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

Only such a long-term principled and pragmatic policy provides the potential for curtailing and reversing North Korea's deadly programs. Returning to over-eager attempts at diplomacy without any North Korean commitment to eventual denuclearization is but a fool's errand. Everything that is being advocated by engagement proponents has been repeatedly tried and failed.

The UN, the U.S. and the European Union have not yet imposed as stringent economic restrictions on North Korea as it did on Iran. There is much more that can be done to more vigorously implement UN sanctions as well as what the U.S. can do unilaterally to uphold and defend its own laws.

North Korea is more vulnerable than Iran to a concerted sanctions program since it has a smaller, less functioning economy that is dependent on fewer nodes of access to the international financial network.

U.S. officials responsible for sanctions will tell you privately that they have lists and evidence of North Korea, Chinese, and other violators but were prevented from implementing them during the Obama Administration.

Trump Not Yet Distinguished His Policy From that of Obama

As many U.S. presidents had done, President Trump initially placed his hopes on Chinese promises to more fully implement U.N. sanctions. As a candidate, Trump had strongly criticized China for not pressuring North Korea to denuclearize.

⁵ U.S. Department of Treasury, Financial Crimes Enforcement Network, "Finding that the Democratic People's Republic of Korea is a Jurisdiction of Primary Money Laundering Concern," 81 Federal Register 35441, June 2, 2016.

Yet, after the U.S.-China summit meeting, Trump heaped praise on Chinese President Xi Jinping for his perceived assistance. He adopted a softer tone on Xi's help with North Korea: "I believe he is trying very hard. ... He is a very good man, and I got to know him very well. ... I know he would like to be able to do something; perhaps it's possible that he can't." Trump even claimed that "nobody has ever seen such a positive response on our behalf from China."

As a result of his changed perception of China, Trump backed off pledged actions against China. He walked back a campaign promise, declaring, "Why would I call China a currency manipulator when they are working with us on the North Korean problem?" Trump also postponed enforcing US law against Chinese violators, including secondary sanctions, and signaled reduced trade pressure on China while concurrently threatening greater trade pressure against our ally South Korea.

Although Trump has criticized President Barack Obama's "strategic patience" policy as weak and ineffectual, he has yet to distinguish his North Korea policy from his predecessor's. Trump's policy of "maximum pressure" to date has been anything but, and he continues to pull his punches against North Korean and Chinese violators of U.S. law.

But the Trump Administration subsequently expressed frustration with Beijing's foot dragging on pressuring its troublesome ally North Korea and took action against the Bank of Dandong – the first U.S. action against a Chinese bank in 12 years -- and three other Chinese entities.

Recently the State Department introduced a ban on U.S. travel to North Korea but refused to return North Korea to the state sponsors of terrorism list. There are indications that the administration will sanction more Chinese violators of U.S. law. I certainly hope that is the case.

The Trump administration has also sent conflicting signals about whether it would negotiate with North Korea or potentially conduct a military attack to prevent the regime from mastering an intercontinental ballistic missile.

Chinese Policy Toward North Korea: Mix of Sanctions and Support

Faced with a stronger international consensus for greater pressure on North Korea, the Chinese government, as well as Chinese banks and businesses, undertook a number of promising actions early in 2016. Beijing accepted more comprehensive sanctions in U.N. Resolution 2270 that went beyond previous U.N. resolutions. Chinese banks and businesses reduced their economic interaction with North Korea, though it is unclear whether it was due to government direction or anxieties over their own exposure to sanctions.

However, Beijing took similar action after each previous North Korean nuclear test. Each time, China temporarily tightened trade and bank transactions with Pyongyang and reluctantly acquiesced to incrementally stronger U.N. resolutions, only to subsequently reduce enforcement and resume normal economic trade with North Korea within months.

China as Enabler of North Korean Misbehavior. In the U.N., China has acted as North Korea's defense lawyer by:

- Repeatedly resisting tougher sanctions;
- Watering down proposed resolution text;
- Insisting on expansive loopholes;

- Denying evidence of North Korea violations;
- Blocking North Korean entities from being put onto the sanctions list; and
- Minimally enforcing resolutions.

Even when the UN passed stronger resolutions last year by imposing bans on the export of key North Korean resources, China insisted on an exemption for “livelihood purposes.” In implementing the U.N. resolution, Beijing simply requires any Chinese company importing North Korean resources to simply sign a letter pledging that it “does not involve the nuclear program or the ballistic missile program” of North Korea.” The reality is that the loophole is larger than the ban, making the sanction largely ineffective.

Even after the latest U.N. resolution sanctions, China remains a reluctant partner, fearful that a resolute international response could trigger North Korean escalatory behavior or regime collapse. Beijing resists imposing conditionality in trade because it believes it could lead to instability and unforeseen, perhaps catastrophic, circumstances.

China’s reluctance to pressure its ally provides Pyongyang a feeling of impunity which encourages it toward further belligerence. North Korea is willing to directly challenge China’s calls for peace, stability, and denuclearization by repeatedly upping the ante to achieve its objectives including buying time to further augment its nuclear and missile capabilities.

China’s timidity, and the international community’s willingness to accommodate it, only ensures continual repetition of the cycle with ever-increasing risk of escalation and potential catastrophe. The effectiveness of international sanctions is hindered by China’s weak implementation.

The North Korea Sanctions and Policy Enhancement Act mandates secondary sanctions on third-country (including Chinese) banks and companies that violate U.N. sanctions and U.S. law. It forces them to choose between access to the U.S. economy and the North Korean economy.

The U.S. should penalize entities, particularly Chinese financial institutions and businesses, that trade with those on the sanctions list or export prohibited items. The U.S. should also ban financial institutions that conduct business with North Korean violators from access to the U.S. financial network.

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

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

Advocacy for Human Rights Must be a Component of U.S. Policy

The death of Otto Warmbier dramatically underscored to Americans the heinous nature of North Korea's legal system and the risk that foreigners face by traveling there. But we must not lose sight of the brutal and reprehensible human rights atrocities that the regime imposes on its citizens. The UN Commission of Inquiry concluded in 2014 that Pyongyang's human rights violations were so widespread and systemic that they constituted "crimes against humanity."

In July 2016, the Obama administration imposed sanctions on North Korean leader Kim Jong-un and 15 other individuals/entities "for their ties to North Korea's notorious abuses of human rights." It was the first time that the U.S. had designated North Korean entities for human rights abuses.

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

But since that action, the U.S. has yet to expand the list of human rights violating entities subject to sanctions. While North Korea's nuclear and missile threats have garnered world attention, the Trump Administration must include advocacy for human rights, including expansion of information operations into North Korea, in its overall North Korea policy.

Conclusion

At present, any offer of economic inducements to entice North Korea to abandon its nuclear arsenal is an ill-conceived plan with little chance of success. Instead, the international consensus is that tougher sanctions must be imposed on North Korea for its serial violations of international agreements, U.N. resolutions, and U.S. law.

Washington must sharpen the choice for North Korea by raising the risk and cost for its actions as well as for those, particularly Beijing, who have been willing to facilitate the regime's prohibited programs and illicit activities and condone its human rights violations. Little change will occur until North Korea is effectively sanctioned, and China becomes concerned over the consequences of Pyongyang's actions and its own obstructionism.

Sanctions require time and the political will to maintain them in order to work. In the near-term, however, such measures enforce US and international law, impose a penalty on violators, and constrain the inflow and export of prohibited items for the nuclear and missile programs.

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

The difficulty will be maintaining international resolve to stay the course. Already, some have expressed impatience with the recent sanctions and advocated a return to the decades-long attempts at diplomacy which failed to achieve denuclearization.

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