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ASSESSING THE MAXIMUM PRESSURE AND ENGAGEMENT POLICY TOWARD NORTH KOREA

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BEFORE THE

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

OF THE

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ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

ASSESSING THE MAXIMUM PRESSURE AND ENGAGEMENT POLICY TOWARD NORTH KOREA

TUESDAY, JULY 25, 2017

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

The committee met, pursuant to notice, at 3:33 p.m. in room SD–419, Dirksen Senate Office Building, Hon. Cory Gardner, chairman of the subcommittee, presiding.

Present: Senators Gardner [presiding], Portman, Markey, and Kaine.

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

Senator GARDNER. This hearing will come to order. Let me welcome you all to the fifth hearing for the Senate Foreign Relations Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy in the 115th Congress. On behalf of the committee, I apologize for the delay at the beginning of this hearing. To the witnesses who have been here, time away from work, as well as those attending the hearing today, the action on the Floor, including the return of Senator McCain, was a very poignant moment for the Senate.

I would like to welcome all to today's hearing.

North Korea has emerged as the most urgent national security challenge for the U.S. and our allies in East Asia. Secretary Mattis has said North Korea is the most urgent and dangerous threat to peace and security. Admiral Gortney, the former commander of U.S. Northern Command, stated that the Korean Peninsula is at its most unstable point since 1953, when the Armistice was signed.

Last year alone, North Korea conducted two nuclear tests and a staggering 24 ballistic missile launches. This year, Pyongyang has already launched 17 missiles, including the July 4th successful test of an intercontinental ballistic missile that is reportedly capable of reaching Alaska and Hawaii.

Patience is not an option with the U.S. homeland in the nuclear shadow of Kim Jong Un. Our North Korea policy of decades of bipartisan failure must turn to one of bipartisan success, with pressure and global cooperation resulting in the peaceful denuclearization of the regime.

President Trump has said the United States will not allow that to happen, and I am encouraged by the President's resolve.

As Vice-President Pence stated during his recent visit to South Korea, "Since 1992, the United States and our allies have stood together for a denuclearized Korean Peninsula. We hope to achieve this objective through peaceable means. But all options are on the table."

But time is not on our side.

I believe U.S. policy toward North Korea should be straightforward: The United States will deploy every economic, diplomatic and, if necessary, military tool at our disposal to deter Pyongyang and to protect our allies.

However, the road to peacefully stopping Pyongyang undoubtedly lies through Beijing. China is the only country that holds the diplomatic and economic leverage necessary to put the real squeeze on the North Korean regime.

According to the South Korean state trade agency, China accounts for 90 percent of North Korea's trade, including virtually all of North Korea's exports. From 2000 to 2015, trade volume between the two nations has climbed more than tenfold, rising from $488 million in 2000 to $5.4 billion in 2015.

Beijing is the reason the regime acts so boldly and with relatively few consequences. China must now move beyond an articulation of concern and lay out a transparent path of focused pressure to denuclearize North Korea. A global power that borders this regime cannot simply throw up its hands and absolve themselves of responsibility.

The administration is right to pursue a policy of maximum pressure toward North Korea, and we have a robust toolbox that is already available to ramp up the sanctions track, a track that has hardly been utilized to its fullest extent.

Last Congress, I led the North Korea Sanctions and Policy Enhancement Act, which passed the Senate by a vote of 96 to nothing. This legislation was the first standalone legislation in Congress regarding North Korea to impose mandatory sanctions on the regime's proliferation activities, human rights violations, and malicious cyber behavior.

According to recent analysis from the Foundation for the Defense of Democracies, "North Korea sanctions have more than doubled since that legislation came into effect on February 18th, 2016. Prior to that date, North Korea ranked eighth behind Ukraine/Russia, Iran, Iraq, the Balkans, Syria, Sudan, and Zimbabwe."

Even with the 130 percent sanctions increase after the legislation passed this Congress, North Korea is today still only the fifth most-sanctioned country by the United States.

So while Congress has clearly moved the Obama administration from inaction to some action, the Trump administration has the opportunity to use these authorities to build maximum leverage with not only Pyongyang, but also with Beijing.

I am encouraged by the actions the administration took last month to finally designate a Chinese financial institution. But this should just be the beginning. The administration, with Congressional support, should now make it clear to any entity doing busi-

ness with North Korea that they will not be able to do business with the United States or have access to the U.S. financial system.

A report released last month by an independent organization, C4ADS, identified over 5,000 Chinese companies that are doing business with North Korea. These Chinese companies are responsible for $7 billion in trade with North Korea. Moreover, the report found that only 10 of these companies, 10 of these companies, controlled 30 percent of Chinese exports to North Korea in 2016. One of these companies alone was responsible for nearly 10 percent of total imports from North Korea. Some of these companies were found to have satellite offices in the United States.

According to recent disclosures, from 2009 to 2017, North Korea used Chinese banks to process at least $2.2 billion in transactions through the U.S. financial system.

This should all stop now, and it must stop now. The United States should not be afraid of a diplomatic confrontation with Beijing for simply enforcing existing U.S. law. In fact, it should be more afraid of Congress if it does not.

As for any prospect of engagement, we should continue to let Beijing know in no uncertain terms that the United States will not negotiate with Pyongyang at the expense of U.S. national security and that of our allies.

Instead of working with the United States and the international community to disarm the madman in Pyongyang, Beijing has called on the United States and South Korea to halt our military exercises, in exchange for vague promises of North Korea suspending its missile and nuclear activities. That was a bad deal, and the Trump administration was right to reject it.

Moreover, before any talks in any format, the United States and our partners must demand that Pyongyang first meet the denuclearization commitments it had already agreed to in the past and subsequently chose to brazenly violate.

President Trump should continue to impress with President Xi that a denuclearized Korean Peninsula is in both nations' fundamental long-term interests.

As Admiral Harry Harris rightly noted recently, "We want to bring Kim Jong Un to his senses, not to his knees." But to achieve this goal, Beijing must be made to choose whether it wants to work with the United States as a responsible global leader to stop Pyongyang or bear the consequences of keeping him in power. I will turn it over to Senator Markey as soon as Senator Markey arrives. But in the meantime, he has agreed to allow our witness, who has waited patiently for an hour, to begin testimony, Susan Thornton on our first panel.

Our first panel is the Honorable Susan Thornton, who serves as Acting Assistant Secretary of State for East Asia and Pacific Affairs.

Susan Thornton assumed responsibility as Principal Deputy Assistant Secretary in February of 2016 after serving for a year-and-a-half as Deputy Assistant Secretary. Secretary Thornton joined the State Department in 1991 and is a career member of the Foreign Service.

Welcome, Secretary Thornton, and thank you for your patience, and thank you for being here with us today. We will begin your testimony.

STATEMENT OF HON. SUSAN A. THORNTON, ACTING ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS

Ms. THORNTON. Thank you very much, Chairman Gardner. It is great to see you. And thank you very much for inviting me to appear before you today on this really important, urgent issue for both the United States, our allies and regional security, and I would say global security.

North Korea's July 4th intercontinental ballistic missile test is only the latest evidence of Kim Jong Un's desire to threaten the United States with nuclear weapons. It constitutes a serious escalation of the DPRK's nuclear and ballistic missile program.

Our goal is to protect our country, our citizens, and our allies by halting and eliminating North Korea's development of nuclear weapons and the means to deliver them. The administration's strategy to achieve this goal uses diplomatic, economic, and other tools to build concerted global pressure on Pyongyang to abandon its internationally proscribed nuclear and missile programs.

North Korea needs to understand that the only path to international legitimacy, regime security, and economic prosperity is a denuclearized Korean Peninsula.

There are three components to our strategy. The first is U.N. action. In concert with our Asian allies, we have called on all U.N. member states to fully implement the strong sanctions required in the U.N. Security Council Resolutions 2321, 2270, and 2356, and we will continue to work to increase international sanctions.

The second component is diplomatic action by U.N. member states. We have urged countries around the world to take their own actions to express their condemnation, such as suspending or downgrading diplomatic relations with North Korea. Cordial ties with a country that threatens its neighbors and continues to violate numerous U.N. resolutions is completely inappropriate at this time. We have seen evidence that North Korea violates international norms by using its diplomatic missions to generate and transmit illicit resources for its weapons programs.

The third component is economic pressure. We have asked all countries to cut trade ties with Pyongyang as a way of increasing North Korea's economic isolation and to prevent it from using the international financial system to support its illegal weapons programs. Secretary Tillerson has made clear in meetings with his foreign counterparts that nations can no longer operate in a business-as-usual approach. Our ambassadors have reinforced this message in capitals around the globe.

Mr. Chairman, we are not seeking regime change, nor do we seek military conflict, or to threaten North Korea. Our pressure campaign is designed to make the cost of the regime's programs too exorbitant. As has been said, we want to bring North Korea to its senses and not to its knees. However, we will respond accordingly to threats against us or our allies. We remain open to talks with the DPRK, but it must first cease its unlawful nuclear and missile

programs and bring an end to its pattern of dangerous, aggressive behavior in the region. We are not going to negotiate our way back to the negotiating table.

While our partners around the globe have begun to take steps to increase pressure on North Korea, unfortunately we do not see any signs that North Korea is willing to engage in credible talks on denuclearization at this time. We will continue to appeal to countries around the world to take actions in opposition to North Korea's unlawful ballistic missile and nuclear programs to make clear to the DPRK that pursuing its unlawful programs will only increase its isolation.

While addressing the threat to our homeland and our allies is our most pressing concern, we will not abandon the three U.S. citizens who have been unjustly detained by North Korea, nor will we be silent in speaking out against the regime's egregious human rights violations against its own people. The State Department will soon impose a travel restriction forbidding U.S. nationals to use an American passport to travel in, through, or to North Korea. We seek to avoid another tragedy like that which Otto Warmbier and his family endured.

In very specific limited circumstances, American citizens can apply for a waiver to this travel restriction to allow them to perform humanitarian work. We do not wish to punish the North Korean people for the actions of their leadership and therefore plan to allow for some exceptions to our travel restriction.

We appreciate the strong interest in this issue from Congress, and we look forward to continuing our cooperation and protecting our country from this grave threat to international stability.

Thank you again for inviting me to testify today, and I look forward to any questions you may have.

[The prepared statement of Ms. Thornton follows:]

PREPARED STATEMENT OF HON. SUSAN THORNTON

Chairman Gardner, Ranking Member Markey and Members of the Subcommittee: Thank you for the opportunity to appear before you today for this timely hearing on North Korea.

North Korea's July 4th Inter-Continental Ballistic Missile (ICBM) test is only the latest evidence of Kim Jong Un's resolve to successfully achieve a nuclear-tipped ballistic missile capable of reaching the United States mainland. It constitutes a serious escalation of the DPRK's nuclear and ballistic missile program.

Yet, the threat posed by North Korea is not new. This is a problem set that has challenged five previous administrations. By examining their approach to this problem, we have gathered several lessons from painful experience. First—North Korea has no intention of abandoning its nuclear program in the current environment. North Korea will not give up its weapons in exchange for talks, even with economic concessions that provide sorely needed assistance to the North Korean people. Thus, while we continue to see a negotiated solution as the best chance at resolving this problem, we remain firm that the conditions at present are unconducive to dialogue. We will not negotiate our way to talks. Second—there is a chance we can change Kim Jong Un's calculus by increasing through economic and diplomatic pressure the cost of maintaining his nuclear and ballistic missile programs. North Korea has never faced a sustained period of intense international pressure on the regime. We aim to change that. Third—While we continue to seek international cooperation on North Korea, we will not hesitate to take unilateral actions against entities and individuals who enable Kim Jong Un's regime's pursuit of strategic nuclear capabilities.

These lessons guided us in developing our current strategy. Through this strategy, we are using all tools at our disposal to amass pressure on Pyongyang to bring the regime to understand that the only path to international legitimacy, regime security

and economic prosperity is to abandon its internationally condemned, destabilizing weapons program. Three components serve as the pillars of this strategy: (1) We've called on all U.N. member states to fully implement the commitments they made regarding North Korea. These include the strong sanctions required in UNSCRs 2321, 2270 and 2356, (2) Second, we've urged countries to suspend or downgrade diplomatic relations with North Korea, recognizing that cordial ties with Pyongyang imparts respect to a country that shuns stability and international obligations. Simply put, this is a country that proceeds without any regards for rules, (3) Third, we asked all countries to cut trade ties with Pyongyang as a way of increasing North Korea's financial isolation.

We have relentlessly implemented this policy. As Secretary Tillerson said in remarks to this Committee on June 13, he has highlighted North Korea in all his bilateral discussions with senior officials from countries around the world. He has made this a top priority for all State Department officials in their engagements with foreign counterparts. Countries that never considered North Korea's weapons programs as a priority issue in their bilateral relations with the United States now know otherwise and have been asked to closely examine their diplomatic and trade ties with North Korea. From Mali to Malaysia, we have made clear that applying greater pressure on North Korea is not only a talking point, it is an area where we expect continuing cooperation as a basis for strong bilateral relations.

Trilateral cooperation with our South Korean and Japanese allies is also critically important, and we've ensured that we maintain a steady pace of high-level engagements to buttress the strength of our alliances and to synch up DPRK policy in Washington, Tokyo, and Seoul. On the margins of the recent G20 meeting in Hamburg, the President convened a trilateral meeting to discuss DPRK with President Moon and Prime Minister Abe. Through mechanisms like this, we have maintained policy coordination with our strongest allies in East Asia on the North Korean threat.

On China, we recognize the continued importance of Beijing doing more to exert pressure on North Korea. We are also clear-eyed in viewing the progress—growing but uneven—that China has made on this front. We are conferring closely with our Chinese counterparts to ensure strict implementation of China's commitment to curb imports of North Korean coal, consistent with their declaration in February banning coal imports for the duration of the calendar year. In the four months since China's February 18 announcement to ban coal imports, our estimates indicate that the value of North Korean coal imports into China have been reduced to 26% and 31% of 2015 and 2016's levels, respectively, during the same time period and have deprived the regime of over $420 million in revenues at current market prices.

With this in mind, we recognize that Beijing can and should do more to monitor financial activity within its own borders. Accordingly, we worked closely with our Department of the Treasury colleagues to designate two Chinese individuals and one Chinese entity on June 29, in response to North Korea's ongoing WMD development and continued violations of U.N. Security Council resolutions. The Treasury Department also found the Bank of Dandong, a Chinese bank that has acted as a conduit for illicit North Korean financial activity, to be a foreign financial institution of primary money laundering concern, pursuant to Section 311 of the USA Patriot Act. As a result, they proposed a rule prohibiting U.S. financial institutions from maintaining correspondent accounts for, or on behalf of, Bank of Dandong.

Together, these actions all send a clear message to the international community—if you attempt to evade sanctions and conduct business with designated North Korean entities, you will pay a price. We will continue to fully exercise all of our standing sanctions authorities to choke off revenue streams to the DPRK.

SIGNS OF PROGRESS

While we are only in the first few months of our new policy, we are encouraged by some signs of progress:

• Days after the North Koreans tested an ICBM, the G20 countries meeting in Germany issued individual statements condemning the ballistic missile launch.

• We have seen countries expel sanctioned North Korean officials and North Korean diplomats engaged in illicit commercial or arms-related activities, and prevented certain North Korean individuals from entering or transiting their jurisdictions.

• Countries have reduced the size of the North Korean mission in their countries, and canceled or downgraded diplomatic engagements or exchanges with North Korea. Across the globe, countries are beginning to view visiting North Korean offi-

cial delegations with caution, recognizing that welcoming these delegations come at a cost to their bilateral relations with the United States.

• Countries in the Middle East, Europe, and Southeast Asia halted visa issuances to North Korean laborers and are phasing out the use of these workers, whose wages are garnished to fund the regime and its unlawful nuclear and missile programs. While a small number of countries remain committed to this practice, we are working to ensure they are the exception to an international consensus against hiring DPRK laborers.

• Like-minded countries including the Republic of Korea (ROK), Japan, and Australia implemented their own unilateral sanctions. EU partners are augmenting autonomous restrictive measures to implement U.N. Security Council resolutions, and key European partners, particularly the UK, France, and Germany, are collaborating with us on maximizing pressure on the DPRK.

• Countries with special leverage on North Korea are committing to fully implement UNSCR obligations and are coordinating with us on pressing North Korea to return to serious talks.

NEXT STEPS

We will continue to appeal to countries around the world to take actions in shared opposition to North Korea's unlawful ballistic missile and nuclear weapon programs to make clear to the DPRK that it stands alone in its pursuit of the advancement of its unlawful programs. We will step up efforts to sanction individuals and entities enabling the DPRK regime, including those in China. China must exert its unique leverage over the DPRK. We will never recognize North Korea as a nuclear state.

While addressing this imminent threat is our most pressing issue, we have not and will not lose sight of the plight of the three remaining American citizens who have been unjustly detained by North Korea or of the regime's egregious human rights violations. Due to mounting concerns over the serious risk of arrest and long-term detention, the Department will soon impose a travel restriction on all U.S. nationals' use of a passport to travel in, through, or to North Korea. We seek to prevent the future detentions of U.S. citizens by the North Korean regime to avoid another tragedy like that which Otto Warmbier and his family endured.

We appreciate the strong interest in this issue from Congress and we look forward to continuing our cooperation. Thank you for inviting me to testify today. I am pleased to answer any questions you may have.

Senator GARDNER. Thank you, Secretary Thornton.

As I mentioned, when Senator Markey arrives, we will turn to him for his opening comments and questions as well.

I just want to start with a couple of questions to you, Secretary Thornton, regarding the maximum pressure campaign. Do you think the administration needs additional tools, additional sanctions authorities from Congress to fully implement the maximum pressure campaign or policy?

Ms. THORNTON. I would say that there have been several things that the administration has done in light of the review that we conducted on North Korea policy and in implementing the strategy that we have in place right now.

The first is to make North Korea the highest priority national security issue that we are facing, and you have heard Secretary Mattis and the President and the Secretary and others speak to this.

The second thing that we are doing is we are making this a real global campaign and putting the onus on other countries in the international community to examine their relationships with North Korea, both diplomatic, economic, financial, trading, and asking them to make sure that not only are they implementing the very sweeping U.N. sanctions regime that has already been put in place but that they are going beyond that regime to initiate their own actions to show the North Koreans that they will not be able to seek solace or comfort in the international community anywhere,

and this is part of maintaining a global network to show that we are unified in our efforts to thwart their ambitions.

The third thing that we are doing is really working, putting the onus on China. As you said, 90 percent of the North Korean economy is flowing through China in one form or another, and I think this is a real departure from previous approaches on this issue, putting the onus on China to step up, as you said, be a responsible global player and really use its tools to up the pressure on the regime in North Korea and make clear that China will only accept a denuclearized Korean Peninsula and that they are prepared to impinge on the North Korean economy in ways that are much more serious than they have done in the past.

I think as far as the tools that we have at hand for conducting this strategy, we do have very broad authorities already existing. We are already undertaking a sweeping assessment of all of the violations of sanctions that we can detect that are going on in various countries around the world, including in China. We have been working with some of those countries to take action against entities that we find that are violating these sanctions, and we have very broad authorities to do so.

So I would say I do not think there is any lack of tools that are keeping us from prosecuting a very active sanctions campaign, both within the ambit of the U.N. Security Council resolutions sanctions, but also within our own unilateral kind of designations and secondary sanctions against entities that we find to be violative.

Senator GARDNER. And outside of this hearing, have you made that position known, that you have the authorities that you need, to both chambers of the Congress?

Ms. THORNTON. Not aware specifically, but I believe that that is our position, yes.

Senator GARDNER. Thank you. And have you had a chance to review some of the other pieces of legislation, either in the House or regarding North Korea sanctions? And in the Senate I have introduced, along with others on this committee, legislation regarding North Korea and sanctions, particularly relating to access to financial networks and systems. Could you comment a little bit on those pieces of legislation?

Ms. THORNTON. Sure, yes. There are quite a number of pieces of legislation, and we definitely appreciate the interest of Congress in this issue. I think what I would say is that the authorities that we have, again, I think they are quite sweeping. Authorities that were passed in the legislation from 2016, the North Korea Sanctions Enhancement Act that you mentioned, and the executive orders that followed from that, gave us very broad authorities to go after entities that we find that are violating sanctions or U.S. laws or the U.N. sanctions.

So I think the new pieces of legislation, there are various targets. One was on the travel restriction or travel ban. One is on North Korean human rights. So there are a number of different aspects that they touch on, and I think in general we have been consulting closely with staff on those and we appreciate the interest.

Senator GARDNER. The round of designations that you mentioned, you talked about sanctioning Chinese financial institutions, other measures, secondary sanctions. When can we expect the next

round of designations that include Chinese entities and financial institutions?

Ms. THORNTON. We have been working on coming up with a new list of entities that we think are violating, and I think there is no specific timetable, but there is no specific hesitation to do that. We will be proceeding with those as soon as we can get target packages ready to go and get the sort of evidentiary standards and legal standards met that we need to meet.

Senator GARDNER. Can we expect additional sanctions within the next 30 days?

Ms. THORNTON. I would hesitate to predict exact timetables, but I think you will see something fairly soon, yes.

Senator GARDNER. And will these sanctions, will they be presented to China or others prior to the enactment of the sanctions to give them a chance to correct, or will they just be implemented immediately?

Ms. THORNTON. Well, we have been in running conversations with China and other countries about information that we have on entities, and in some cases we tried to coordinate on actions with them, with local law enforcement to our law enforcement actions, and in some cases we are unable to do that. So I cannot say specifically with regard to what we are considering, but we have done both in the past, and we are not bound by any particular arrangement.

Senator GARDNER. When you see a report like the C480 report that shows over 5,000 entities doing business with China, does that provide evidence that you can use? Does that go into a conversation with the Chinese government, and what is their response?

Ms. THORNTON. So, we have had a number of conversations, I myself have had multiple conversations with my Chinese counterparts, and whenever we have a report like this we bring it to them and ask them to look into it, and they have done that. Usually they come back to us with some kind of a response, which we either follow up on or not. But, I mean, usually we definitely share that kind of information.

Senator GARDNER. In your testimony you talk—and you mentioned it in the answer to your question—about three components of service, pillars of the strategy: call on U.N. member states to fully implement the commitments they have made regarding North Korea; you have urged countries to suspend or downgrade diplomatic relations with North Korea; and asked all countries to cut trade ties with Pyongyang.

Could you give me an indication of the success of those requests? How many member nations of the United Nations have suspended or downgraded diplomatic relations with North Korea that you have requested to do so? How many have cut trade ties with Pyongyang that we have requested to do so?

Ms. THORNTON. I cannot give you specific numbers, but we have urged everybody to squeeze diplomatic representation or downgrade if they can. There are a number of countries that have expelled DPRK representatives from their capitals, who have diminished their presence in Pyongyang of diplomatic missions, have expelled representatives of commercial offices or other entities that were transacting illicitly with the host government and that we

provided information on. So I cannot give you the exact number, but there are quite a number that have responded to our call for diminishing diplomatic presence.

We have also had a number of countries respond to the call for diminishing commercial operations that are sponsored by diplomatic establishments, and I think we have had—for example, Germany has committed to take steps to close a hostel there that was being run by the North Korean diplomatic mission which provided revenue for the mission's operations. So we have had a number of successes on that front, as well.

Senator GARDNER. Could you talk a little bit about the timing of the travel ban?

Ms. THORNTON. Yes. So, we believe that in the coming week, within the coming week, we will publish a notice in the Federal Register outlining the period of consultation and what we are proposing, which is a general travel restriction. That will be in the Federal Register for a 30-day comment period, and the proposal is to, I think as you know, make U.S. passports not valid for travel into North Korea unless an application is made for a one-time trip and you get a license or permission to make that trip. So that will be in the Federal Register for 30 days——

Senator GARDNER. Is that trip allowable under a humanitarian exemption? Is that the purpose of that allowance?

Ms. THORNTON. Right, right, for the subsequent—you would have to make an in-person application for a trip.

Senator GARDNER. And are we encouraging other nations to do the same, and have others made the same decision?

Ms. THORNTON. We have encouraged other people to make decisions about restricting travel, because tourism is obviously a resource for the regime that we would like to see diminished. I do not think so far there are other people that have pursued this, but this will be sort of the initial one, and we will keep talking to others about that.

Senator GARDNER. I thank you, Secretary Thornton.

As promised, I will turn to Senator Markey for any opening comments you would make. Secretary Thornton has already given her testimony, and so proceed into questions if you would like to immediately.

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

Senator MARKEY. Okay. Beautiful. Thank you, Mr. Chairman.

We apologize to everyone. It is a very unusual day here in the Congress, historic. So we apologize, but we think this is as well an historic issue that has to be dealt with in the very near term.

So I thank you, Mr. Chairman, for convening this hearing, and to our three witnesses for being here.

Assistant Secretary Thornton, you are the first Trump administration official to testify on North Korea in an open hearing before the Senate Foreign Relations Committee. Since taking office, President Trump and his policymakers have made inconsistent and sometimes conflicting public comments on this sensitive matter. I hope your testimony will provide needed clarity.

North Korea continues to develop its nuclear and missile programs without constraint. Over the past 18 months it has conducted its fourth and fifth nuclear tests, tested over 20 ballistic missiles, and launched a satellite into orbit.

On July 4th, North Korea tested an intercontinental ballistic missile, or ICBM. This represents a startling advance in Pyongyang's arsenal. And just hours ago, the Washington Post reported that the Defense Intelligence Agency now assesses North Korea could field a reliable nuclear-capable intercontinental ballistic missile as early as next year, 2 years sooner than previously thought.

We and our allies must remain resolute and united to deter this threat. Kim Jong Un's reckless brutality leaves no doubt that he is homicidal, but at the same time his calculated survival strategy shows that he is not suicidal. Like his father and grandfather before him, Kim knows that an attack on the United States or our allies will bring an immediate and devastating military response. For that reason, so far deterrence has worked. But as Kim builds nuclear weapons and the situation continues to drift without diplomatic resolution, he may eventually misread our deterrent military posture as preparation for an imminent attack to topple his regime.

I believe that continued diplomatic drift only increases the risk of unintended war, with potentially grave consequences. Just 3 days ago, General Joe Dunford, the Chairman of the Joint Chiefs, said that war on the Korean Peninsula would be, quote, "horrific, a loss of life unlike any we have experienced in our lifetimes, and I mean anyone who has been alive since World War II." This echoed comments by Secretary of Defense, Jim Mattis, earlier this year.

It is clear that there is no military solution to this problem, and pressure without direct diplomatic engagement will bring only continued drift. We need a bold new approach. I believe that only direct diplomatic engagement backed by unprecedented economic pressure will bring a peaceful solution to the North Korea problem.

That is why I have joined with Chairman Gardner in leading the North Korean Enablers Accountability Act. We believe that the United States needs to make it crystal clear that our country will impose unprecedented economic pressure on North Korea and its enablers, and we need to give the administration potent diplomatic tools with which to bring the North Korean regime to the table for serious, direct negotiations.

But no matter how many sanctions tools we give the President, pressure cannot bring North Korea to the table unless we are willing to talk to them. Now is the time for the administration to clearly state its diplomatic engagement strategy, the circumstances under which it will agree to direct engagement with North Korea, and how it intends to use sanctions and other tools to bring Kim to the table for serious talks. So this is, without question, Mr. Chairman, a very important hearing, and I do have a question.

Senator GARDNER. Please proceed to your questions.

Senator MARKEY. Thank you, Mr. Chairman, I appreciate it.

So, Secretary Thornton, part of the North Korea challenge at present is that the administration has announced a policy of maximum pressure and engagement but has not articulated as of yet

what that means or the strategy for implementing it, specifically with respect to diplomatic engagement. President Trump has spoken of the chances of "a major, major conflict with North Korea," quote unquote, but has also said he would be honored to meet with Kim Jong Un and that he was "a smart cookie."

Other administration officials, including Vice President Pence and Secretary Tillerson, have given similarly contradictory statements. And frankly, Secretary Thornton, your opening statement still has not clarified exactly where the administration has to be or is today.

You mentioned lessons that guided us in developing our current strategy which has three components that serve as the pillars but did not elaborate on what that strategy or the pillars are. Calls for U.N. member states to fully enforce sanctions and urging countries to isolate North Korea all sound like things that previous administrations have also done.

So, can you explain to us what the administration's current strategy is and how it is bringing us closer to the ultimate goal of peacefully denuclearizing the Korean Peninsula?

Ms. THORNTON. Thank you very much, Senator Markey, for your statement and for these questions. I mean, this is obviously a very difficult issue. Some of us have been working on this issue for more years than we care to count, and I think in the room here we probably have millennia of experience on this issue. Unfortunately, we have not come up with a solution that has allowed us to solve this issue in the way that we hope to see it solved, which is the denuclearization of the Korean Peninsula.

The denuclearization of the Korean Peninsula is the administration's goal here. That is what we are going after. I think the Secretary and others have made clear that it is our preference to resolve this issue peacefully, to denuclearize the Korean Peninsula in a peaceful manner. That said, it seems that Kim Jong Un and the North Korean regime are quite dedicated to developing these weapons and have not so far demonstrated any inclination to join us for negotiations on the dismantling and abandonment of the nuclear weapons.

Senator MARKEY. So what the administration is saying, then, is that you believe in a negotiated settlement of this issue of the development of nuclear weapons and intercontinental ballistic missiles by North Korea, but thus far the administration has been unwilling to actually negotiate with North Korea.

Ms. THORNTON. Well, thus far we have not had a partner—sorry to interrupt, but thus far we have not had a partner with whom we could negotiate, and we have had——

Senator MARKEY. Have you asked for negotiations with the North Koreans?

Ms. THORNTON. We have asked—the North Koreans know how to get in touch with us when they are——

Senator MARKEY. I appreciate that, but do you know how to get in touch with them?

Ms. THORNTON. We do know how to get in touch with them.

Senator MARKEY. Have you asked for negotiations to commence with the North Koreans, in conjunction with the Chinese or the Japanese? Have you asked for that specific negotiation to occur and

for us to actually construct a framework by which we can begin to resolve this issue?

Ms. THORNTON. I mean, at this point, all of our allies, partners, and others that are involved in trying to help and cooperate to address this issue and solve this problem, none of us have gotten a positive response from North Korea when the topic of a serious conversation, a serious negotiation about their nuclear program has come up. So in the face of that intransigence, our strategy is to increase the pressure on the North Korean regime to try to change its calculus, to change the cost/benefit analysis in Pyongyang surrounding these programs, and at the same time we are constantly evaluating and probing to see if we are having that desired effect.

I think that it is certainly the case that ratcheting up sanctions pressure is not like a cobra strike. It is definitely a slow squeeze, a slow tightening of the screws, and I think we are definitely in the process of trying to elevate that pressure and change the calculus. We have not gotten there yet, which I think is what I mentioned in my statement, but I think we also think that sanctions over time and pressure over time, unified global network over time can have the effect of changing that calculation on the part of the DPRK regime, and that is what we are seeking to do.

I mean, some people say this will not work, but I say we have to test this hypothesis and test it at the point where we bring the maximum amount of pressure.

Senator MARKEY. Well, Senator Gardner and I and other members of this committee, we clearly want to intensify the level of pressure on North Korea. They enjoyed a 37 percent increase in trade with the Chinese from year to year, from 2016 to the beginning of 2017. When we began the deployment of the THAAD, that has now led to a $10 billion-a-year economic sanction that China is imposing on South Korea and its tourism sector.

So from our perspective, the strategy which we have is not working. We need legislation that will ensure that there is a tightening of the sanctions, but it can only work if it is done in conjunction with negotiations that begin but with the sure and certain knowledge that these sanctions are arriving so that you can extract the strongest possible result.

Mr. Chairman, I see that Senator Kaine has arrived, so I will end my questions right now so that Senator Kaine can be recognized.

Senator GARDNER. Senator Kaine is recognized.

Senator KAINE. Thank you to my colleagues, and thank you for your testimony, and forgive me if I ask questions that were asked while I was coming from an Armed Services Committee hearing.

It was, I think, on the 21st of June that the U.S. and China held the first iteration of the Diplomatic and Security Dialogue. What steps did the administration take during that dialogue with China to urge them to increase pressure on North Korea?

Because when we met with the administration at the White House, that was in a classified setting, so I am not going to go into it in any detail, but I think we all realized the leverage that China has is not being deployed sufficiently to change North Korean behavior. There is much more leverage that can be deployed. And when we hear about China sanctioning South Korea over efforts

that South Korea is taking just to defend itself, it seems like not only are we not using our leverage, we may be going backwards.

So can you tell me about the dialogue between the U.S. and China on June 21 about the North Korea issue?

Ms. THORNTON. Yes, sure. Thank you very much, Senator, for that question. First let me start off by saying that we deplore and have spoken out publicly about how disappointed we are about China's actions with respect to South Korea over the THAAD deployment. Of course, the THAAD deployment is merely a defensive system that is going to be used to protect South Korea, protect our troops, and it is certainly within the rights of South Korea to deploy a defensive system, and we have, in the context of the diplomatic and security dialogue, raised our disappointment again over that issue and insisted with the Chinese that we continue to discuss it and that they retract all of the negative ramifications that flowed from that decision.

With regard to the sanctions on North Korea, and with regard to the discussions on North Korea in general, I think what we had hoped to do in the Diplomatic and Security Dialogue in the period running up to that, when there was a lot of active diplomacy, was convince the Chinese to take serious action against their own entities that we found that were in violation of some sanctions provisions. And once, after the Diplomatic and Security Dialogue, we had a chance to talk through with the Chinese how we saw it, then I think you saw following from that discussion the decision to proceed with the sanctioning of a number of Chinese entities.

We have had a number of conversations with China where we said we would prefer to work through the U.N. sanctions, because obviously if you have a U.N. Security Council resolution, it is an international sanction that sweeps up the entirety of the global network that we are trying to build, and we would prefer to cooperate with China on going after entities that we see in violation of those sanctions, but that we are perfectly prepared to act on our own to target entities that we find it necessary to target that are in violation of the sanctions.

So I think the Chinese are now very clear that we are going to go after Chinese entities if need be, if we find them to be in violation; and if the Chinese feel they cannot cooperate in going after those targets, that there is no block on us acting on our own.

Senator KAINE. This committee acted in 2016 to do sanctions that were followed on pretty quickly. I mean, not only through the body to be signed by the President, but then they were followed on pretty quickly by the U.N. Security Council, and China did not choose to exercise its veto in those.

But I am curious, are there major differences in the way they interpret the sanctions and we interpret them? Do we run into interpretive disagreements where we think it should be more maximal and they are claiming that it is not? Tell me a little bit about the relationship with China, even over understanding what these sanctions mean.

Ms. THORNTON. So, we have had six U.N. Security Council resolutions against North Korea since 2006, five of those with sanctions, all of them adopted by consensus in the Security Council, so

no vetoes, which shows the degree to which North Korea is a complete flagrant outlier in the international system.

A Chinese vote for these U.N. Security Council resolutions. They are opposed to all of North Korea's violative behavior. But in the details of the sanctions—and there is a U.N. panel of experts that monitors the sanctions and the implementation and interprets—we work very closely with the panel of experts, and the Chinese also work very closely with them. I mean, the Chinese have a lot more trade going on with North Korea. They have a very long border with North Korea. And so they have, first of all, differences in interpretations of some of the sanctions and more tangible differences in how they can implement the sanctions. They have a lot more work to do to implement the sanctions, obviously at the borders with inspections of Customs, with tracking financial transactions, et cetera.

So, they are both having a difference with regard also to their domestic laws and how they enact domestic laws to implement U.N. sanctions than what the system is that we have.

Senator KAINE. If I could ask one more question, Mr. Chairman. I am just about up against my time.

These guys who have been on the subcommittee are far more expert than me. I am a Middle East and Latin America guy just added to this subcommittee, so I always ask questions that others know about already, but help me understand Chinese behavior on this.

They did not veto the sanctions, the sanctions as you mentioned. They disagree on application issues, but that may not be quite so unusual. They are on the border and they are doing trade with them. It affects them more than it does us, so we would have a different point of view. But then they would sanction South Korea for taking steps that are clearly defensive in nature. I mean, that seems so much more extreme even than babbling about what does the U.N. Security Council resolution mean.

When South Korea is taking steps that are clearly defensive in nature to protect itself against what everybody agrees is sanctionable behavior within the U.N. context that should cause grave concern by a border neighbor, as well as other nations in the region, I have a hard time understanding what this sanction on South Korea is about. I cannot interpret it in any light other than a really hostile and unhelpful one. So, help me understand it.

Ms. THORNTON. I think your interpretation is perfectly legitimate. I mean, we have the same conversation, which is this is a defensive system. The Chinese do not believe it is a defensive system, but we have tried to explain that we can have a technical conversation and explain to you exactly why you are wrong, but they have not come to the same conclusion on that.

So I think we continue to point out to them that this is a completely unjustified kind of behavior, and I think on the reaction to the THAAD system I cannot explain exactly why they are doing what they are doing, but I think seeing it as unreasonable is perfectly legitimate.

Senator KAINE. Thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Kaine.

Secretary Thornton, just another round of questions. I will be brief in my comments and questions here.

Just make it clear: There will be additional sanctions issued on Chinese entities and others who are violating our sanctions and U.N. sanctions. Is that correct?

Ms. THORNTON. Yes.

Senator GARDNER. And those will be issued shortly. Is that correct? Shortly within the next——

Ms. THORNTON. I mean, it is not the State Department that issues them. So, yes, within——

Senator GARDNER. Thank you.

Ms. THORNTON. Yes.

Senator GARDNER. I wanted to follow up on human rights. Will any of these actions include violations of human rights by the North Korean regime?

Ms. THORNTON. I'm sorry?

Senator GARDNER. Do any of these sanctions or any other measures address the violations of human rights by North Korea?

Ms. THORNTON. It is possible. I am not exactly sure which ones are going to be included in the next tranche, but it is possible. Certainly we still have the North Korea human rights sanctions provided for in legislation, and we have the authority to do that.

Senator GARDNER. The other and final question before I turn it over to Senator Markey, cyber capabilities. We, in the last Congress, passed legislation requiring mandatory cyber sanctions when we find a violation by North Korea under the terms of the legislation. In the conversations over the past several months we have talked about some of the ransomware attacks that have gone viral around the globe. Does the United States plan to utilize—the State Department, Treasury Department, plan to utilize the cyber sanctions authority under the previous legislation?

Ms. THORNTON. Yes. I believe that, of course, we are well aware of malicious cyber activity emanating from North Korea, and we are very concerned about it. I think when we have the opportunity to use the authority, we certainly would use it and would not hesitate.

Senator GARDNER. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, again.

And we thank you for being here, Secretary Thornton. This is a very important discussion. And again, I continue my line of questioning, again referencing back to the Washington Post story of just two hours ago saying that our own Defense Intelligence Agency now believes that they could deploy a reliable nuclear-capable intercontinental ballistic missile next year. So, time is of the essence. This is the last best chance we are going to have to deter them.

So the legislation pending before this committee and that we intend on moving and is the subject of this hearing is to impose broad sanctions on 10 Chinese companies identified specifically as doing the largest amount of business with the North Korean government, and we want to move on this rapidly so that the Chinese know that we are serious and the North Koreans know that we are serious. We now know that time is running out. Once they have

that intercontinental ballistic missile, nuclear-capable ability, it will be very difficult to roll that back.

So again, what is the administration's views on this legislation that we have pending before the committee? Does the Trump administration support it, oppose it, or are you neutral?

Ms. THORNTON. Well, we certainly would support going after entities that are violating the sanctions, and I cannot say without knowing what the list of entities exactly is and having a lot more information about what they have been doing, what kinds of violations they are looking at. But we would certainly not hesitate to go after companies that we have that kind of information on.

So I think we are sort of in the same mode of wanting to ratchet up the pressure on the North Korean regime quickly. As far as signaling to North Korea about what it is we are trying to do, since they do not seem willing to enter into a serious negotiation, we are trying to let them know through other means what it is that our goal is, what it is that we are trying to do, and what it is that we are not trying to do.

I think the Secretary has been very clear that we are not pursuing regime change in North Korea, we are not pursuing a collapse or an accelerated reunification, that we are genuinely focused on the denuclearization of the Korean Peninsula. We have done our part in South Korea. There are no nuclear weapons, and it is now up to North Korea to come to the table, hopefully encouraged by the sanctions and also encouraged by other incentives.

Senator MARKEY. But my question goes to what is the conversation between the Trump administration and the Chinese government. What are you saying to the Chinese government about the intention of the United States to tighten, in a vise-like grip, sanctions on those companies that are cooperating with the North Korean government, including the 10 companies that we include in this legislation, towards the goal of moving to direct negotiations with the North Koreans, having the Chinese working with us? What is that conversation? That is what we are trying to elicit. Because, obviously, when there is a 37 percent increase in trade with North Korea and China, and a $10 billion-a-year hit on the South Korean economy as they cooperate with the United States in the deployment of the THAAD, right now they are not feeling any pressure. It is just business as usual, coasting towards that moment when they have a nuclear weapons program that is successful in being able to reach our country.

So what exactly are you saying to the Chinese leaders?

Ms. THORNTON. We have had the conversation about our intention to tighten the vise grip of sanctions with regard to companies that are violating. We are also, of course, working on new international sanctions through the U.N., and I think U.S.-U.N. Ambassador Haley had a statement about that this morning, that the Chinese have proposed some additional measures and that things were positive in the conversations we are having with China about instituting additional international sanctions as a response to the ICBM launch on July 4th.

But we are also telling them quite up front that we will not hesitate to take additional actions against Chinese companies that are violating the sanctions with North Korea. I have not told them the

list of 10 companies that are in your bill, but we have been talking to them about a lot of other entities and companies that we have information about that are involved with North Korea and that we are proceeding to try to move against.

Senator MARKEY. So what are you telling the Chinese are the conditions under which we are willing to engage in direct talks with the North Koreans? The Chinese have asked us to engage in direct negotiations with the North Koreans. What have you said to China about what those conditions would be that would bring us to direct talks? What are the conditions you have given to the Chinese?

Ms. THORNTON. We have not given them a list of conditions, but we have told them, as I think I mentioned in my statement, that a start would be a moratorium on testing of missiles and nuclear devices and a diminishing of provocative behavior. That would be the first sort of step in moving toward a negotiation. We would like to see some seriousness on the part of North Korea about abandoning its weapons programs.

Senator MARKEY. So you are saying North Korea has to make some concessions before we will begin negotiations. Is that the position of the Trump administration?

Ms. THORNTON. Well, North Korea does not have to make concessions. It has to stop its U.N. Security Council resolution violative illicit behavior, and we do not see that as a concession.

Senator MARKEY. I appreciate that, but we have to look at it from the perspective of the North Koreans as well, which is why going to direct negotiations with a much tougher sanctions program surrounding its economy, in cooperation with the Chinese, is from my perspective the correct formula to get a result before next year, when it becomes irreversible.

Thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Markey.

Senator Portman.

STATEMENT OF HON. ROB PORTMAN,
U.S. SENATOR FROM OHIO

Senator PORTMAN. Thank you, Mr. Chairman.

As Senator Markey has described, we have big challenges with North Korea, and over the period of the last couple of decades, a few different administrations, we have tried different things which have not worked.

I wanted to talk, if I could for a moment, about the possibility of re-designating North Korea as a state sponsor of terrorism. I raise this because you will recall that the designation was actually removed as part of a negotiation. My understanding is that the North Koreans did not keep their end of the bargain on that negotiation.

I know that you are currently pursuing a strategy of maximum pressure, as it is called, against the regime, and I just wonder why this is not one of the things you are looking at. The Perry Initiative during President Clinton's administration was where this was removed. It was discussed during the Clinton administration. The Bush administration's removal of the regime from the list in 2008 was based upon an agreement by North Korea to disable its pluto-

nium factory and for the complete and correct declaration of its nuclear program. None of those things happened.

Today we understand that plutonium production continues at Yongbyon, and it is an important part of the North Korean nuclear program. If I am wrong about that, I would like to hear from you, Ms. Thornton. We are nowhere near having a complete and correct understanding of their nuclear program, of course.

So the removal from the list in 2008 was closely linked to negotiating limitations on the program and changes in international behavior by the regime, and it never happened. Director Coates has now outlined in his worldwide threat assessment that just came out a couple of months ago that North Korea's record of sharing dangerous nuclear and missile technology with state sponsors of terrorism, including Iran and Syria, continues to pose a serious threat not just to the U.S. but to the security environment in East Asia and elsewhere.

So sharing dangerous nuclear weapon technology with Iran, a state sponsor of terrorism, should seem to be an important link to terrorism. In addition, the regime has built a long record, of course, of kidnapping and murder. Its treatment of Japanese nationals was an important part of their designation previously.

Unfortunately, they have made a habit now of detaining Americans. As you know, one of my constituents, Otto Warmbier, was one of those who was detained. That detention, in essence, turned into a death sentence for him, improperly detained. So my question to you would be whether you all are weighing the re-designation of North Korea as a state sponsor of terrorism and what the status of that decision-making is; and if you are not doing that, why are you not doing that?

Ms. THORNTON. Thank you. Thank you, Senator, very much for that question. Of course, let me just start by saying that our hearts really do go out to the family of Otto Warmbier. It was a reprehensible tragedy and something that no one should have to go through. I certainly appreciate the sentiment behind your question, and I think we all are very concerned about humanitarian conditions inside North Korea and about actions by the regime that are very much outside the bounds of any kind of responsible state actor.

I think on the issue of the state sponsors of terrorism, we are reviewing that issue right now. It is an issue that the Secretary has taken an interest in. There are a lot of technical and legal aspects to it, so I cannot tell you with great specificity where we are in the review right now, but we are looking at the issue of designation. I could give you more information perhaps at a later date.

Senator PORTMAN. Well, I appreciate that information, but I would like to ask that you get back to me, and I assume the Chairman and Ranking Member will be interested as well as to what your thinking is and what the considerations are. You said it is a highly technical decision. I know you have to meet certain requirements. Again, providing missile technology to countries that we consider some of the top state sponsors of terrorism would seem to be a link, and then, of course, not just how they treated other countries' citizens but ours.

By the way, with regard to Otto Warmbier, I want to thank you again. I have done this before this committee a couple of times, in-

cluding when Deputy Secretary Sullivan was here. I appreciate his personal involvement. As you know, Ambassador Joe Younes was critical to us in being able to ultimately bring Otto home. So we appreciate the State Department's increased and highly personal efforts over the last couple of months. Again, the process that we have gone through in the last 18 months with the DPRK with regard to Otto Warmbier indicates to me the level of depravity that exists within that regime.

One final question, if I could, Mr. Chairman. This has to do with economic sanctions. Many of us have talked about the imposition of broader sanctions by checking more Chinese companies brought into the sanctions regime, because there are hundreds, if not thousands, of Chinese companies, as I understand it, still doing business with North Korea, some of whom are involved with dual technology that has had an effect not just on their commercial activities but also their military activities.

But let me ask you about the sanctions that are in place. Are they working? Are they affecting the pace with which the country of North Korea has been able to develop and test its nuclear and ballistic missile programs? And to what sources of funding has the regime resorted in order to get around some of these sanctions?

Ms. THORNTON. Thank you very much for that question. I think that what we see is, as we build this kind of global network to try to increase the pressure on the regime and prevent proliferation, especially of illicit technology going to North Korea, that there has been some effect. We are affecting their ability to get things that they need. It has not, unfortunately, slowed down their missile testing program, but we do see them needing to resort to new avenues of access to get imports and other things. I think that is one of the desired goals of the sanctions regime, is to make things more difficult for them, obviously, to proceed with their weapons programs.

I think one aspect of this is as the pressure on the regime, on sanctions, on their inability to transact financial transactions and move things easily across borders without being subject to inspection, et cetera, they will start to look for new avenues of outlet, and that is one of the reasons why we have been so insistent on traveling out to countries that you would not normally think of as being partners of North Korea to try to shore up the resolve of countries all over the world to keep North Korea from accessing markets that they may now be turning to when things get more difficult in the nearby neighborhood.

But I think, unfortunately, we have not seen their missile program slowed down. In fact, it seems that they are testing at the same rapid rate that they have been testing at lately. So we are continuing to talk to China about that. We are continuing to try to impinge on sources of particularly hard currency financing. But we do find that a lot of their production has gone now indigenous, and it has become harder and harder to stop this kind of activity in North Korea.

I think as we work with China—I mean, everybody in the U.N. sanctions network is conscious, and it is one of the things that the U.N. panel of experts is doing, keeping particular track of items and dual-use items that may be of use to North Korea and trying

to make sure that we close down those avenues. But we have also just started to work on this and we have a lot of conversations and capacity building to do with other countries. Some countries have more capacity to catch these things at Customs than others, et cetera, and that is one of the things in our conversations with our Chinese colleagues that we have talked about, is providing customs assistance for them on the border to catch a lot of this stuff that goes into North Korea, and we are working with them on that, as are some of our other like-minded allies in the region.

Senator PORTMAN. Well, Ms. Thornton, I hope we will redouble our efforts to work on that, because the alternative is frightening, not just for the region, and certainly Japan and South Korea recognize that now, but also for the broader region, including China, and what could happen on their border with DPRK, and now with this new testing of intercontinental ballistic missiles, really for the whole world.

So I would hope that we would not only put more pressure on these countries but that we would apply that pressure in a way that is clear that it is in their self-interest to avoid the potential calamity that could occur if we do not more effectively through sanctions and peaceful means curtail what they are able to do in their nuclear program and in their missile program.

So I know the Chairman is holding this hearing in part to put attention on this issue, and I would certainly hope that is a top priority of the administration and, again, in the self-interest of these other countries to avoid a much more drastic result.

Thank you, Mr. Chairman.

Senator GARDNER. Thank you, Senator Portman.

Before we turn to the next panel, Secretary Thornton, I would just like to add that if we could get a timeframe from the State Department on the designation of state-sponsored terror, I think it is important. It is clear, whether it is the murderous actions the regime has taken against its own people, others, the imprisonments that they continue to be responsible for, whether it is the missile launches they continue, the interaction with Iran, this decision needs to be made soon, and it needs to be, I believe, a re-designation of that state sponsor of terror.

So, thank you, Secretary Thornton, for your testimony today, and again, apologies for the late start.

Ms. THORNTON. Thank you.

Senator GARDNER. I am going to bring up the second panel to begin their testimony.

The first witness on our second panel today is Bruce Klingner, who serves as a Senior Research Fellow at the Heritage Foundation. Prior to joining Heritage in 2007, Mr. Klingner spent 20 years serving at the Central Intelligence Agency and the Defense Intelligence Agency, focusing on the Korean Peninsula, including as Chief of the CIA's Korea Branch and as CIA's Deputy Division Chief for Korea.

Welcome, Mr. Klingner.

Our second witness and final witness of the second panel is Mr. Leon Sigal, I believe, who currently serves as Director of the Northeast Asia Cooperative Security Project at the Social Science Research Council in New York. He is an author of numerous books

on nuclear non-proliferation issues, has taught at Columbia University and Princeton University, and has also served as a member of the editorial board of the New York Times from 1989 to 1995.

Welcome, Mr. Sigal, and thank you for being with us today.

Mr. Klingner, if you would begin. Thank you.

STATEMENT OF BRUCE KLINGNER, SENIOR RESEARCH FELLOW, NORTHEAST ASIA, THE HERITAGE FOUNDATION, WASHINGTON, DC

Mr. KLINGNER. Thank you, Mr. Chairman, Ranking Member Markey. It is truly an honor to be asked to appear before you on such an important issue to our national security.

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

Conversely, others push for a return to negotiations, but we have been down that path many times before and all were unsuccessful. North Korea pledged in several international agreements to never develop nuclear weapons, and, once caught with its hand in the nuclear cookie jar, acceded to several subsequent agreements to give up the weapons they promised never to build in the first place. The U.S. and its allies have offered economic benefits, developmental assistance, humanitarian assistance, diplomatic recognition, declaration of non-hostility, turning a blind eye to violations, and not implementing U.S. laws. By word and deed, North Korea has repeatedly and emphatically shown it has no intention of abandoning its nuclear weapons under present circumstances.

It is also difficult to have a dialogue with a country that shuns it. North Korea closed the New York channel in July 2016, severing the last official link between our governments, until allowing dialogue recently to facilitate the return of the comatose and dying Otto Warmbier. North Korea literally refuses to pick up the phone both in the joint security area in the DMZ and the inter-Korean military hotline in the West Sea. And North Korea has already rejected several attempts at engagement by South Korean President Moon Jae-in. They have dismissed them as nonsense. So South Korea has also tried engagement, having 240 inter-Korean agreements.

Proposals for returning to negotiations such as the freeze-for-freeze option all share a common theme in calling for yet more concessions by the U.S. in return for a commitment by the North to undertake a portion of what it is already obligated to do under numerous U.N. resolutions, and the best way to engage in negotiations would be after a comprehensive, rigorous, and sustained international strategy. Such a policy upholds U.S. laws and U.N. resolutions, imposes a penalty on those that violate them, puts in place measures both to make it harder for North Korea to import items that they need for their new prohibited programs, as well as constrain proliferation.

So North Korea must be held accountable for its actions, and to refrain from doing so would be to condone illegal activity and give de facto immunity from U.S. and international law and undermine U.N. resolutions.

Successive U.S. administrations have talked tough about pressuring North Korea but instead engaged in timid incrementalism in imposing sanctions and defending U.S. law; and U.S. officials responsible for sanctions, when you talk to them privately, will say, yes, they have lists and evidence of North Korean, Chinese, and other entities that are violating, but they were prevented from implementing and enforcing those laws.

Although President Trump has criticized President 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 American punches against North Korean and Chinese violations of U.S. law. However, the Trump administration recently expressed frustration with Beijing's foot-dragging on pressuring North Korea and took actions against the Bank of Dandong and a few other entities. We are hearing, again, that there are indications that they will be sanctioning additional Chinese violators, and I certainly hope that is the case.

We also have to highlight and condemn Pyongyang's crimes against humanity. Advocacy for human rights must be a component of U.S. policy. Americans were rightly appalled by the death of Otto Warmbier, but we must not lose sight of the brutal and reprehensible human rights violations that the regime imposes on its own citizens, which the U.N. Commission of Inquiry assessed constituted crimes against humanity.

In July 2016, the Obama administration, for the first time, imposed human rights sanctions on a handful of North Korean entities, but since then the U.S. has not taken any further action.

So, in conclusion, the most sensible policy 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 to diplomatic efforts. But at present, any offer of economic inducements to entice North Korea to abandon its nuclear arsenal has little to no chance of success.

Thank you again for the privilege of appearing before you.

[The prepared statement of Mr. Klingner follows:]

PREPARED STATEMENT OF BRUCE KLINGNER

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 U.N. 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.

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, reentry 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.

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 U.N. 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 U.N. Commission of Inquiry report on North Korean human rights abuses;
- Law enforcement demands—removal of all U.N. 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 U.N. 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 sent 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 U.N. 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 U.N. 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 U.N., 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 U.N. 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.

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 U.S. 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 U.N. 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 U.N. 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 U.S. 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 U.N. 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.

- Corporations 1.8%
- Program revenue and other income 2.6%

The top five corporate givers provided The Heritage Foundation with 1.0% of its 2016 income. The Heritage Foundation's books are audited annually by the national accounting firm of RSM US, LLP.

Notes

[1] Bruce Klingner, "Save Preemption for Imminent North Korean Attack, The Heritage Foundation, March 1, 2017.

[2] Bruce Klingner, "The Trump Administration Must Recognize the Dangers of Premature Negotiations with North Korea," The Heritage Foundation, May 11, 2017.

[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.

[4] Bruce Klingner, "Allies Should Confront Imminent North Korean Nuclear Threat," Heritage Foundation Backgrounder No. 2913, June 3, 2014.

[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.

Senator GARDNER. Thank you, Mr. Klingner.

Mr. Sigal, we will begin with your testimony.

I forgot to mention to you how sorry we are for the late start, as well. So thank you both for being here.

Mr. Sigal.

STATEMENT OF LEON V. SIGAL, DIRECTOR, NORTHEAST ASIA COOPERATIVE SECURITY PROJECT, SOCIAL SCIENCE RESEARCH COUNCIL, NEW YORK, NY

Mr. SIGAL. Thank you, Chairman Gardner, Ranking Member Markey. Thanks for inviting me to appear before you today.

The current unbounded North Korea weapons program poses a clear and present danger to the U.S. and allied security. That makes it a matter of great urgency to negotiate a suspension of its nuclear missile testing and fissile material production, even if the North is unwilling to recommit to complete denuclearization up front.

Have no doubt about it: complete denuclearization remains the goal. But demanding that Pyongyang pledge that now will only delay a possible agreement, enabling it to add to its military wherewithal and bargaining leverage in the meantime.

Now, soon after taking office, President Trump wisely resumed diplomatic engagement with Pyongyang. Those talks are now in abeyance. Restarting them is imperative. The experience is that pressure without negotiations has never worked in the past with Pyongyang, and there is no reason to think it will work now. The question to ask about people who prefer the sanctions-only approach is: How long will it take for the sanctions to work to get North Korea to accept our negotiating position and to stop their ICBM testing, their nuclear testing, and their fissile material production? How long? With that in mind, it seems to me that legislation now under consideration should not immediately trigger sanctions but provide for at least a three-month implementation period to allow time for talks. Three months is not going to make a difference in terms of the impact of the sanctions, but it may open the opportunity for talks if we are willing to talk.

Now, Washington is preoccupied with getting Beijing to put more pressure on Pyongyang. But it is worth recalling that on three occasions when China and the United States worked together in the

U.N. Security Council to impose tougher sanctions—in 2006, 2009, and 2013—North Korea responded by conducting nuclear tests in an effort to drive them apart.

That, interestingly enough, did not happen after Washington and Beijing agreed on the much tougher Security Council sanctions last November. Instead, Kim Jong Un defied widespread expectations that he would soon conduct a sixth nuclear test as a signal of restraint in the expectation that President Trump would open talks. If we delay talks, we may get that test.

The recent test-launch of an ICBM underscores how the prospect of tougher sanctions without talks prompts Pyongyang to step up arming. A policy of maximum pressure and engagement can only succeed if nuclear diplomacy is soon resumed and the North's security concerns are addressed.

We must not lose sight of the fact that it is North Korea that we need to persuade, not China. And that means taking account of North Korea's strategy. During the Cold War, Kim Il Sung played China off against the Soviet Union to maintain his freedom of maneuver. In 1988, anticipating the collapse of the Soviet Union, he reached out to improve relations with the United States, South Korea and Japan in order to avoid overdependence on China. That has been the Kims' objective ever since.

From Pyongyang's vantage point, that aim was the basis of the 1994 Agreed Framework and the September 2005 Six-Party Joint Statement. For Washington, obviously, suspension of Pyongyang's nuclear and missile programs was the point of those agreements, which succeeded for a time in shuttering the North's production of fissile material and stopping the test launches of medium- and longer-range missiles. Both agreements collapsed, however, when Washington did little to implement its commitment to improve relations and, of course, Pyongyang reneged on denuclearization.

That past is prologue. Now there are indications that a suspension of North Korean missile and nuclear testing and fissile material production may again prove negotiable. In return for suspension of its production of plutonium and enriched uranium, the Trading with the Enemy Act sanctions imposed before the nuclear issue arose could be relaxed for yet a third time, and energy assistance unilaterally halted by South Korea in 2008 could be resumed.

An agreement will require addressing Pyongyang's security needs, including adjusting our joint exercises with South Korea, for instance, by suspending flights of nuclear-capable B–52 bombers into Korean airspace. Those flights were only resumed, I want to remind you, to reassure allies in the aftermath of the North's nuclear tests. If those tests are suspended, the B–52 flights can be too, without any sacrifice of deterrence. North Korea is well aware of the reach of U.S. ICBMs and SLBMs, which, by the way, were recently test-launched to remind them.

The U.S. can also continue to bolster, rotate, and exercise forces in the region so conventional deterrence will remain robust. The chances of persuading North Korea to go beyond another temporary suspension to dismantle its nuclear and missile programs, however, are slim without firm commitments from Washington and Seoul to move toward political and economic normalization, engage in a peace process to end the Korean War, and negotiate security ar-

rangements, among them a nuclear-weapons-free zone that would provide a multilateral legal framework for denuclearization. In that context, President Trump's willingness to hold out the prospect of a summit with Kim Jong Un would also be a significant inducement.

Let me say in closing, we know what North Korea is like, with its one-man rule, cult of personality, internal regimentation, and dogmatic devotion to juche ideology. It is a decidedly bad state. That is what we Americans know about North Korea.

The wisest analyst I know once wrote, "Finding the truth about the North's nuclear program is an example of how what we know sometimes leads us away from what we need to learn." The best way to learn is to enter into talks about talks and probe whether Pyongyang is willing to change course.

Thank you.

[The prepared statement of Mr. Sigal follows:]

PREPARED STATEMENT OF LEON V. SIGAL

Mr. Chairman, Ranking Member Markey, Members of the Subcommittee: Thank you for inviting me to appear before you today. I have been involved in the North Korean nuclear and missile issue for well over two decades and have participated in Track II meetings with senior North Korean officials, as well as with senior officials of the other six parties.

As you know, North Korea is on the verge of developing boosted energy nuclear weapons with higher yield-to-weight ratios. It has begun test-launching ICBMs and new mobile intermediate-range missiles to deliver them. It is churning out plutonium and highly enriched uranium at a rate of six or more bombs' worth a year.

Such an unbounded North Korean weapons program poses a clear and present danger to U.S. and allied security. That makes it a matter of great urgency to negotiate a suspension of its nuclear and missile testing and fissile material production even if the North is unwilling to recommit to complete denuclearization up front. Have no doubt about it: complete denuclearization remains the ultimate goal. But demanding that Pyongyang pledge that now will only delay a possible agreement, enabling it to add to its military wherewithal and bargaining leverage in the meantime.

Soon after taking office President Trump wisely resumed diplomatic engagement with Pyongyang. Those talks are now in abeyance. Restarting them is imperative. Pressure without negotiations has never worked in the past with Pyongyang and there is no reason to think it will work now. With that in mind, legislation now under consideration should not immediately trigger sanctions, but provide for at least a three-month implementation period to allow time for talks to resume.

Washington is preoccupied with getting Beijing to put more pressure on Pyongyang. Yet it is worth recalling that on three occasions when China and the United States worked together in the U.N. Security to impose tougher sanctions—in 2006, 2009, and 2013, North Korea responded by conducting nuclear tests in an effort to drive them apart.

That did not happen after Washington and Beijing agreed on the much tougher Security Council sanctions last November. Instead, Kim Jong Un defied widespread expectations that he would soon conduct a sixth nuclear test-a signal of restraint in the expectation that President Trump would open talks.

The recent test-launch of an ICBM underscores how the prospect of tougher sanctions without talks prompts Pyongyang to step up arming. A policy of "maximum pressure and engagement" can only succeed if nuclear diplomacy is soon resumed and the North's security concerns are addressed.

We must not lose sight of the fact that it is North Korea that we need to persuade, not China. Insisting that China do more ignores North Korean strategy. During the Cold War, Kim Il Sung played China off against the Soviet Union to maintain his freedom of maneuver. In 1988, anticipating the collapse of the Soviet Union, he reached out to improve relations with the United States, South Korea and Japan in order to avoid overdependence on China. That has been the Kims' aim ever since.

From Pyongyang's vantage point, that aim was the basis of the 1994 Agreed Framework, which committed Washington to "move toward full normalization of political and economic relations," or, in plain English, end enmity. That was also the

essence of the September 2005 Six-Party Joint Statement in which Washington and Pyongyang pledged to "respect each other's sovereignty, exist peacefully together, and take steps to normalize their relations subject to their respective bilateral policies" as well as to "negotiate a permanent peace regime on the Korean Peninsula."

For Washington, suspension of Pyongyang's nuclear and missile programs was the point of these agreements, which succeeded for a time in shuttering the North's production of fissile material and stopping the test-launches of medium and longer-range missiles. Both agreements collapsed, however, when Washington did little to implement its commitment to improve relations and Pyongyang reneged on denuclearization.

In the case of the 1994 Agreed Framework, when Washington was slow to live up to its obligations, the North Koreans began acquiring the means to enrich uranium. In the ill-fated October 2002 meeting with Assistant Secretary James Kelly, the North Koreans addressed uranium enrichment, but in Condoleezza Rice's words, "Because his instructions were so constraining, Jim couldn't fully explore what might have been an opening to put the program on the table."

Similarly, in the case of the September 2005 six-party joint statement, believing that North Korea's declaration of its nuclear program in 2007 was incomplete, the United States decided, in the words of Secretary of State Rice, to "move up issues that were to be taken up in phase three, like verification, like access to the reactor, in phase two." The North eventually agreed orally to key steps. When they refused to put them in writing, South Korea, in response, reneged on providing promised energy aid in 2008 and the North Koreans conducted a failed satellite launch.

That past is prologue. Now there are indications that a suspension of North Korean missile and nuclear testing and fissile material production may again prove negotiable. In return for suspension of its production of plutonium and enriched uranium, the Trading with the Enemy Act sanctions imposed before the nuclear issue arose could be relaxed for a third time and energy assistance unilaterally halted by South Korea in 2008 could be resumed. An agreement will require addressing Pyongyang's security needs, including adjusting our joint exercises with South Korea, for instance by suspending flights of nuclear-capable B–52 bombers into Korean airspace. Those flights were only resumed to reassure allies in the aftermath of the North's nuclear tests. If those tests are suspended, the B–52 flights can be, too, without any sacrifice of deterrence. North Korea is well aware of the reach of U.S. ICBMs and SLBMs, which were recently test-launched.

The United States can also continue to bolster, rotate, and exercise forces in the region so conventional deterrence will remain robust. At the same time it would be prudent to tone down the saber-rattling rhetoric lest we stumble into a deadly clash we do not want. As Defense Secretary Jim Mattis has recently underscored, a war in Korea would be "more serious in terms of human suffering than anything we have seen since 1953."

The chances of persuading North Korea to go beyond another temporary suspension to dismantle its nuclear and missile programs are slim without firm commitments from Washington and Seoul to move toward political and economic normalization, engage in a peace process to end the Korean War, and negotiate regional security arrangements, among them a nuclear-weapon-free zone that would provide a multilateral legal framework for denuclearization. In that context, President Trump's willingness to hold out the prospect of a summit with Kim Jong Un would also be a significant inducement.

Although the September 2005 joint statement of Six Party Talks explicitly called for the parties "to negotiate a peace regime for Korea" and "to explore ways and means for promoting security cooperation in Northeast Asia," little planning has been undertaken in allied capitals to implement those commitments. Seoul could take the lead in mapping out ways to do so and coordinate them with Washington. I would ask the chair's permission to enter into the record my prepared statement along with a proposal for such a comprehensive security settlement that I recently co-authored with Morton Halperin, Thomas Pickering, Moon Chung-in, and Peter Hayes.

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

In closing, much about North Korea rightly repels us. Goose-stepping troops and gulags, a regime motivated by paranoia and insecurity to menace its neighbors, leaders who mistreat their people and assassinate or execute officials for not toeing the party line, a state that committed horrific acts like its 1950 aggression and the 2010 sinking of the Cheonan. It is one of our core beliefs that bad states cause most trouble in the world. North Korea, with its one-man rule, cult of personality, internal regimentation, and dogmatic devotion to juche ideology is a decidedly bad state. That's what Americans know about North Korea.

The wisest analyst I know once wrote, "Finding the truth about the North's nuclear program is an example of how what we 'know' sometimes leads us away from what we need to learn." The best way to learn is to enter into talks about talks and probe whether Pyongyang is willing to change course.

Senator GARDNER. Thank you, Mr. Sigal, for your testimony today, to both of you.

Senator Markey, if you have any questions.

I just would start with the brief question that you heard Secretary Thornton talk about some of the pillars that they laid out. Mr. Klingner, you said how is the policy of the administration any different than strategic patience. If the actions that they have laid out do not result in additional pressure, it is strategic patience. Is that correct?

Mr. KLINGNER. I think the real test is what actions are implemented. We have heard from successive administrations tough talk. When President Obama said North Korea is the most heavily sanctioned, the most cut off nation on earth, he was flat-out wrong, as you pointed out in your opening comments.

So it is really the actions that carry through on these pledges of pressure. I am waiting to see the length of the list of sanctions or entities that will be sanctioned, not only North Korean but, as you have pointed out, the Chinese violators of U.S. law.

Senator GARDNER. And would a more global approach to denial of access to financial networks be something that you think could actually work?

Mr. KLINGNER. I think so, sir. I think we need to have really a full spectrum and a comprehensive, integrated strategy. Too often the debate in Washington is sanctions versus engagement. They are two sides of the same coin. You need both of them. They are working in conjunction with each other, along with other measures of information operations, human rights advocacy, deterrence, et cetera. But I think we do need to augment the sanctions that we have.

As you have said, there is proposed legislation which will plug holes, which will augment measures. In many ways, though, they are trying to induce this administration, as previous administrations, to use the authorities they have long had to fully enforce U.N. resolutions and U.S. laws.

Senator GARDNER. Mr. Sigal, why will China not, responsible for 90 percent of North Korea's economy, why will China not simply go to Kim Jong Un and say step down your nuclear program and begin the conversations that you talk about?

Mr. SIGAL. I think, Mr. Chairman, they have. The problem is that the Chinese, I think, understand the situation somewhat similarly to what I have tried to suggest, which is that the North Koreans want to change their relationship with us as a hedge against China. They do not want to be dependent on China. They also understand that when they joined with the U.S. at the U.N. and voted for tougher sanctions resolutions, and in most cases implemented them, at least most of them, the North Korean response on three occasions was to test a nuclear weapon in order to drive the two of us apart.

So I think part of this is there seems to be in the Chinese mind a different logic working because they seem to grasp what the

North Koreans seem to want, and I think we have to, unfortunately, grasp what the North Koreans want, which is an improved relationship with us because they do not want to be dependent on China.

Senator GARDNER. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman.

Thank you both for excellent testimony.

Mr. Sigal, it is often implied that the only way the United States can engage in dialogue with North Korea is by giving it economic or other concessions, or by conceding the ultimate goal of any talks, the complete denuclearization of the Korean Peninsula.

But I believe there are many circumstances under which we could engage in talks with North Korea that would not require concessions, that would not impact our ability to ensure the safety and security of our allies, and would not remove any options for the United States to deal with the North Korean challenge. Mr. Sigal, your testimony indicates that you may feel the same.

Can you share your opinion on some of the different ways the United States can engage with North Korea without having to provide economic concessions or without having our allies question our commitment to their safety or security?

Mr. SIGAL. Yes, sir. First of all, from the North Korean vantage point vis-a-vis the United States, not necessarily vis-a-vis others, this has never been about economics. It has been about the relationship. The only interest they have in sanctions easing is not because they expect Fortune 500 companies to rush into North Korea and invest. It is because it is a sign to them of enmity. The Trading with the Enemy Act—I mean, how clear could it be?

Secondly, with respect to a thing that obviously a lot of people worry about, that the first thing they will want in a peace process is U.S. troops to go out, if that is what they want, we are not going to give it to them, are we? We will only take our troops out of South Korea if South Koreans ask us to do that, and the North Koreans know that. Indeed, the North Koreans for many years, until at least a couple of years ago, kept talking about essentially this: If the United States is our enemy, U.S. troops in South Korea are a threat to us and they have to go. But if the United States is no longer an enemy, those troops are no longer a threat to us, and they can stay.

And indeed, the North Koreans on numerous occasions, the last of them a couple of years ago, talked about the U.S.—it is a bridge too far—and North Korea being allies. You can have two allies. You can be allied to South Korea, and you can be allied to us. They were looking for a formulation to change the relationship. That is what this is about.

In a world in which the relationship is changed, it is possible to imagine—I am not saying it is likely, but it is possible to imagine that the North Koreans, down a long road, will become convinced we are no longer their enemy and they do not need nuclear weapons to protect themselves. I do not think there is a sign we can get there now because of our politics and because of their politics. But we have got to stop the programs now to give ourselves the chance to do that, and I know of no other way to get them to get rid of their nuclear weapons.

Senator MARKEY. Thank you, Mr. Sigal.

Mr. Klingner, we "convinced" Gaddafi to give up his nuclear weapons program. We "convinced" Saddam Hussein to give up his nuclear weapons program. And then subsequently we participated in the process that led to their deaths. So if you are Kim and you are looking at the United States and the goal ultimately to denuclearize, what does he need as a guarantee for his own personal safety in order to convince him that it is worth his while to engage in talks that could head towards denuclearization? And ultimately, what are the concessions or the commitments that the United States would have to make in order to get him to accept that premise?

Mr. KLINGNER. North Koreans have used those same examples in explaining why they will never, ever negotiate away their nuclear weapons.

Senator MARKEY. Exactly.

Mr. KLINGNER. They have said denuclearization is off the table, there is nothing you can offer us, we are prepared to talk about a peace treaty or a fight. So unless we change their calculus, then they will not negotiate away those nuclear weapons. In the meantime, the pressure, the sanctions, the targeted financial measures are fulfilling a number of other objectives as we hope we can get to a negotiated position. In the meantime we are enforcing our law, we are no longer turning a blind eye to violations and, as I mentioned, we are putting in place measures to constrict both the inflow and out-flow of prohibited nuclear missile components.

Senator MARKEY. So when you look at this recent dramatic increase in trade between North Korea and China, what is your message to the Trump administration in terms of what they have to do, in terms of telescoping the timeframe to ensure that the North Korean economy is not benefitting from this Chinese trade given the rapid movement that they have made towards the integration of an ICBM with a nuclear warhead?

Mr. KLINGNER. I would say we need to distinguish between diplomacy and law enforcement, and then give that message to China. So, U.S. law is not negotiable. Those entities that come into the U.S. financial system and misuse it, in violation of U.S. law, will be treated accordingly. And then with diplomacy we continue to try to convince Beijing to more fully implement required U.N. sanctions. We work with them to try to reduce their support for the regime.

But those things that are against U.S. law, against U.N. resolutions, those are not negotiable.

Senator MARKEY. Can we change the calculus in the North Korean regime's mentality that they do not want to have a repetition of what happened in Libya and Iraq affect them without our legislation passing and without the already-existing sanctions being tightened in order to force a negotiation in a timeframe that actually avoids, perhaps, the irreversible moment in our relationship?

Mr. KLINGNER. I think the first step is you need to change the calculus of the Chinese banks and businesses that are engaging with North Korea, and you can do that through U.S. law. So you can wean them away from engaging with North Korea, and we have seen that in the past when the U.S. took action and then had

private meetings throughout Asia to induce 24 entities, including entire countries and the Bank of China, to defy the Chinese government by cutting off its interaction with North Korea. If we go after those Chinese organizations, as Senator Gardner pointed out, you can have a few small number of very influential actions you can take that have repercussions across a much broader scale. You use the laws to take out the criminal organizations, and you also change the calculus for legitimate businesses who see it as no longer in their business interest to engage with North Korea. So you can tighten the regime by enforcing U.S. law.

Senator MARKEY. So compared to the sanctions that are already on the books, and thus far their lack of efficacy, and the proposal that Senator Gardner and I have introduced, what is your view about our legislation in terms of serving as an additional weapon in the arsenal, the diplomatic arsenal which the Trump administration can use, and how would such legislation, our legislation, complement existing laws already on the books?

Mr. KLINGNER. I think it very well complements existing legislation and existing executive orders and regulations. But again, the problem or the question will always be "Will the executive branch of any administration actually use the powers that they have been given? It is like the mayor of a city saying I am tough on crime, but then not having his police department enforce those that they have evidence against.

Senator MARKEY. And my view is that if they do not, then it is going to lead inexorably, inevitably, to a North Korean ICBM weapons program that is completed. So I do not think, as a nation, there is an option. I think the President has to become tougher on the Chinese. They are the safety valve. They are the release valve the North Koreans are using, and they are punishing the South Koreans rather than the North Koreans. I think ultimately, unless we get more real about what is happening, then we are just on a collision course with a North Korean nuclear weapons-armed, ICBM-capable posture for the rest of our lives.

Do you agree with that, Mr. Sigal?

Mr. SIGAL. I agree with that, but I think what you said earlier is just as important, which is you have to open the way to negotiation.

Senator MARKEY. Exactly.

Mr. SIGAL. That is the key.

Senator MARKEY. Exactly.

Mr. SIGAL. And not on our terms but actually talks about talks to get them to stop. In a circumstance in which they have suspended their testing and their fissile material production, that period is much more secure. We want to prolong that suspension as much as possible and go beyond it to get them to dismantle the facilities they have for producing more missiles, and then ultimately get the weapons. The weapons are going to come last. They are going to come down a very long road because they need to be assured the relationship has changed. That is the structure of a deal that at least is remotely possible.

Is it likely? I would not bet on that. Negotiations are not guaranteed. But sanctions seem to me a very long road to nowhere at this point, if done alone, if done alone.

Senator MARKEY. Right.

Mr. SIGAL. You are saying both.

Senator MARKEY. Our view is sanctions—my view is sanctions with direct negotiations.

Mr. SIGAL. Absolutely, and that is my view too.

Senator MARKEY. So can you just both—and I apologize, Mr. Chairman. Can you each give me your one-minute summary, just your one minute that you want the Chairman and I to remember from your testimony as we move forward during this very perilous time in our relationship with North Korea?

Mr. KLINGNER. I would say realize that all the hype that sanctions have been implemented and failed is incorrect. They have not been tried to the full extent. The legislation last year induced the Obama administration to do its three actions against North Korea, which was because of the legislation. We need to increase the pressure. Yes, we want to get to negotiations, but I would distinguish between diplomatic discussion between diplomats as opposed to resuming formal negotiations where you lose control of the momentum and it often requires U.S. concessions so the negotiations do not fail. Have diplomatic discussions amongst the State Department and their MOFA counterparts, but realize that has been tried many times before and they are the ones that have been refusing to talk.

Senator MARKEY. Mr. Sigal?

Mr. SIGAL. I think sanctions are important, but they have to be married with negotiations. The only way in the time that we need to stop an ICBM and stop a boosted energy or thermonuclear device by North Korea is to get negotiations going and see whether they will stop testing and stop fissile material production. That takes both sanctions and negotiation.

Senator MARKEY. I thank both of you, and I thank you, Mr. Chairman, for this excellent hearing.

Senator GARDNER. No, thank you.

Thanks to all of you. Thanks again for being here. I apologize for the late start. Thank you all for being a part of this hearing.

The record will remain open until the close of business on Friday, including for members to submit questions for the record. I kindly ask the witnesses to respond as quickly as possible, and your responses will be made a part of the record.

Thanks to the committee.

This hearing is now adjourned.

[Whereupon, at 5:05 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF ACTING ASSISTANT SECRETARY SUSAN THORNTON TO QUESTIONS SUBMITTED BY SENATOR EDWARD J. MARKEY

Question. In your testimony, you mentioned that the administration undertook a policy review and gathered "lessons" that guided the development of the administration's current strategy. You also noted that "a negotiated solution" remains "the best chance at resolving this problem," and yet the administration maintains its unwillingness to engage in dialogue with North Koreans.

What engagement options were considered during the administration's North Korea policy review?

If the administration continues to see a "negotiated solution as the best chance at resolving this problem" then how is the administration working to achieve this end if it is unwilling to negotiate at this time?

What is the most effective way to use sanctions to get North Korea back to the table?

Answer. The United States seeks to find a peaceful resolution to the nuclear problem on the Korean Peninsula, and we are willing to engage in negotiations under the right conditions. During our policy review, the administration entertained an array of engagement options with the DPRK but ultimately assessed that conditions were not appropriate for direct strategic engagement at this time. This decision was reinforced by North Korea's continued provocations and flagrant violations of international law, signaling its unwillingness to engage in credible dialogue.

Despite our willingness to engage with North Korea, we have seen no sign that the North Koreans are ready, or willing, to engage in any serious talks on denuclearization, nor do we see any chance that negotiations would succeed until underlying conditions change. Therefore, until North Korea indicates a credible willingness to discuss denuclearization, we will focus on increasing international pressure on the regime.

Our maximum pressure campaign aims to restrict the regime's access to funds, and thereby to curtail its proliferation activities. To date, we've seen promising results for our maximum pressure strategy; many countries are expelling North Korean laborers and downsizing or ceasing diplomatic relations with the Kim regime. Furthermore, we have been aggressively engaging with China to use its unique economic leverage against North Korea to force the regime into returning to dialogue. It is the goal of this administration that through continued international pressure, Kim Jong Un will change his strategic calculus, discontinue developments of his nuclear and ballistic programs, and return to credible talks with the United States.

Question. Reuters recently reported that North Korea's economic growth in 2017 was at a 17 year high despite sanctions and that China was responsible for 92.5% of all North Korean trade that same year. The New York Times recently reported that North Koreans in Russia work "basically in the situation of slaves," there have been news reports of North Korean laborers killed in Qatar while building soccer stadiums, and there are reports that despite the progress being made in Myanmar, its military still maintains close relations with North Korea. In your testimony, you talked a lot about working with countries that have "special leverage" over North Korea.

What strategies will be most effective in exerting pressure on these partners and enablers of the North Korean regime?

In addition to China, which countries have "special leverage" over North Korea and how you are working with them to pressure North Korea?

Has the United States made clear that any engagement in sanctionable activity could lead to us imposing sanctions on these countries?

Answer. The Trump administration is taking a global approach for this global issue; only by working with partners around the world will we be able to convince the DPRK that they stand alone as they pursue nuclear and ballistic weapons. Our strategy relies on messaging to our partners the urgent priority the administration places on the North Korean threat and establishing each country's cooperation on this matter as a significant benchmark reflecting the strength of our overall bilateral relationship. In addition, we will impose significant costs upon those who continue to do business with the North Korean regime. This tactic has evinced success in encouraging our international partners to curtail diplomatic and trade ties with the DPRK.

Multiple countries with distinct leverage over North Korea, China first among them, have committed to fully implement UNSCR obligations. They are coordinating

with us on pressing North Korea to return to serious talks. However, as we continue our peaceful pressure campaign, we are also focusing our efforts on a decreasing number of countries that continue to maintain relations with the DPRK. In addition to our ongoing diplomatic work on specific cases of illicit DPRK activities, engagements range from maximizing all bilateral opportunities to stress our request, to sending interagency teams from Washington to foreign capitals to discuss specific concerns, to assisting countries in fully adhering to U.N. Security Council resolutions. Special Representative for North Korean Policy Ambassador Joseph Yun's recent trip to Burma is a notable example of one such trip.

We have made it clear to countries around the globe that the United States is committed to using targeted financial sanctions to impede North Korea's nuclear and ballistic missile programs and to counter the grave threat those programs pose to international peace and security. We have also stressed this administration will go wherever the evidence leads to impose legally available sanctions on entities or individuals that support North Korea's proscribed programs.

Question. A recent study by Recorded Future, a cyber-security and intelligence firm based in Somerville, Massachusetts, found that "the limited number of North Korean leaders and ruling elite with access to the internet are actively engaged in Western and popular social media, regularly read international news, use many of the same services such as video streaming and online gaming, and above all, are not disconnected from the world at large."

What do these reports say about the likely success of our efforts to isolate North Korea in order to make the Kim regime and its allies reconsider their nuclear and missile programs?

Do we have any indications that North Korean elite internet activity, including ecommerce, violates any existing U.S. or U.N. sanctions?

Answer. We support greater access to the internet in North Korea, not just for the commercial and economic reasons, but also for North Korean people to have access to voices of freedom and democracy, and greater visibility into the world outside of this isolated nation. While internet use has exploded globally, North Korea heavily restricts access, allowing only the most loyal government officials the ability to access the internet. The regime allows a larger pool of North Koreans access to a DPRK government-managed intranet. We oppose the repressive censorship environment in the DPRK and encourage the free flow of information to the North Korean people. The availability of accurate information about world events challenges the government's monopoly on information and builds curiosity among North Koreans for facts independent of state propaganda.

At the same time, I can assure you that we take seriously and examine very closely all relevant information regarding possible DPRK illicit activities that might violate sanctions. We take into account both open source and intelligence reporting in considering necessary courses of action. This administration will go wherever the evidence leads to enforce sanctions on entities or individuals that support North Korea's proscribed programs.

Question. Of the 1.7 million Korean Americans in the United States, some 100,000 are estimated to have families in the North. Almost none have been formally permitted to visit their family members or participate in inter-Korean family reunions. While North Korea and South Korea have a formal mechanism for face-to-face reunions with family members divided since the Korean War, no such formal mechanism exists for Korean Americans, many of whom use informal networks to reunite with family members in the DPRK.

After the travel restriction goes into effect, how will the administration ensure the safety of Korean Americans who wish to reunite with their family members living in North Korea?

Answer. The safety and security of U.S. citizens overseas is one of our highest priorities. Due to mounting concerns over the serious risk of arrest and long-term detention in North Korea, the Secretary has authorized a Geographic Travel Restriction on the use of a U.S. passport to travel in, through, or to North Korea. This restriction applies to all U.S. citizens and non-citizen nationals, including Korean Americans who wish to reunite with their family members.

Korean Americans wishing to travel to North Korea to reunite with family members may be eligible for consideration for a special validation in a U.S. passport permitting travel to North Korea. Their eligibility to apply for an exception, however, does not guarantee a favorable answer to their request.

Question. Recent reports by two private organizations, C4ADS and NK News, have revealed evidence of alleged North Korean sanctions evasions through networks of shell and front companies in China, Singapore, and elsewhere. We regu-

larly hear from administration officials about the resources the United States is devoting to strengthening our military posture in Northeast Asia to deter North Korea. We hear very little about the resources that the United States is devoting to enforcing sanctions. Sanctions enforcement should be a coordinated whole of government approach involving the Department of State, Department of the Treasury, the intelligence community, and law enforcement agencies.

Please describe in as much detail as possible the resources across the executive branch that the administration has committed to enforcing sanctions on North Korea.

Answer. North Korea is a top national security priority, and the administration is working actively on a range of diplomatic, security, and economic measures to address this threat. We will utilize available sanctions authorities to ratchet up the pressure on the regime and cut off revenue that supports its illicit programs.

We work in close coordination with other U.S. agencies that have a role in U.S., U.N., and other sanctions enforcement, including the Department of the Treasury, the Intelligence Community, and U.S. law enforcement. Within the Department of State, a number of bureaus and offices devote budgetary and workforce resources to enforcing sanctions, including the Bureau of East Asian and Pacific Affairs, the Office of the Special Representative for North Korea Policy, the Bureau of Economic and Business Affairs, the Bureau of Energy Resources, the Office of the Coordinator for Sanctions Policy, the Office of the Coordinator for Cyber Issues, the Bureau of International Organizations, the Bureau of International Security and Non-Proliferation, the Bureau of Democracy, Human Rights, and Labor, the U.S. Mission to the United Nations, the Bureau of Intelligence and Research, and the Office of the Legal Adviser. Within the Department of the Treasury, a number of agencies and offices also devote budgetary and work resources to countering North Korea's proscribed nuclear and missile programs, including the Office of Foreign Assets Control, the Financial Crimes Enforcement Network, the Office of Terrorist Financing and Financial Crimes, the Office of Intelligence and Analysis, and the Office of the General Counsel. Our departments have a record of close, continuing, and successful coordination on the implementation of U.S. and U.N. sanctions against North Korea.

We take seriously our obligations under the North Korea Sanctions and Policy Enhancement Act of 2016 (NKSPEA) and other statutory and Executive authorities. The Treasury and State Departments, through close consultation, take actions consistent with the NKSPEA. Since the February 2016 enactment of NKSPEA, Treasury has made nine designations targeting a total of 113 individuals and entities for North Korea-related activities and identified dozens of aircraft and vessels as blocked. Those designations included North Korean ruler Kim Jong Un, marking the first time Treasury designated a head of state for human rights abuses.

On September 26, 2016, the Department of Justice unsealed a criminal complaint against a Chinese company, Dandong Hongxiang Industrial Development Co., and four Chinese nationals for: conspiracy to violate the International Emergency Economic Powers Act (IEEPA) and defraud the United States; conspiracy to launder monetary instruments; and violation of IEEPA. The Department of Treasury designated these same entities under E.O. 13382 which targets weapons of mass destruction proliferators and their supporters.

On June 15, 2017, the Department of Justice filed a complaint to forfeit over $1.9 million from China-based Mingzheng International Trading Limited for laundering U.S. dollars on behalf of sanctioned North Korean entities.

On June 29, 2017, Treasury's Office of Foreign Assets control designated and froze the assets of three Chinese entities. Treasury's Financial Crimes Enforcement Network announced a finding that the Bank of Dandong acted as a conduit for illicit North Korean financial activity, is a foreign bank of primary money laundering concern, and has proposed to sever the bank from the U.S. financial system.

The State Department has also designated eight entities and individuals associated with North Korea's prohibited weapons programs.

In executing President Trump's North Korea policy, Secretary Tillerson has publicly stated that the time for strategic patience is over and all options are on the table with respect to countering the North Korea threat. Sanctions will play a prominent role in this administration's North Korea policy, as will continued, urgent engagement with the international community to better ensure enforcement of sanctions already in place. All members of the international community are duty-bound to ensure that United Nations Security Council Resolutions (UNSCRs) are fully implemented to limit North Korea's access to weapons technologies and to block revenue sources for its associated unlawful and dangerous programs. Our respective departments, along with U.S. Ambassador to the United Nations Nikki Haley, are devoting substantial resources to accelerate a vigorous international campaign to

apply significant pressure on North Korea through diplomatic, security, and economic measures.

Question. Since 2006, a series of U.N. Security Council resolutions have prohibited trade with North Korea in luxury goods. These sanctions are particularly important because they target regime elites not than ordinary North Koreans. Recently NK News has published evidence suggesting that a Singapore company called OCN Ltd is involved importing a vast range of luxury goods into North Korea.

Prior to the publication of the NK News report, was the administration aware of the allegations of OCN's involvement in sanctions violations?

If no: What additional tools does the administration need to be able to investigate potential sanctions violations?

Answer. The administration will go wherever the evidence leads to impose legally available sanctions on entities or individuals that support North Korea's proscribed programs. We cannot comment on any ongoing investigations of sanction violations.

LETTER SUBMITTED FOR THE RECORD BY LEON V. SIGAL, DIRECTOR, NORTHEAST ASIA COOPERATIVE SECURITY PROJECT, SOCIAL SCIENCE RESEARCH COUNCIL, NEW YORK, NY

ENDING THE NORTH KOREAN NUCLEAR THREAT BY A COMPREHENSIVE SECURITY SETTLEMENT IN NORTHEAST ASIA

MORTON HALPERIN, PETER HAYES, CHUNG-IN MOON, THOMAS PICKERING, LEON SIGAL

June 28, 2017

INTRODUCTION

Many Americans and South Koreans are convinced that it is impossible to denuclearize the Korean Peninsula, code for disarming North Korea's nuclear weapons program, and for ensuring that the South does not follow suit. We argue that the opposite is the case.

However, as the old saying goes, if you don't know where you're going, any road will take you there. This logic applies as much to the North as it does to the United States, its allies, and international partners.

As President Donald Trump prepares to meet with President Moon Jae-in on June 29th, it is critical that they have a meeting of minds on the endgame. Unless this occurs, it will be impossible to align the front line state with American policy. Likewise, unless the two allies define a joint goal that makes sense to Kim Jong Un, he will have no reason to cooperate as against continue to confront the international community. The administration has made statements that denuclearization is their goal. We agree, but with the careful caveats embedded in this article.

Now that North Korea unambiguously has demonstrated the ability to explode nuclear warheads—a condition that was not anticipated in the September 2005 principles—a new approach is required to match the scale and complexity of the North Korean nuclear threat. Sometimes such wicked problems require that the problem be enlarged, in order to change the mix of stakeholders, sequence of outcomes, and ultimate result. North Korea's nuclear weapons program is a case in point.

The key is to shift from managing North Korea's bad behavior incrementally and reactively to a proactive, constructive policy by emphasizing a comprehensive approach that utilizes a set of interrelated elements agreed up front, and then implemented flexibly in whatever sequence best matches the asymmetrical capacities and interests of the six key parties to the Korean nuclear conflict. In particular, it requires addressing North Korea's security concerns, not just the allies'.

In the six years since the comprehensive security concept to the North Korean problem was articulated in Tokyo by Morton Halperin,[1] Kim Jong Un has grown accustomed to ruling while concurrently reconstructing North Korean identity and security strategy around its nuclear weapons. Consequently, it will be much harder and slower to freeze, dismantle, and eliminate North Korea's nuclear weapons today than it was in 2011, let alone in 2005.

This essay argues that a U.S.-ROK coordinated approach can be built on the foundation of a plausible, concrete concept of a comprehensive regional security strategy that is actually capable of reversing and disarming the North Korean nuclear weapons program. Pressure may be useful, but thinking ahead to calculate and synchronize the pressure and critically to design a negotiable outcome is also essential. Unless the two allies propose to bring about a final state of affairs that is desirable

to North Korea as well as the international community, nuclear brinksmanship in Korea is likely to continue for the foreseeable future; and North Korea will continue to acquire more nuclear weapons and to add delivery systems to its arsenal. This essay explains how the United States might actually achieve its most important policy goal in Korea, stopping and reversing North Korea's nuclear breakout.

BACKGROUND

The original 2011 comprehensive security settlement proposal and subsequent articulations argued that the United States take the initiative in resolving the North Korea nuclear problem and that a clear pathway to doing so successfully could be envisioned.[2] The strategy has six, inter-locking essential elements:

1. Set up a Six Party Northeast Asia Security Council.

2. End sanctions over time.

3. Declare non-hostility.

4. End the Korean Armistice; sign a peace treaty in some form.

5. Provide economic, energy aid to DPRK, especially that which benefits the whole region (that is, complete many types of energy, telecom, logistics, transport, mobility, trading, financial networks via the North Korean land-bridge from Eurasia to ROK and Japan).

6. Establish a regional nuclear weapons free-zone (NWFZ) in which to re-establish DPRK's non-nuclear commitment in a legally binding manner[3] and to provide a framework for its dismantlement; and to manage nuclear threat in the region in a manner that treats all parties, including North Korea, on an equal basis.

This approach was based on the following premises:

• The United States is a reliable and responsible provider of global and regional security.

• The United States is a sole supplier of the leadership needed to solve the North Korea issue.[4]

• North Korea's fundamental strategy—to change U.S. hostile policy to one that allows it to lessen dependence on China, improve its security, and survive as an independent state—remains the same under Kim Jong Un as his predecessors.

• The Six Party Talks is the only negotiation framework wherein all six parties could come together today given their respective frictions.

To some, the first premise may no longer be a given because of President Trump's sometimes shocking statements and some U.S. actions, especially those surrounding the March–April 2017 U.S.-ROK military exercises which included "decapitation" dry runs and the botched deployment of an "armada." The optics of latter was particularly unsettling to U.S. allies and other parties.

Yet President Trump's willingness to drop U.S. insistence on an immediate DPRK commitment to denuclearization, his tantalizing references to meeting with Kim under the "right circumstances," the near issuance of visas for a track 2 meeting in New York, and the quiet early approval of his administration of provision of food aid to North Korea, suggest he may be open to striking a deal with the DPRK. No one knows what this deal might be, although most American analysts suggest that a suspension of North Korean nuclear and missile testing and perhaps fissile material production is the most that can be achieved for now.

Given the priority appropriately accorded to overcoming North Korea's nuclear threat by President Trump, we believe that striking an in-principle deal is at least on the cards. By "deal" here, we mean an agreement to start "talks about talks" on a deal, not the precise content of an acceptable deal which may take years and several stages to hammer out. But after President Trump mentioned meeting Kim Jong Un "under the right circumstances," one presumes that some officials in the administration, if not President Trump himself, have some clarity as to what might constitute such a deal, even if they are not sure yet how to get there.

The death of American Otto Warmbier on June 19, 2017 after his eighteen-month-long detention in North Korea reminds us that timing is everything in politics, and that now is hardly a propitious time to be rushing to strike a deal with the North. Yet the strategic import of the North Korean threat is so great that the United States' ability to turn around this deteriorating situation has become a key test of its global leadership. It can no more walk away from dealing with North Korea than it can retreat to its own borders.

Two parties have already positioned themselves to exploit the possible Trump opening to Pyongyang. China has made its own military deployments including

bomber alerts, an aircraft carrier exercise, and border troop deployments. These deployments signal to Kim Jong Un and remind the United States and its allies that China could conceivably re-enter a new Korean War to preserve North Korea. Xi's private talks with Trump have clearly impressed upon the U.S. president that American policy is the main driver as to whether there will be more or fewer nuclear weapons in North Korea. China stands to gain from a Trump deal that would stabilize the Korean Peninsula to its benefit, avoid the unpleasant aspects for both of them of U.S. secondary sanctions affecting Chinese firms' dealings with North Korea, and allow the two great powers to move onto even more consequential issues that they must solve together.

North Korea has become a pivot point for U.S.-China relations. These two great powers must choose between increasingly competitive versus cooperative world orders. Unless the United States is careful, by default China will become the locally strongest military power, the United States increasingly will be offshore and disengaged, and North Korea will continue to act as a spoiler state projecting nuclear threats. For North Korea that includes the ability to attack the United States itself with nuclear weapons. The alternative is a more fluid cooperative-competitive and multipolar world with a strong element of U.S.-Chinese concert that uses North Korea's dependency on China to block and then reverse its nuclear breakout.[5] If they are jointly to resolve the North Korean threat, the North Korean issue demands that the United States and China make choices about the nature of their relationship that have implications well beyond the Korean Peninsula.

For its part, in spite of its shrill and outrageous propaganda campaigns, North Korea has been profoundly silent in the way that matters most: it has neither tested a nuclear weapon nor a long-range missile since Trump's election. It seems likely that Kim Jong Un is waiting to see if Trump is capable of adjusting U.S. policy to the point where it is in North Korea's interest to re-enter talks, and to take the concrete steps needed to do so. In short, Kim Jong Un will not put his head in a noose unless it is made clear how he can slip through it.

Which brings us to South Korea. The incoming president, Moon Jae-In, confronts urgent domestic political and economic issues that he must attend to as his first order of business in the aftermath of former President Park Geun Hye's impeachment and the scandals demanding radical chaebol reform. To do so, he also needs to be perceived as playing a critical role in overcoming North Korea's nuclear threat precisely so he can focus on these domestic issues without being ambushed by inter-Korean issues or a U.S.-North Korea confrontation. Finally, President Moon must repair relations with China, and quickly, or lose one of the South's most potent policy tools with regard to the North, its indirect influence on China's North Korea policy.

With regard to the Trump administration, President Moon faces a two-pronged dilemma. The first prong is that South Korea, not the United States, is at immediate risk from North Korean nuclear and conventional attack, but only the United States can reduce the nuclear and conventional threat posed to North Korea. In large part, this is so because North Korea will only deal with the United States on the nuclear issue. Thus, in spite of fears of abandonment or entanglement by the United States in its dealing with the North, and being perceived as inferior in some respect to the North in inter-Korean competition, when it comes to the nuclear issue, South Korea has no choice but to line up with, but behind the United States.

The second prong is that to mollify President Trump and to secure a distinct role of its own in easing tensions with North Korea, President Moon may have to modify the KORUS trade deal in ways that are hugely politically unpopular with his key political constituencies. However, South Korea appears to be willing to review and reform its trade with the United States and may avoid making this a hot issue between the allies.

President Moon must therefore decide which of these two priorities is most important—leading on North Korea issues and nuclear threat reduction; or realizing domestic social, economic, and political reforms. There is little doubt which he will choose.

Likewise, President Trump will have to choose carefully how hard to push President Moon on trade issues in order to head off North Korea's threat to move the front line from the DMZ to the continental United States. He must also accept that if President Moon is to deliver on trade issues in ways that matter to the United States, he must first commence the truly arduous tasks of economic revival, reforming the chaebols, overcoming political corruption, and reducing inequality in Korean society.[6] And he must embrace South Korea's constructive and leading role in resolving the North Korea issue, a point that Moon Jae-in is sure to make during the Summit. Although South Korea cannot be the conductor of the DPRK

denuclearization orchestra, it surely must be lead violin and recognized as such for its contribution.

How both parties deal with the deployment and operation of the THAAD anti-ballistic missile system is a lightning rod for all these issues. At this stage, the prudent approach is for the United States and South Korea to forestall any precipitous decisions that may affect negatively an overall strategic approach to reducing North Korea's nuclear threat.

THREE PHASE KOREAN PENINSULA DENUCLEARIZATION PROCESS

After the Summit, the two allies need to develop jointly an operational concept for a phased dialogue and set of nested, reciprocal actions and commitments that would incorporate the six elements of a comprehensive settlement listed at the outset of this note. To this end, we suggest that three distinct phases, albeit partly overlapping in implementation, will be required. These are:

Phase 1: Initial agreement is reached that:

1. North Korea will freeze quickly all nuclear and missile tests and fissile material production, including enrichment, either simultaneously or in a defined sequence and timeline, allowing the IAEA and possibly U.S. inspectors to monitor and verify these steps;

2. In return for suspension of testing, the United States and South Korea will scale back joint exercises, especially deployment of strategic bombers, and lift the U.S. Trading with the Enemy Act for a third time. In return for freeze on all fissile material production, the allies will commence rapid, sensible energy assistance to the DPRK for small-scale cooperation on power generation, provide some humanitarian food and agricultural technical aid, and medical assistance, and commit to begin a peace process during phase 2.

The Six Party Talks will resume on the on basis that (1) there are no preconditions; (2) all issues can be considered; and (3) each phase can be implemented as talks proceed with nothing agreed in each phase until everything in the phase is agreed.

Phase 1 can be done in a series of reciprocal steps over a relatively short time frame (roughly three to six months).

Phase 2: Six Party Talks resume, and North Korea undertakes initial dismantlement of all nuclear materials production facilities, including enrichment declaration and disablement, verified by IAEA and possibly U.S. inspectors.

In return, the United States, China, and the two Koreas commence a "peace process" to bring about a Northeast Asia "peace regime." The Korea focus of this regime would be a non-hostility declaration and military confidence-building measures culminating in the replacement of the Korean Armistice with a peace treaty acceptable to all parties.[7] At the same time, the six parties would establish a regional security structure including a regional Security Council, and would take initial steps to create a Northeast Asian security and economic community and cooperative security measures on a range of shared security concerns.

The United States and South Korea would adjust in an incremental and calibrated manner their unilateral sanctions to allow for a phased resumption of trade and investment with North Korea, among them, revival of the Kaesong industrial zone by South Korea.

The United States and the other four parties may commence confidence-building steps to cooperate with the DPRK on nuclear and energy security. Such steps might include implementation after preparation of the DPRK's 1540 nuclear security obligations, examination of nuclear safety requirements for fuel cycle operations in the DPRK, and/or initial joint work with DPRK on grid rehabilitation in the context of regional grid integration and tie lines with the ROK, Russia, and China.

One issue to be resolved early in talks would be whether missile production facilities will also be designated for dismantlement and controlled by the agreement in defined ways.

South Korea will also initiate discussions with the other five on a Northeast Asia Peace Regime.

Defining what Phase 2 would cover can be done in a few months, but implementation of measures required of the DPRK side will take several years to complete in verified manner. Initial nuclear safety and security measures, and early energy cooperation steps, may be undertaken in six to eighteen months.

Likewise, a peace and regional security process can begin in Phase 2, but completion of key elements of each of these interrelated elements will take years. North Korea will want to see the result tested over multiple administrations representing

both parties in the United States and South Korea to see if a peace regime is durable before they give up their weapons and weapons-usable fissile materials.

This leads into Phase 3.

Phase 3: Declaration and implementation of a legally binding Northeast Asia Nuclear Weapons Free Zone (NEANWFZ) by the other five parties for eventual acceptance and entry by the DPRK in lockstep with agreed timelines and specific actions to eliminate nuclear weapons by the DPRK; and commitment to come into full non-nuclear compliance over an agreed timeline, in return for lifting of multilateral and unilateral sanctions, large-scale energy-economic assistance package as part of a regional development strategy, successful experience with no U.S. hostile intent and conclusion of a peace treaty, and a calibrated nuclear negative security assurance to the North from the Nuclear Weapons States.

Such a treaty is a standard U.N. multilateral convention that both Koreas have had no problem signing in the past and would not confront the constitutional issue that otherwise makes the two Koreas loathe to sign treaties with each other that might affect their respective claims to exercise sovereignty over the entire Korean peninsula. Moreover, the other four parties may be skeptical as to the durability of a Korea-only denuclearization agreement and prefer the multilateral rather than unilateral guarantees provided by the Nuclear Weapons States to an NPT-compatible nuclear weapons-free zone treaty.

Phase 3 may take ten years to complete, maybe longer, during which incremental nuclear weapons disarmament may be undertaken by the North and verified by the other parties to the NWFZ as part of a regional inspectorate, accompanied by effective implementation of peaceful relations by the five parties. Phase 3 would enable a presidential summit to take place "under the right conditions" within two to three years from now.

CONCLUSION

North Korea's acquisition of nuclear weapons demands a comprehensive approach that is commensurate with the problem. Even if phases 1 and 2, the freezing and dismantlement of its nuclear fuel cycle and delivery systems were achievable, it is not clear why Kim Jong Un would enter into such commitments except for short-term tactical reasons. Although achieving such an outcome would be highly beneficial relative to where we are headed now with North Korean nuclear armament, limiting U.S. and South Korean strategy to realizing only a freeze and dismantlement would fail to bring about the actual elimination of North Korea's weapons. And we are skeptical that such a deal would endure long precisely because the North would not have a long-run interest in the ultimate outcome and would be left with a small, relatively vulnerable nuclear weapons stockpile and ever increasing isolation.

To succeed, it is evident that a new element to the U.S. approach is needed that was not anticipated in 2005 because of its subsequent rapid nuclear arming. Simply insisting that the North disarm and rejoin the Nuclear Nonproliferation Treaty (NPT) is unrealistic as North Korea would have little confidence that putative benefits—in particular the ending of nuclear threat against the North by the United States—would be delivered. Moreover, it will take time to actually disarm—and North Korea cannot actually rejoin the NPT until it is fully disarmed. Meanwhile, a framework is needed to manage nuclear threat in the region, and most urgently, North Korea's nuclear threats. The elements that we have included in phase 3 are designed to address the need for such a management framework in a way that is legally binding, flexible enough to include all the parties to the Korean conflict and its resolution, and admits North Korea's anomalous status until it is fully disarmed.

That said, we emphasize that in some sequence, all six elements of a comprehensive security settlement must be included in phase 3, not just a nuclear weapons-free zone. These provide interlocking support to the realization of a comprehensive security settlement that can change the strategic calculus of a state, even one as "hard" as North Korea. Anything less than such a comprehensive approach is liable to fail, with all the predictable consequences for American security, American global leadership, U.S.-Chinese relations, U.S. alliances in the region, and for the Korean peninsula.

Notes

[1] Morton H. Halperin, "A Proposal for a Nuclear Weapons-Free Zone in Northeast Asia", NAPSNet Special Reports, January 03, 2012.

Updated here: Morton H. Halperin, "A comprehensive agreement for security in Northeast Asia", NAPSNet Policy Forum, March 16, 2015.

[2] Supplementary analysis includes: Peter Hayes, "Overcoming U.S.-DRPK Hostility: The Missing Link Between a Northeast Asian Comprehensive Security Settlement and Ending the Korean War," North Korean Review,11:2, Fall 2015, pp. 79-102.

Binoy Kampmark, Peter Hayes, and Richard Tanter, "Summary Report: A New Approach to Security in Northeast Asia-Breaking the Gridlock Workshop", NAPSNet Special Reports, November 20, 2012.

Peter Hayes and Richard Tanter, "Key Elements of Northeast Asia Nuclear-Weapons Free Zone (NEA–NWFZ)", NAPSNet Policy Forum, November 13, 2012.

Leon V. Sigal, "Sanctions easing as a sign of non-hostility", NAPSNet Policy Forum, February 23, 2015.

Thomas Pickering, "Iran and a Comprehensive Settlement", NAPSNet Policy Forum, February 10, 2015.

[3] Such a NWFZ would recognize that the DPRK would come into compliance with full dismantlement only over time and after full restoration of its NPT non-nuclear status. A NWFZ also deepens ROK and Japanese non-nuclear commitments (of value to China); and may facilitate management of nuclear threat by the three Nuclear Weapons States against each other in this region. In return, calibrated to its dismantlement and full compliance, the DPRK would get legally binding guarantees of no nuclear attack by Nuclear Weapons States; and the ROK and Japan immediately get the same legally binding guarantees from China, Russia and U.S. U.S. nuclear extended deterrence to allies continues because if the NWFZ treaty is violated, the United States and allies can revert to reliance on nuclear threat.

[4] After consultation with Chinese colleagues, the authors recognized that China was not capable of assuming a regional leadership role to create such an institutional security framework, but would willingly partner in a regional concert to establish a regional comprehensive security framework with the United States including the elements outlined in this essay. South Korea would follow the U.S. lead. Japan would follow the U.S. and ROK lead. Russia would be a bit player but can provide important reassurance and buttressing of the concept in Pyongyang.

[5] These are two of seven regional orders conceptualized by the U.S. National Intelligence Council; see D. Twining, "Global Trends 2030: Pathways for Asia's Strategic Future," December 10, 2012 and "Global Trends 2030: Scenarios for Asia's Strategic Future," December 11, 2012.

[6] In this "transaction," South Korea will gain from U.S. leadership on the nuclear issue provided it delivers sufficient progress to enable President Moon to implement his domestic policies as his first priority; and the United States will gain from South Korean support in its strategy to avoid North Korea being able to inflict nuclear attacks on the United States itself as well as on Japan. Thus, each party holds sway over the other's ability to realize its highest policy priority.

[7] Since the constitutions of both North and South Korea do not recognize the other as a sovereign entity, the "peace treaty" would involve a DPRK-U.S. normalization treaty and inter-Korean agreement. A four-party peace treaty is possible, but in that case, there must be a new interpretation of constitution in each Korea.

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