

# BACKGROUND

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## Time for “Shock and Awe Sanctions” on North Korea

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### Abstract

*North Korea’s successful test of a hydrogen bomb, test launches of an intercontinental ballistic missile that could eventually threaten the American homeland, and threats to launch missiles at Guam have energized debate over U.S. policy toward Pyongyang. If the U.S. is serious about going after North Korea’s nuclear and missile programs and those that assist it, Washington will have to engage in a more expansive, sustained, and committed campaign. This must include a willingness to sanction Chinese entities. Targeted financial measures, including secondary sanctions, are a component of U.S. laws and executive orders to defend the U.S. financial system from those who would use it for illicit activities. That all of these measures could have been implemented years ago is testament to a collective lethargy, a multinational reluctance to confront North Korean belligerence. Even today, some counsel caution for fear of how North Korea could respond to being held accountable for its transgressions. The United States and other nations should not shirk from their responsibility to stand up to those who would do them harm.*

North Korea’s successful test of a hydrogen bomb, test launches of an intercontinental ballistic missile (ICBM) that could eventually threaten the American homeland, and threats to launch missiles at Guam have energized debate over U.S. policy toward Pyongyang.

Secretary of State Rex Tillerson declared that if North Korea reached a technological level deemed threatening, then military options “were on the table.”<sup>1</sup> National Security Advisor H. R. McMaster commented that President Donald Trump insisted that North Korean ability to target the United States with a nuclear war-

### KEY POINTS

- Negotiations with North Korea have led nowhere. Dialogue requires a willing partner. By word and deed, North Korea has demonstrated that it has no intention of abandoning its nuclear weapons.
- It is time for tough sanctions. When applied correctly, they have worked: Diplomatic pressure, increased financial sanctions, and growing concern of reputational risk from being linked to a heinous regime has led nations, banks, and businesses to reduce business activity, even with legitimate North Korean enterprises.
- The best time to negotiate would be after a rigorous and sustained international pressure campaign. Such a policy also upholds U.S. laws and U.N. resolutions, imposes a penalty on violators, makes it harder for North Korea to import components for its prohibited nuclear and missile programs, and constrains proliferation.
- While leaving the door open for eventual negotiations, the U.S. must ensure that it has sufficient defenses for itself and its allies.

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head was “intolerable,” and had directed the U.S. to prepare a preventive war option that would thwart North Korea’s development of an ICBM.<sup>2</sup>

But shooting down missile test flights that do not clearly pose a security threat to the United States, or conducting military attacks on North Korea, could trigger a war with a nuclear-armed nation that has a large conventional military force poised along the border with South Korea. Such a war risks catastrophic consequences for the United States and its allies. While the U.S. should be steadfast in its defense of its territory and its allies, it should not be overeager to “cry havoc and let slip the dogs of war.”<sup>3</sup>

Conversely, other experts continue to push for a rushed 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 negotiations as long as Pyongyang rejects their core premise, which is the abandonment of its nuclear weapons and programs.<sup>4</sup>

Moreover, dialogue requires a willing partner. By word and deed, North Korea has demonstrated that it has no intention of abandoning its nuclear weapons. Pyongyang has made emphatically clear in both public statements and private meetings that denuclearization is off the table, and that there is nothing that Washington or Seoul could offer to induce the regime to abandon its nuclear arsenal.<sup>5</sup>

The most effective time to engage in negotiations would be after a comprehensive, rigorous, and sustained international pressure campaign. Such a policy also upholds U.S. laws and U.N. resolutions, imposes a penalty on those that violate them, makes it more difficult for North Korea to import components—including money from illicit activities—for its

prohibited nuclear and missile programs, and constrains proliferation. While leaving the door open for eventual negotiations, the U.S. must ensure that it has sufficient defenses for itself and its allies.

## Greater International Response to North Korean Violations

North Korea’s two nuclear tests and numerous missile launches in 2016 produced a new international consensus that stronger measures must be imposed on North Korea in response to its serial violations of U.N. resolutions and international law. Efforts to date have moved forward on three tracks.

**Track 1: U.N. Security Council Resolutions.** In March 2016, the U.N. Security Council approved Resolution 2270, which increased financial sanctions, expanded required inspections of North Korean cargo, and targeted key exports. The resolution banned all financial institutions from initiating or maintaining a correspondent account with North Korea unless specifically approved by the U.N. 1718 Committee.

Given international financial institutions’ extreme sensitivity to reputational risk, the clause should lead to increasing scrutiny of all North Korean financial transactions and greater due diligence to prevent being unwittingly complicit in North Korean illicit activities.

The U.N. resolution was the first one to target North Korean commercial trade, including mineral exports. The resolution also prohibited financial support for trade with North Korea if the financial support could contribute to North Korea’s nuclear or ballistic missile programs.<sup>6</sup> It was notable for requiring mandatory inspections of *all* North Korean cargo

1. James Griffiths, Paula Hancocks, and Alexandra Field, “Tillerson on North Korea: Military Action Is ‘an Option,’” CNN, March 17, 2017, <http://www.cnn.com/2017/03/17/politics/tillerson-south-korea-dmz/index.html> (accessed September 14, 2017).
2. Jason Le Miere, “U.S. Prepared to Launch ‘Preventive War’ Against North Korea, Says H.R. McMaster,” *Newsweek*, August 5, 2017, <http://www.newsweek.com/us-north-korea-war-mcmaster-646942> (accessed September 17, 2017).
3. Bruce Klingner, “Save Preemption for Imminent North Korean Attack,” Heritage Foundation *Backgrounder* No. 3105, March 1, 2017, <http://www.heritage.org/missile-defense/report/save-preemption-imminent-north-korean-attack>.
4. Bruce Klingner, “The Trump Administration Must Recognize the Dangers of Premature Negotiations with North Korea,” Heritage Foundation *Backgrounder* No. 3211, May 11, 2017, <http://www.heritage.org/global-politics/report/the-trump-administration-must-recognize-the-dangers-premature-negotiations>.
5. Bruce Klingner and Sue Mi Terry, “We Participated in Talks with North Korean Representatives. This Is What We Learned,” *The Washington Post*, June 22, 2017, [https://www.washingtonpost.com/opinions/we-participated-in-talks-with-north-korean-representatives-this-is-what-we-learned/2017/06/22/8c838284-577b-11e7-ba90-f5875b7d1876\\_story.html](https://www.washingtonpost.com/opinions/we-participated-in-talks-with-north-korean-representatives-this-is-what-we-learned/2017/06/22/8c838284-577b-11e7-ba90-f5875b7d1876_story.html) (accessed September 14, 2017).
6. United Nations, “Meetings Coverage: Security Council Imposes Fresh Sanctions on Democratic People’s Republic of Korea, Unanimously Adopting Resolution 2270 (2016),” March 2, 2016, <http://www.un.org/press/en/2016/sc12267.doc.htm> (accessed September 20, 2017).

## Like Falling Dominoes: Sanctions Beget Sanctions

Twice in 2016, the European Union augmented its regulations\* against North Korea, banning financial institutions from maintaining correspondent accounts or processing any financial transactions for North Korean entities and requiring inspections of all cargo transiting North Korea.† In 2017, the EU expanded its prohibition on investments in North Korea to new sectors.‡

Switzerland announced in May 2016 that it would apply “considerably tighter sanctions” restricting trade, financial transactions, maritime and air transport, and even some types of technical education with North Korea, and freeze any bank accounts belonging to the Korea Workers’ Party.§

Russia’s central bank ordered Russian banks to halt transactions with North Korea, ban bond transactions with all entities on the U.N. sanctions list, and close any account thought to be linked to Pyongyang’s nuclear and missile programs.||

In March 2017, the Society for the Worldwide Interbank Financial Telecommunication (SWIFT), a Belgium-based international financial-transfer network, banned three North Korean state banks from using the network after U.N. investigators uncovered evidence that the banks continued to access the network despite North Korea’s financial system having been designated a primary money-laundering concern.# A public report by the U.N. Panel of Experts led SWIFT to remove four additional North Korean state-owned banks that still had active bank identifier codes in the SWIFT network.\*\*

\* EUR-Lex, “Council Regulation (EU) 2016/682 of 29 April 2016 Amending Regulation (EC) No 329/2007 Concerning Restrictive Measures Against the Democratic People’s Republic of Korea,” 2016, [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2016.117.01.0001.01.ENG&toc=OJ.L:2016:117:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.117.01.0001.01.ENG&toc=OJ.L:2016:117:TOC) (accessed September 14, 2017).

† Laurence Norman, “European Union Expands Sanctions Against North Korea,” *The Wall Street Journal*, March 31, 2016, <http://www.wsj.com/articles/european-union-expands-sanctions-against-north-korea-1459450223> (accessed September 17, 2017); Laurence Norman, “EU Imposes Further Sanctions on North Korea,” *The Wall Street Journal*, May 19, 2016, <http://www.wsj.com/articles/eu-imposes-further-sanctions-on-north-korea-1463662542> (accessed September 14, 2017); and news release, “North Korea: EU Adopts New Restrictions on Trade, Financial Services, Investment and Transport,” European Council, May 27, 2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/05/27-dprk-new-restrictions/> (accessed September 14, 2017).

‡ News release, “North Korea: EU Expands Sanctions Against the Democratic People’s Republic of Korea (DPRK),” European Council, April 6, 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/04/06-eu-sanctions-dprk/> (accessed September 14, 2017).

§ “North Korea Faces Long List of Swiss Sanctions,” *Swissinfo.ch*, May 18, 2016, [http://www.swissinfo.ch/eng/restricting-trade--cash-and-training\\_north-korea-faces-long-list-of-swiss-sanctions/42163396](http://www.swissinfo.ch/eng/restricting-trade--cash-and-training_north-korea-faces-long-list-of-swiss-sanctions/42163396) (accessed September 14, 2017).

|| “Russia Joins U.N.-Led Sanctions on N. Korea: Media Report,” *Yonhap*, May 20, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/05/20/0401000000AEN20160520003000315.html> (accessed September 14, 2017).

# Jay Solomon, “Swift Banking System Bars North Korean Banks,” *The Wall Street Journal*, March 7, 2017, <https://www.wsj.com/articles/swift-banking-system-bars-several-north-korean-banks-1488937466> (accessed September 14, 2017).

\*\* Katy Burne, “North Korean Banks Under U.S. Sanctions Remain on SWIFT Network,” *The Wall Street Journal*, March 14, 2017, <https://www.wsj.com/articles/north-korean-banks-under-u-s-sanctions-remain-on-swift-network-1489483805> (accessed September 14, 2017).

transiting a country rather than only those suspected of carrying prohibited items.

In November 2016, the U.N. passed Resolution 2321 in response to North Korea’s fifth nuclear test. The resolution expanded on its predecessors by banning exports of some North Korean resources while capping coal exports at \$400 million annually, limiting the number of bank accounts held by North Kore-

an diplomatic posts, requiring closure of foreign bank accounts in North Korea, and adding more North Korean entities to the U.N. sanctions list, including state-owned Air Koryo.

In August 2017, the U.N. passed Resolution 2371 to further augment pressure on the regime. Most notably, the latest resolution completely banned the export of coal, one of North Korea’s largest exports.

If fully implemented, the resolution could eliminate one-third of North Korea's total export revenue.

**Track 2: U.S. Actions.** For years, successive U.S. Administrations have pulled their punches on fully enforcing U.S. laws against North Korean, Chinese, and other violators. Contrary to the mischaracterization that North Korea is the most heavily sanctioned country in the world, the U.S. has sanctioned other countries to a greater degree than North Korea. Prior to 2016, North Korea ranked eighth in U.S.-sanctioned nations, after Ukraine/Russia, Iran, Iraq, the Balkans, Syria, Sudan, and Zimbabwe. Currently, North Korea is the fifth-most sanctioned entity by the U.S.<sup>7</sup>

In February 2016, the U.S. Congress sought to induce greater executive branch action by passing the North Korea Sanctions and Policy Enhancement Act.<sup>8</sup> The legislation closed loopholes, toughened measures, and provided new authorities to the executive branch. That Congress made enforcing some U.S. laws *mandatory* rather than discretionary was a strong, bipartisan rebuke to President Obama's minimalist approach.

The legislation pressed the Obama Administration to take stronger measures against North Korea. The three major actions of the Obama Administration against Pyongyang in 2016<sup>9</sup> were all *required* by provisions in the North Korea Sanctions and Policy Enhancement Act (NKSPEA). Since passage of the law, the number of U.S.-sanctioned entities on North Korea has doubled.<sup>10</sup>

*North Korea as a Money-Laundering Concern.* In June 2016, in accordance with Section 201 of the NKSPEA, the U.S. designated North Korea as a primary money-laundering concern.<sup>11</sup> Washington concluded that the regime "uses state-controlled financial institutions and front companies to con-

duct international financial transactions that support the proliferation and development of WMD and ballistic missiles [and] relies on illicit and corrupt activity of high-level officials to support its government."<sup>12</sup>

The U.S. ruling constrained North Korea's ability to gain hard currency by cutting off the regime's access to the U.S. financial system. Washington banned any U.S. financial institution, as well as all foreign banks' correspondent accounts in the U.S., from processing any transactions on behalf of North Korean financial institutions.

Since the majority of all international financial transactions are denominated in dollars, the U.S. action will force financial entities to choose between doing business with North Korea and maintaining access to the U.S. financial system. Any institution maintaining a correspondent account for a North Korean entity could face fines, seizure of funds, or exclusion from the U.S. financial institution. Foreign banks and businesses will be more reluctant to engage with North Korea even on legitimate business dealings due to increased potential of facing U.S. sanctions themselves.

*North Korea as a Human Rights Violator.* In accordance with Section 304 of the NKSPEA, in July 2016, the Obama Administration imposed sanctions on North Korean leader Kim Jong-un and 15 other entities "for their ties to North Korea's notorious abuses of human rights." Adam Szubin, acting Under Secretary for Terrorism and Financial Intelligence, explained the sanctions were imposed since "[u]nder Kim Jong-un, North Korea continues to inflict intolerable cruelty and hardship on millions of its own people, including extrajudicial killings, forced labor, and torture." North Korea's political prison camp system was cited for "torture, execution, sexual

7. Anthony Ruggiero, "Restricting North Korea's Access to Finance," Foundation for Defense of Democracies, July 19, 2017, [http://www.defenddemocracy.org/content/uploads/documents/Anthony\\_Ruggiero\\_Testimony\\_HFSC.pdf](http://www.defenddemocracy.org/content/uploads/documents/Anthony_Ruggiero_Testimony_HFSC.pdf) (accessed September 15, 2017).

8. H.R.757-North Korea Sanctions and Policy Enhancement Act of 2016, U.S. Congress, February 18, 2016, <https://www.congress.gov/bill/114th-congress/house-bill/757> (accessed September 15, 2017).

9. Human rights-related sanctions, designating North Korea as a money-laundering concern, and sanctioning Chinese entities.

10. Ruggiero, "Restricting North Korea's Access to Finance."

11. 31 U.S. Code, Title 31-Money and Finance Subtitle IV-Money, Chapter 53-Monetary Transactions, Subchapter II-Records and Reports on Monetary Instruments Transactions, Section 5318A-Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern, U.S. Government Publishing Office, <https://www.gpo.gov/fdsys/pkg/USCODE-2013-title31/html/USCODE-2013-title31-subtitleIV-chap53-subchapII-sec5318A.htm> (accessed September 15, 2017).

12. News release, "Treasury Takes Actions to Further Rescind North Korea's Access to the U.S. Financial System," U.S. Department of the Treasury, June 1, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0471.aspx> (accessed September 15, 2017).

assault, starvation, slave labor, and other cruel extrajudicial punishment.”<sup>13</sup>

This was the first time that the U.S. had designated North Korean entities for human rights abuses. The United States had previously sanctioned the leaders of Belarus, Burma, Iraq, Liberia, Libya, Syria, and Zimbabwe for human rights violations.<sup>14</sup> Pyongyang’s atrocities were well-known, particularly since a February 2014 U.N. Commission of Inquiry report, which concluded that North Korea’s human rights violations were so widespread and systemic as to constitute “crimes against humanity.”<sup>15</sup>

*Sanctioning Chinese Violators.* In September 2016, the Treasury and Justice Departments sanctioned five Chinese entities for laundering money for North Korea through 12 Chinese banks into U.S. banks. The Dandong Hongxiang Industrial Development Corporation had conducted \$532 million worth of trade with North Korea from 2011 to 2015. The action, required by the NKSPEA, was the first time the Obama Administration sanctioned a Chinese entity for providing assistance to North Korea’s nuclear weapons program.

In March 2017, the Trump Administration imposed a \$1.2 billion fine on ZTE, China’s largest telecommunications equipment company, for illegally exporting U.S. telecommunications equipment to Iran and North Korea.<sup>16</sup>

In June 2017, the United States identified the Bank of Dandong in China as a primary money-laundering concern and severed its ability to access the U.S. financial system. The bank served as a conduit

for North Korea to access the U.S. and international financial systems. The U.S. assessed that from 2012 to 2015, the bank processed \$786 million in dollar-denominated financial transactions through the U.S. financial system, including activity for U.S.-sanctioned and U.N.-sanctioned North Korean entities linked to the regime’s nuclear and missile programs.<sup>17</sup>

In July 2017, the U.S. District Court for the District of Columbia unsealed a seizure warrant for funds of Dandong Zhicheng Metallic Materials Company that used eight U.S.-based correspondent banks.<sup>18</sup> The Chinese company had processed \$700 million in prohibited North Korea-linked transactions through those U.S. banks since 2009.<sup>19</sup>

**Track 3: Targeting North Korea’s Business Practices.** Diplomatic pressure, increased financial sanctions, and growing concern of reputational risk from being linked to a heinous regime has led nations, banks, and businesses to reduce business activity, even with legitimate North Korean enterprises.

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

Following is a compendium of international actions against North Korea during the past two years:

- **South Korea** terminated its involvement in the inter-Korean economic venture at Kaesong. South Korea’s action severed a critical source of foreign currency for North Korea. Kaesong generated 23

13. Elise Labott and Ryan Browne, “U.S. Sanctions North Korean Leader for First Time Over Human Rights Abuses,” CNN, July 6, 2016, <http://www.cnn.com/2016/07/06/politics/north-korea-kim-jong-un-human-rights/index.html> (accessed September 15, 2017).

14. U.S. Department of State, “Background Briefing on DPRK the Human Rights Abuser Report and Sanctions,” Special Briefing with Senior Administration Officials, U.S. Department of State, July 6, 2016, <https://2009-2017.state.gov/r/pa/prs/ps/2016/07/259394.htm> (accessed September 15, 2017).

15. United Nations, “Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea,” February 2014, <http://www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/CommissionInquiryonHRinDPRK.aspx> (accessed September 15, 2017).

16. “Trump Administration Carrying Out North Korea Sanctions Enacted Under Obama Administration,” *The Hankyoreh*, March 9, 2017, [http://english.hani.co.kr/arti/english\\_edition/e\\_northkorea/785773.html](http://english.hani.co.kr/arti/english_edition/e_northkorea/785773.html) (accessed September 15, 2017).

17. U.S. Department of Treasury, “Treasury Acts to Increase Economic Pressure on North Korea and Protect the U.S. Financial System,” June 29, 2017, <https://www.treasury.gov/press-center/press-releases/Pages/sm0118.aspx> (accessed September 15, 2017), and Anthony Ruggiero, “Trump Acts Against Chinese Bank for North Korean Money Laundering,” *Foundation for Defense of Democracies Policy Brief*, June 30, 2017, <http://www.defenddemocracy.org/media-hit/anthony-ruggiero-trump-acts-against-chinese-bank-for-north-korean-money-laundering/> (accessed September 15, 2017).

18. Bank of America, Bank of New York Mellon, Citibank, Deutsche Bank Trust Company Americas, HSBC, JP Morgan Chase, Standard Chartered Bank, and Wells Fargo.

19. Joshua Stanton, “Maximum Pressure Watch: The Dandong Zhicheng Warrants Foreshadow N. Korea-Related Indictments,” *OneFreeKorea*, July 12, 2017, <http://freekorea.us/2017/07/12/maximum-pressure-watch-the-dandong-zhicheng-warrants-foreshadow-n-korea-related-indictments/#sthash.aoZB1vF6.dpbs> (accessed September 15, 2017).

percent of North Korea's foreign trade (\$2.3 billion of North Korea's annual overall trade of \$9.9 billion) and \$120 million in annual profits.<sup>20</sup>

- **Russian** state-run gas company Gazprom ended plans for energy-related projects with North Korea due to concerns arising from U.N. sanctions.<sup>21</sup>
- **Taiwan** implemented a complete ban on imports of North Korean coal, iron ore, some other minerals and textiles, and suspended export of oil and liquefied natural gas to North Korea.<sup>22</sup>
- **Uganda** directed that all North Korean military and police personnel should depart the country and that it was severing military and security ties with Pyongyang, which had been a source of revenue for the regime. There were approximately 50 North Korean military and police training officials. U.N. resolutions preclude North Korea from engaging in weapons trades or military training with other countries.<sup>23</sup>
- **Sudan** severed military ties with North Korea. In November 2016, Sudanese Foreign Minister Ibra-
- him Ghandour declared there was no longer any military or diplomatic cooperation with North Korea and that all diplomats had been removed.<sup>24</sup>
- **Namibia** halted economic ties with two North Korean state-run companies that had built a munitions factory, a violation of U.N. resolutions. The North Korean entities were Korea Mining Development Trading Corporation (KOMID), which is on the U.N. list of sanctioned entities for earning foreign cash via illicit arms deals, and its affiliate Mansudae Overseas Projects.<sup>25</sup> Africa has been an important arms market for North Korea.
- **Angola** suspended all commercial trade with North Korea,<sup>26</sup> **South Africa** stopped military cooperation and weapons deals,<sup>27</sup> and **Uzbekistan** demanded the departure of all North Korean diplomats and the closure of the North Korean embassy.<sup>28</sup>
- **Bangladesh, Burma, Kuwait, Mexico, Peru, Spain, and South Africa** have expelled North Korean diplomats.<sup>29</sup>

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20. Kim Tong-hyung, "How Impoverished but Nuclear-armed North Korea Earns Money," *The Morning Journal*, February 12, 2016, <http://www.morningjournal.com/article/MJ/20160212/NEWS/160219852> (accessed September 17, 2017), and "S. Korea Starts Withdrawing Nationals from Kaesong Complex," Yonhap, February 11, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/02/11/64/0401000000AEN20160211002800315F.html> (accessed September 15, 2017).
  21. "N.Korean Arms Dealers Run Out of Safe Havens," *The Chosun Ilbo*, April 29, 2016, [http://english.chosun.com/site/data/html\\_dir/2016/04/29/2016042901075.html](http://english.chosun.com/site/data/html_dir/2016/04/29/2016042901075.html) (accessed September 15, 2017).
  22. Park Boram, "Tightening Global Sanctions Hurting N. Korea's Diplomatic Ties, Overseas Commerce," Yonhap, September 29, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/09/29/0401000000AEN20160929012800315.html> (accessed September 15, 2017), and "Taiwan Suspends Oil Exports to North Korea, Imports of Clothing," Reuters, September 19, 2017, <https://www.reuters.com/article/us-northkorea-missiles-taiwan/taiwan-suspends-oil-exports-to-north-korea-imports-of-clothing-idUSKCN1BU18I> (accessed September 20, 2017).
  23. Kang Jin-kyu and Jeong Yong-soo, "Uganda Tells North Koreans to Go Back Home," *Korea Joongang Daily*, June 9, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3019773> (accessed September 15, 2017).
  24. Leo Byrne, "Sudan Cuts Military Ties with North Korea," *NK News*, November 2, 2016, <https://www.nknews.org/2016/11/sudan-cuts-military-ties-with-north-korea/> (accessed September 15, 2017).
  25. "Namibia Cuts Ties with North Korea State Firms: South Korea Government, Media," Reuters, July 1, 2016, <http://www.reuters.com/article/us-northkorea-namibia-idUSKCN0ZH3PW> (accessed September 15, 2017).
  26. "Squeezing North Korea: Old Friends Take Steps to Isolate Regime," Reuters, September 26, 2016, <http://www.reuters.com/article/us-northkorea-nuclear-squeeze-idUSKCN1V0WE> (accessed September 15, 2017).
  27. "12 Countries Downgrade Ties with N.Korea," *The Chosun Ilbo*, October 4, 2016, [http://english.chosun.com/site/data/html\\_dir/2016/10/04/2016100401346.html](http://english.chosun.com/site/data/html_dir/2016/10/04/2016100401346.html) (accessed September 15, 2017).
  28. Lee Yong-soo, "N.Korean Embassy in Uzbekistan Shut Down," *The Chosun Ilbo*, August 22, 2016, [http://english.chosun.com/site/data/html\\_dir/2016/08/22/2016082201134.html](http://english.chosun.com/site/data/html_dir/2016/08/22/2016082201134.html) (accessed September 15, 2017).
  29. Daniel R. Russel, "The Persistent Threat of North Korea and Developing an Effective U.S. Response," testimony before the Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy, Foreign Relations Committee, U.S. Senate, September 28, 2016, <https://2009-2017.state.gov/p/eap/rls/rm/2016/09/262528.htm> (accessed September 15, 2017), and Lee Sung-eun, "Four Counties Expel North Korean Diplomats," *Joongang Daily*, September 20, 2017, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3038634> (accessed September 20, 2017).

- **India** announced it would halt all trade, except for food and medicine, as of April 2017. India had been North Korea's third-largest trading partner after China and Saudi Arabia. India will also freeze all North Korean funds and financial assets on its territory.<sup>30</sup>
- **Kuwait** plans to end its commercial and financial transactions with North Korea and discontinue visas for North Korean workers.<sup>31</sup>
- **Conventional arms sales.** North Korean officials tied to illegal sales of conventional arms were deported from Burma, Egypt, and Vietnam. Pyongyang reportedly earned \$300 million in hard currency from arms sales in 2015.<sup>32</sup> China arrested dozens of smugglers involved in illegal arms trafficking with North Korea. The arms smuggling was reportedly coordinated by North Korea's Second Economic Committee, which is the central coordinating body of North Korea's military and defense industry and a U.N.-sanctioned entity.<sup>33</sup>
- **Overseas restaurants.** Kim Jong-un expanded North Korean restaurants overseas to generate additional money for the regime. A high-ranking North Korean military defector estimated the regime's restaurants in China contributed \$200 million annually to the regime.<sup>34</sup> At least 30 of North Korea's overseas restaurants have closed due to dwindling business brought on by sanctions, China's anti-hedonism rules, and the South Korean government calling on its citizens to avoid the restaurants.<sup>35</sup>
- **Trading companies.** North Korean trading companies sent to China to earn hard currency have begun defaulting on payments to Chinese creditors and finding it harder to obtain lines of credit. A North Korean source reported: "Companies under the Ministry of External Economic Affairs and other trade agencies have begun experiencing a severe foreign currency crisis." Even Prime Minister Pak Pong-ju and Office 39, the North Korean leadership's money-laundering organization, suffered foreign-currency shortages.<sup>36</sup>
- **Transportation organizations.** Cambodia, Mongolia, and Singapore have revoked their permission for North Korean ships to sail under their national flag, which Pyongyang had used to evade sanctions.<sup>37</sup> North Korea's Ocean Maritime Management Company, sanctioned by the U.N., has been essentially shut down and its ships denied access to ports.<sup>38</sup> Kuwait, Pakistan, and Thailand no longer allow Air Koryo to land in their countries, leaving only Russia and China to allow flights.<sup>39</sup>

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30. Ivana Kottasova and Sugam Pokharel, "North Korea Cut Off by 3rd Biggest Trading Partner," CNN Money, May 1, 2017, <http://www.loopng.com/global-news/north-korea-cut-3rd-biggest-trading-partner-57983> (accessed September 15, 2017).
  31. "Kuwait to End Commercial Ties, with N. Korea, Visa Issuance for Its Workers: Envoy," Yonhap, August 14, 2017, <http://english.yonhapnews.co.kr/northkorea/2017/08/14/0401000000AEN20170814008400315.html> (accessed September 15, 2017).
  32. "N.Korean Arms Dealers Run Out of Safe Havens," *The Chosun Ilbo*.
  33. "China Arrests Dozens of Smugglers Trading Weapons with N. Korea," Yonhap, June 16, 2016, <http://english.yonhapnews.co.kr/news/2016/06/16/0200000000AEN20160616008700315.html> (accessed September 15, 2017).
  34. Choi Song Min, "From Cash Cow to Moribund in a Matter of Months," *Daily NK*, June 8, 2016, <http://www.dailynk.com/english/read.php?catald=nk00300&num=13932> (accessed September 15, 2017).
  35. Ibid., and Jiang Jie, "NK Restaurants in China Falter as Staff Defect, Profits Decline," *Global Times*, May 25, 2016, <http://www.dailynk.com/english/read.php?catald=nk00300&num=13932> (accessed September 15, 2017).
  36. Joshua Stanton, "North Korean Trading Companies Can't Pay their Chinese Creditors Because of Sanctions," One Free Korea, June 22, 2016, <http://freetokorea.us/2016/06/22/north-korean-trading-companies-cant-pay-chinese-creditors-because-of-sanctions/> (accessed September 15, 2017), and Choi Song Min, "Sanctions Drive Trading Companies to Default on Payments," *Daily NK*, June 21, 2016, <http://www.dailynk.com/english/read.php?num=13953&catald=nk01500> (accessed September 15, 2017).
  37. Boram, "Tightening Global Sanctions Hurting N. Korea's Diplomatic Ties, Overseas Commerce," Yonhap, September 29, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/09/29/0401000000AEN20160929012800315.html> (accessed September 15, 2017), and Russel, "The Persistent Threat of North Korea and Developing an Effective U.S. Response."
  38. Russel, "The Persistent Threat of North Korea and Developing an Effective U.S. Response."
  39. "N. Korea's Air Koryo Operates Flights to Only China, Russia," *Korea Times*, October 25, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/10/25/90/0401000000AEN20161025003000315F.html> (accessed September 15, 2017).

■ **Overseas workers.** Malta, Poland, and Qatar have stopped issuing work visas to North Korean workers in response to human rights abuses.<sup>40</sup> Oman repatriated 300 North Korean workers who had been involved in construction projects in response to greater international scrutiny.<sup>41</sup> Singapore will tighten control on North Korea immigrants by revoking North Korea's visa-waiver status. Singapore was one of the few countries that allowed North Korean citizens to enter without a visa.<sup>42</sup> In March 2017, Malaysia cancelled its visa-waiver program with North Korea after the assassination of Kim Jong-nam, Kim-Jong-un's half-brother, at the airport in Kuala Lumpur. The South Korean foreign ministry indicated that other countries in Africa, the Middle East, and Europe have also taken steps to reduce the number of North Korean laborers.<sup>43</sup>

### North Korea Turning to Desperate Measures

Collectively, the sanctions and measures to target North Korea's financial resources have forced the regime to switch to less effective means to acquire and transfer currency, as well as increasing stress on the elites and regime.

International financial actions taken against North Korea have led the regime to turn to desperate measures to gain foreign currency:

■ **Currency counterfeiting.** North Korea appears to have resumed its currency-counterfeiting opera-

tions. Starting in March 2016, high-quality counterfeit \$100 bills were discovered in China, and the regime is also suspected of counterfeiting the Chinese renminbi. A North Korean agent from the Operations Department, the agency responsible for intelligence and espionage operations, was arrested in the Chinese border city of Dandong and charged with distributing the counterfeit U.S. currency. The U.S. Treasury Department previously cited North Korea as responsible for producing high-quality counterfeit \$100 bills ("supernotes").<sup>44</sup>

■ **Cyber bank robbery.** In February 2016, North Korea conducted the first government-sponsored digital bank robbery. North Korean hackers gained access to the Society for Worldwide Interbank Financial Telecommunication (SWIFT)—the system used by central banks to authorize monetary transfers—to steal \$81 million. The regime had attempted to send money-transfer requests of \$951 million from the Central Bank of Bangladesh to banks in the Philippines, Sri Lanka, and other parts of Asia.<sup>45</sup>

□ North Korean hackers also targeted the World Bank, the European Central Bank, 20 Polish banks, large American banks, such as Bank of America,<sup>46</sup> as well as financial institutions in Costa Rica, Ecuador, Ethiopia, Gabon, India, Indonesia, Iraq, Kenya, Malaysia, Nigeria, Poland, Taiwan, Thailand, and Uruguay.<sup>47</sup>

40. Hyun Yun-kyung and Lee Joon-seung, "Malta Has Stopped Issuing Work Visas for N.Koreans: Foreign Minister," Yonhap, July 31, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/07/31/0401000000AEN20160731000200315.html> (accessed September 15, 2017).

41. Elizabeth Shim, "Hundreds of North Korea Workers in Oman Sent Home, Report Says," UPI, December 29, 2016, [http://www.upi.com/Top\\_News/World-News/2016/12/29/Hundreds-of-North-Korea-workers-in-Oman-sent-home-report-says/2551483031058/](http://www.upi.com/Top_News/World-News/2016/12/29/Hundreds-of-North-Korea-workers-in-Oman-sent-home-report-says/2551483031058/) (accessed September 15, 2017).

42. Countries that continue to provide visa waivers to North Korea are Dominican Republic, Ecuador, Gambia, Haiti, Malaysia, and a few other small countries. "Singapore to Exclude N.Korea from Visa Waiver Countries List in October," Yonhap, July 31, 2016, <http://english.yonhapnews.co.kr/news/2016/07/31/0200000000AEN20160731002100315.html?input=sns> (accessed September 15, 2017).

43. "Poland Stops Receiving N. Korean Workers Amid Sanctions," Yonhap, June 7, 2016, <http://english.yonhapnews.co.kr/northkorea/2016/06/07/0401000000AEN20160607009900315.html> (accessed September 15, 2017).

44. U.S. Federal Reserve, "North Korea and the Supernote," September 2006, <https://www.federalreserve.gov/boarddocs/rptcongress/counterfeit/default.htm#toc6.5.7> (accessed September 15, 2017).

45. Nicole Perloth and Michael Corkery, "North Korea Linked to Digital Attacks on Global Banks," *The New York Times*, May 26, 2016, <http://www.nytimes.com/2016/05/27/business/dealbook/north-korea-linked-to-digital-thefts-from-global-banks.html?ref=dealbook&mtrref=news.blogs.nytimes.com&gwh=B571811569BAD1B83C5914D567DBF9E9&gwt=pay> (accessed September 15, 2017).

46. Paul Mozur and Choe Sang-hun, "North Korea's Rising Ambition Seen in Bid to Breach Global Banks," *The New York Times*, March 25, 2017, <https://www.nytimes.com/2017/03/25/technology/north-korea-hackers-global-banks.html> (accessed September 17, 2017).

47. Jose Pagliery, "North Korea-Linked Hackers Are Attacking Banks Worldwide," CNN, April 4, 2017, <http://www.cnn.com/2017/04/03/world/north-korea-hackers-banks/> (accessed September 15, 2017).

- **Selling off fishing rights.** The regime sold its fishing rights in its territorial waters to China in both the East and West (Yellow) Seas in order to gain foreign currency. North Korea earns an estimated \$74 million annually by selling fishing rights in both seas, according to the South Korean National Intelligence Service.<sup>48</sup>

### How North Korea Evades Sanctions

Although the North Korean nuclear and missile programs are indigenous, the regime requires access to foreign technology, components, hard currency, and the international financial system. In 2017, the U.N. Panel of Experts concluded that, far from being isolated, North Korea continued to circumvent sanctions through “evasion techniques that are increasing in scale, scope and sophistication.”

Pyongyang maintains covert access to the international banking system through a “global array of overseas networks [that] make up a complex overseas financing and procurement system designed to raise the funds and materials North Korea needs for its regime security and weapons programs.”<sup>49</sup>

The U.N. panel assessed that most of North Korea’s financial transactions continue to be denominated in U.S. dollars and thus go through the U.S. banks.<sup>50</sup> The U.S. Treasury Department also found that designated North Korean banks still conduct financial transactions through the American banking system.<sup>51</sup>

North Korean networks in China are a critical component of the regime’s strategy for evading sanctions:

- In September 2016, the Justice Department found that from 2009 to 2015, Chinese nationals had used 22 front companies to open accounts in Chinese banks to conduct dollar transactions through the U.S. financial system for sales to Pyongyang on behalf of a sanctioned North Korean entity.<sup>52</sup>
- The U.N. identified dozens of Chinese firms linked to sanctioned North Korean entities and cited the Bank of China for helping a North Korean entity move \$40 million through U.S. banks. The U.N. panel showed how North Korea acquired missile components via Chinese firms.<sup>53</sup>
- For years, Korea Kwangsong Bank accessed the financial system illegally through a Chinese conglomerate, Dandong Hongxiang Industrial Development (DHID). The U.S. eventually indicted DHID, froze its assets, and filed a complaint to forfeit its accounts in a dozen Chinese banks.<sup>54</sup>
- The U.N. Panel of Experts suspects that at least four U.N.-designated North Korean banks continue to operate from Chinese territory.

The U.N. Panel of Experts identified a characteristic that makes enforcing sanctions against North Korea easier than against Iran: “A *limited number of* trusted individuals appear to serve as the networks’ key nodes.... Although shell companies can be swiftly changed, the individuals responsible for establishing and managing them have remained, often for years.”<sup>55</sup>

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48. Yi Whan-woo, “N.Korea Sold East Sea Fishing Rights to China,” *Korea Times*, August 11, 2016, [http://www.koreatimes.co.kr/www/news/nation/2016/08/485\\_211669.html](http://www.koreatimes.co.kr/www/news/nation/2016/08/485_211669.html) (accessed September 15, 2017).

49. David Thompson, “Risky Business: A System-Level Analysis of the North Korean Proliferation Financing System,” C4ADS, June 2017, <https://c4ads.org/risky-business> (accessed September 20, 2017).

50. United Nations Security Council, “Letter dated 17 February 2017 from the Panel of Experts established pursuant to resolution 1874 (2009) addressed to the President of the Security Council,” February 27, 2017, <https://assets.documentcloud.org/documents/3482392/NORTH-KOREA-REPORT.pdf> (accessed September 15, 2017).

51. Joshua Stanton and Anthony Ruggiero, “North Korea’s Nuclear Blackmail: Trump, Make Sanctions Work Again,” *The Hill*, April 3, 2017, <http://thehill.com/blogs/pundits-blog/foreign-policy/326974-trump-make-north-korea-sanctions-work-again> (accessed September 15, 2017).

52. Anthony Ruggiero, “Severing China-North Korea Financial Links,” CSIS, April 3, 2017, <https://www.csis.org/analysis/severing-china-north-korea-financial-links> (accessed September 15, 2017).

53. David Feith, “The North Korean Sanctions Myth,” *The Wall Street Journal*, March 27, 2017, <https://www.wsj.com/articles/the-north-korea-sanctions-myth-1490642563> (accessed September 15, 2017).

54. Joshua Stanton, “For North Korean Banks, 2016 Has Been Like that Corleone Baptism Montage,” One Free Korea, December 7, 2016, <http://freekorea.us/2016/12/07/for-north-korean-banks-2016-has-been-like-the-corleone-baptism-scene/#sthash.wiO353uC.dpbs> (accessed September 15, 2017).

55. “Note by the President of the Security Council, United Nations Security Council,” February 23, 2015, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2015/131](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2015/131) (accessed September 15, 2017). Emphasis added.

While identifying the covert networks is difficult, “by hiding their illicit activities within the global financial network, the North Korean agents leave behind a digital trail within public records, and other data sources, and are acutely vulnerable to targeted sanctions.”<sup>56</sup>

A groundbreaking report by C4ADS, a small non-governmental organization using publicly available unclassified data, discovered that China “represents about 85% of total North Korean trade. Yet, this entire trading system has consisted of only 5,233 companies from 2013 to 2016 [that] play a disproportionately large role.” Of those firms, a “disproportionate share of that trade is centralized among an even smaller number of large-scale trading firms [so that] the top ten importers of North Korean goods in China in 2016 controlled just shy of 30% of the market.” In turn, those trading firms are controlled by a very small number of key executives.<sup>57</sup>

C4ADS concluded that North Korea has become increasingly reliant on a small number of “gateway firms” operating across multiple covert networks that could become strategic chokepoints for targeted sanctions. As such, the North Korean network in China is “centralized, limited, and therefore vulnerable.”

### **Tightening the Economic Noose**

The very limited and centralized nature of the North Korean network means that targeting a relatively small number of key nodes can have disproportionate disruptive ripple effects affecting multiple networks across multiple countries. Every law enforcement action could induce remaining components of the network to make routes, bank accounts, and procedures less effective as means of acquiring and transferring components and currency. Even legitimate businesses will become more fearful of being entangled in illicit activity and more fully implement required due-diligence measures.

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.

North Korea adapted to increasing international pressure by altering its modus operandi, including using shell companies and shifting to sophisticated Chinese networks more integrated into the global economy. But international law enforcement efforts did not keep pace. The U.N. Panel of Experts blamed the lack of success of strengthened international sanctions on a lack of “requisite political will, prioritization and resource allocation to ensure effective implementation.” Numerous countries are not implementing and enforcing legislation as well as not performing necessary due diligence, which enables North Korea to continue prohibited activities.<sup>58</sup>

Sanctions enforcement must be flexible, innovative, and adaptive to the changing tactics of the target, rather than abandoning efforts to uphold law and order as too difficult. As North Korea shifted to Chinese brokers, the U.N. and U.S. agencies should have begun including them on sanctions lists.

A Stockholm International Peace Research Institute study from 2014 found that 91 percent of U.S.-targeted and 84 percent of U.N.-targeted entities were North Korean, but that 74 percent of sanctions-evading networks identified in the report were third-country (non-North Korean) entities.<sup>59</sup>

Presently, only 12 percent of U.S. sanctions to curtail North Korea’s nuclear and missile programs are targeted at non-North Korean entities, whereas only 2 percent of U.N. sanctions are focused on non-North Korean entities.<sup>60</sup>

### **Raising the Cost of North Korean Defiance**

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. reso-

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56. The Asan Institute for Policy Studies and C4ADS, “In China’s Shadow: Exposing North Korean Overseas Networks,” August 2016, <http://en.asaninst.org/contents/in-chinas-shadow/> (accessed September 15, 2017).

57. Thompson, “Risky Business: A System-Level Analysis of the North Korean Proliferation Financing System.”

58. United Nations, “Letter dated 17 February 2017 from the Panel of Experts established pursuant to resolution 1874 (2009) addressed to the President of the Security Council.”

59. The Asan Institute for Policy Studies and C4ADS, “In China’s Shadow.”

60. Ruggiero, “Restricting North Korea’s Access to Finance.”

lutions. The U.N., the U.S., and the European Union have not yet imposed as stringent economic restrictions on North Korea as they 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.

It is possible to influence foreign entities' actions both through direct legal action as well as changing their cost-benefit analysis of economically engaging with Pyongyang. In 2005, the U.S. declared Macau-based Banco Delta a "money laundering concern," which, accompanied by U.S. officials' *sub rosa* meetings throughout Asia, led 24 financial institutions, including nations and the Bank of China, to sever relations with Pyongyang.

The U.S. must go beyond sanctions and diplomacy to include a full-court press to diplomatically and economically isolate North Korea from the international community and introduce tremors into regime stability.

Washington should lead a worldwide 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.

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 tried, often repeatedly, and failed.

## What the U.S. Should Do

**Isolate North Korea Economically and Diplomatically.** Prior to 2016, the U.N. and U.S. sanctions were narrowly target-based, which was different from the broader sector-based sanctions imposed

on Iran. The differences between the North Korean and Iranian approaches were the difference between law enforcement and economic warfare. The latter approach should now be applied to North Korea.

- **Cut off the flow of foreign currency into North Korea.** The Financial Action Task Force, an international organization that sets anti-money-laundering standards, has called on its members to sever ties with North Korean banks and terminate correspondent accounts. The organization is comprised of 35 nations and two regional organizations, including China, Japan, South Korea, and the U.S.<sup>61</sup>
- **Target any entity suspected of aiding or abetting North Korean nuclear, missile, and conventional arms development; criminal activities; money laundering; or import of luxury goods.** Such targeted financial measures should include seizing and freezing of assets, imposing significant fines, and prohibiting access to the U.S. financial system as well as targeting overseas assets, business ventures, and bank accounts associated with any prohibited or illegal activity.
- **Ban any entity that trades with North Korea from being allowed to access the U.S. financial system,** regardless of whether that trade activity violates U.N. resolutions.
- **Encourage North Korea's business partners to sever their relationships** by underscoring the reputation risk of being associated with a regime that exploits its overseas workers and conducts crimes against humanity and terrorist acts against civilians.
- **Advocate additional U.N. measures and assess unilateral U.S. steps to more broadly target North Korea's national economy,** including a global embargo to cut off North Korean access to oil, trade, currency, and financial markets. There is precedent for such a move. In November 1963, the U.N. General Assembly, in Resolution 1899 (XVIII), urged all U.N. member

61. "Anti-Money Laundering Body Calls for Cutting Ties with N. Korean Banks," Yonhap, October 24, 2016, <http://english.yonhapnews.co.kr/national/2016/10/24/0301000000AEN20161024008800320.html> (accessed September 15, 2017).

states to refrain from providing petroleum to South Africa for its policy of apartheid.

- **Ban North Korea from international cultural, educational, sporting, and other exchanges, including the Olympics**, as the U.N. requested in December 1968 that all states and organizations do so with the apartheid regime of South Africa. Pretoria was banned from participating in the Olympic Games.

**Fully Enforce U.S. Laws.** For too long, successive Administrations have used sanctions as a calibrated and incremental diplomatic response to North Korean provocations rather than a law enforcement measure defending the U.S. financial system.

Washington should sanction all entities violating U.S. laws, executive orders, and regulations rather than, as in the past, doling out a few entities to be designated after each North Korean violation. Sanctions do not enforce themselves, they require active continuous implementation.

Doing so, however, requires resolve and political will to sustain a comprehensive long-term campaign against a growing threat to the United States and the international community. It also entails devoting requisite resources, personnel, and funding at the Departments of State and Treasury and other agencies for the extensive and time-consuming detective work required to assemble evidence and designate entities violating U.S. law.

**End the de Facto Chinese Immunity from U.S. Law.** Beijing has not paid a price for its lackadaisical enforcement of U.N. sanctions and turning a blind eye to North Korean proliferation and illicit activity occurring on Chinese soil. For whatever misguided reasons, Washington has long covered from targeting Chinese violators of U.S. laws out of fear of undermining perceived assistance in pressuring North Korea or economic retribution against U.S. economic interests.<sup>62</sup>

Dennis Wilder, former Senior Director for Asia at the National Security Council commented, “Every time we got close to putting in secondary sanctions, the Chinese agree to do a little more [to apply pressure on North Korea]. They’ve been very good at playing the game of ratcheting up pressure on North Korea at times when it helps them avoid us imposing sanctions.”<sup>63</sup>

U.S. officials privately comment that they have lists of North Korean and Chinese entities for which they have sufficient evidence to enforce U.S. law and impose sanctions but were prevented from doing so. The U.S. government knew about Dandong Hongxiang’s activities for six years before taking any action, according to former U.S. Treasury official Anthony Ruggiero.<sup>64</sup>

The NKSPEA mandates secondary sanctions on third-country (including Chinese) banks and companies that violate U.N. sanctions and U.S. law. The U.S. should penalize all entities, particularly Chinese financial institutions and businesses that trade with those on the sanctions list, export prohibited items, or maintain correspondent accounts for North Korean entities.

Washington should impose significant fines on China’s largest four banks at a commensurate level to the \$12 billion in fines the U.S. levied on European banks for money laundering for Iran.<sup>65</sup> The U.S. should designate as money-laundering concerns any medium and small Chinese banks or businesses complicit in prohibited North Korean activities. The U.S. has not imposed any fines on a single Chinese bank and only recently designated the Bank of Dandong as a primary money-laundering concern.

The U.S. must separate law enforcement measures to protect America’s financial system from diplomatic attempts to encourage Beijing to more fully implement required U.N. sanctions. Any entity that enters the U.S. financial system is subject to its rules and regulations, regardless of country of origin. The U.S. is not only allowed but required to take action.

62. Bruce Klingner, “Chinese Foot-Dragging on North Korea Thwarts U.S. Security Interests,” Heritage Foundation *Backgrounder* No. 3138, August 11, 2016, <http://www.heritage.org/defense/report/chinese-foot-dragging-north-korea-thwarts-us-security-interests>.

63. Josh Meyer, “Failure to Sanction China Helped North Korea, Former Officials Say,” *Politico*, April 16, 2017, <http://www.politico.com/story/2017/04/north-korea-china-sanctions-237238> (accessed September 15, 2017).

64. *Ibid.*

65. In most cases, the U.S. authority was the International Emergency Economic Powers Act. In the case of BNP Paribas, the authority was the Sudanese Sanctions Regulations, 31 C.F.R. part 538; the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560; the Cuban Assets Control Regulations, 31 C.F.R. part 515; and the Burmese Sanctions Regulations, 31 C.F.R. part 537.

Imposing secondary sanctions, or even fearing a Damocles sword of their future imposition, can push foreign banks and businesses to abandon dealing with North Korea, even on legitimate business ventures, lest they face U.S. fines, asset seizure, and preclusion from accessing the all-important U.S. financial system.

The U.S. should make clear to Beijing that actions are against entities violating laws, not the Chinese government. That said, Chinese government reluctance to uphold laws raises suspicions of Chinese complicity.

**Ban North Korean Workers Overseas, Who Are Exploited in Highly Abusive Conditions.** Workers often operate in violation of international labor laws. The North Koreans are stripped of their passports, forced to perform labor in unsafe or exploitative conditions often without compensation, and have their wages paid directly to the regime which dispenses only a fraction to the workers.<sup>66</sup>

North Korea has an estimated 60,000 to 100,000 overseas workers in 50 countries, mainly China and Russia, earning the regime between \$1.2 billion and \$2.3 billion annually in foreign currency.<sup>67</sup> Other experts estimate the figure is lower, approximately \$300 million to \$400 million annually.<sup>68</sup>

The U.S. should push for a U.N. ban on North Korean overseas laborers, which would end exploitative labor practices and eliminate a source of regime revenue. In 2016, U.S. Executive Order 13722, promulgated to implement the NKSPEA, blocks the property of any person found to “have engaged in, facilitated, or been responsible for the exportation of workers from North Korea, including exportation to generate revenue for the Government of North Korea or the Workers’ Party of Korea.”<sup>69</sup>

**Target North Korean Human Rights Violations.** Advocacy for human rights must be a part of

a comprehensive U.S. policy on North Korea. Stigmatizing the regime for its barbaric treatment of its people is consistent with American values and principles, provides an additional means to sanction the regime, and provides greater traction in gaining international condemnation and punitive action against Pyongyang.

Executive Order 13687, issued in 2015, declared that North Korea’s “serious human rights abuses constitute a continuing threat to the national security, foreign policy, and economy of the United States.” Since the July 2016 designation of Kim Jong-un and other North Korean entities, the United States has not taken any additional measures against North Korean human rights abusers. Washington should exponentially expand the list of North Korean entities sanctioned for human rights violations and lead an energetic public diplomacy effort to shame foreign businesses away from dealing with North Korea.

**Return North Korea to the “State Sponsors of Terrorism” List.** Since the U.S. removed North Korea from the State Sponsors of Terrorism List in 2008 in a failed attempt to stimulate progress in the Six-Party Talks nuclear negotiations, the regime has conducted a number of violent acts that justify its re-designation. Under various statutes of U.S. law (the most relevant being 18 U.S. Code § 2331), international terrorism is defined as acts that:

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

66. Greg Scarlatoiu, “Congressional Testimony: North Korea’s Forced Labor Enterprise: A State-Sponsored Marketplace in Human Trafficking,” The Committee for Human Rights in North Korea, April 29, 2015, <http://www.hrnk.org/events/congressional-hearings-view.php?id=11> (accessed September 15, 2017).

67. Kim Tong-hyung, “How Impoverished but Nuclear-armed North Korea Earns Money,” Associated Press, February 12, 2016, [http://host.madison.com/travel/national/how-impoverished-but-nuclear-armed-north-korea-earns-money/article\\_2d640cfa-377b-597d-b358-1dcdb1ecbf09.html](http://host.madison.com/travel/national/how-impoverished-but-nuclear-armed-north-korea-earns-money/article_2d640cfa-377b-597d-b358-1dcdb1ecbf09.html) (accessed September 15, 2017).

68. “N. Korea’s Treatment of Its Laborers Abroad Is Scandalous Abuse,” *The Chosun Ilbo*, February 22, 2016, [http://english.chosun.com/site/data/html\\_dir/2016/02/22/2016022201738.html](http://english.chosun.com/site/data/html_dir/2016/02/22/2016022201738.html) (accessed September 15, 2017).

69. Executive Office of the President, “Blocking Property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea,” *Federal Register*, March 18, 2016, <https://www.federalregister.gov/documents/2016/03/18/2016-06355/blocking-property-of-the-government-of-north-korea-and-the-workers-party-of-korea-and-prohibiting> (accessed September 15, 2017).

- (i) to intimidate or coerce a civilian population;
- (ii) to influence the policy of a government by intimidation or coercion; or
- (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and would be a criminal violation if committed within the jurisdiction of the United States and are intended to intimidate or coerce a civilian population.<sup>70</sup>

After its cyberattack on Sony Pictures, North Korea threatened “9/11-type attacks” against U.S. theaters to intimidate patrons from viewing the movie *The Interview*, which ridiculed Kim Jong-un. North Korea has also been involved in cyberattacks on South Korean government agencies, businesses, banks, and media organizations; attempted assassinations against North Korean defectors and South Korean intelligence agents; and shipments of conventional weapons to Hamas, Hezbollah, Iran, and Syria.<sup>71</sup>

**Increase Information Operations to Promote Greater North Korean Exposure to the Outside World.** Promoting democracy and access to information in North Korea is in both the strategic and humanitarian interests of the United States. Improving access to information will help the people of North Korea and provide a means of influencing North Korea from the inside out. As demonstrated by U.S. and West German efforts during the Cold War, technology and media can play a crucial role in undermining totalitarian regimes.<sup>72</sup>

The United States and South Korea should expand broadcasting services, such as by Radio Free Asia, and distribution of leaflets, DVDs, computer flash drives, documentaries, and movies into North

Korea through both overt and covert means. South Korea should look into the potential for generating cell phone transmissions, potentially using the frequency of the network created by the Egyptian firm Orascom, to enable North Korean citizen communication with the outside world. Subversive coercive information operations exposing the true nature of the regime could sow domestic dissent against the regime.

**Impose a Travel Ban on U.S. Citizens to North Korea.** Banning tourist travel to North Korea would protect additional Americans from being arrested on trumped up charges and sentenced to excessively lengthy and arduous imprisonment. While the U.S. government rightfully hesitates in curtailing Americans’ right to travel, there are occasions where public safety considerations require such action.

A ban would also reduce, albeit on a small scale, funds to the regime. The State Department recently announced a restriction on the use of American passports to travel to North Korea.<sup>73</sup> There will be exemptions to enable humanitarian, journalist, and government travel.

The U.S. should augment the passport restriction with legislation banning “transactions incident to travel to, from, and within North Korea.” Such a provision would ban dollar-denominated travel to North Korea regardless of the nationality of the traveller. The U.S. could also impose a “secondary immigration sanction on North Korea, one that would make any recent non-U.S.-citizen travelers to North Korea ineligible for admission into the United States.”<sup>74</sup>

The U.S. should encourage China to also implement a travel ban on its citizens traveling to North Korea. Beijing demonstrated it can and would do so over its disagreement with Seoul over the THAAD deployment. Beijing pressured Chinese tourists

70. 18 U.S. Code § 2331-Definitions, Cornell University Law School, <http://www.law.cornell.edu/uscode/text/18/2331> (accessed January 11, 2016).

71. For a more complete listing of North Korean terrorist-related actions, see Bruce Klingner, “Moving Beyond Timid Incrementalism: Time to Fully Implement U.S. Laws on North Korea,” testimony before the Foreign Affairs Committee, U.S. House of Representatives, January 13, 2016, <http://www.heritage.org/testimony/moving-beyond-timid-incrementalism-time-fully-implement-us-laws-north-korea>.

72. Olivia Enos, “Improving Information Access in North Korea,” Heritage Foundation *Backgrounder* No. 3149, December 7, 2016, <http://www.heritage.org/research/reports/2016/12/improving-information-access-in-north-korea>.

73. U.S. State Department, “United States Passports Invalid for Travel to, in, or Through the Democratic People’s Republic of Korea,” *Federal Register*, August 2, 2017, <https://www.federalregister.gov/documents/2017/08/02/2017-16287/united-states-passports-invalid-for-travel-to-in-or-through-the-democratic-peoples-republic-of-korea>.

74. Joshua Stanton, “The North Korea Travel Ban, PUST, and the Failure of People-to-Minder Engagement,” One Free Korea, July 25, 2017, <http://freekorea.us/2017/07/25/the-north-korea-travel-ban-pust-just-the-beginning/#sthash.sWlMhMrK.dpbs> (accessed September 15, 2017).

away from South Korea, even to the point where thousands aboard a cruise ship all refused to disembark on Jeju Island.

**Increase Inspection and Interdiction of North Korean Shipping.** U.N. resolutions against North Korea have all been passed with U.N. Charter Chapter 7, Article 41 authority. The U.N. should instead provide for Article 42 authority to enable military, coast guard, and law enforcement vessels to carry out the required inspections. This would authorize naval, coast guard, and law enforcement personnel to intercept, board, and inspect North Korean ships suspected of transporting precluded nuclear, missile, and conventional arms, components, or technology.

As required under U.N. Resolution 2270, all U.N. member nations should be proactively monitoring *all* North Korean cargo entering and leaving the country. The NKSPEA Section 205 enables the U.S. to impose secondary shipping sanctions on ports failing to implement required inspections. Washington should intensify inspections or ban shipments into the U.S. from non-compliant ports.<sup>75</sup>

There should also be a concerted international effort, as required under U.N. Resolution 2270, to target North Korean attempts at reflagging its ships under other nation's flags.

## Conclusion

If the U.S. is serious about going after North Korea's nuclear and missile programs and those that assist it, Washington will have to engage in a more expansive, sustained, and committed campaign. This must include a willingness to sanction Chinese entities.

Targeted financial measures, including secondary sanctions, are a component of U.S. laws and executive orders to defend the U.S. financial system from those who would use it for illicit activities. Those who argue against imposing stronger sanctions should be called on to explain how giving entities immunity from U.S. law furthers the cause of North Korean denuclearization.

That all of these measures could have been implemented years ago is testament to a collective lethargy, a multinational reluctance to confront North Korean belligerence. Even today, some counsel caution for fear of how North Korea could respond to being held accountable for its transgressions. But just as sheepishness is contagious, so is fortitude to do the right thing. The United States and other nations should not shirk from their responsibility to stand up to those who would do them harm.

Sanctions require time and the political will to maintain them in order to work. While there are additional measures that could be included in additional legislation, it is more important to vigorously and assiduously implement existing U.N. measures and U.S. laws. The U.S. 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.

What are America's other options? Abandoning enforcement of U.S. laws and giving blanket immunity to North Korean and Chinese entities? Rushing back to another round of negotiations that Pyongyang declares it is not interested in? Accepting North Korea as a nuclear state and undermine global non-proliferation efforts? Or initiating military action to impede North Korea's imminent completion of its ICBM, in essence starting a war to prevent a war? Sanctions, in conjunction with other instruments of national power, have a better chance than any tool being used in isolation.

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75. Joshua Stanton, "China Is Waging Economic War Against S. Korea. We Must Stand by Our Ally," One Free Korea, March 8, 2017, <http://freekorea.us/2017/03/08/china-is-waging-economic-war-against-south-korea-we-must-stand-with-our-ally/#sthash.PqcUCfTp.dpbs> (accessed September 15, 2017).

## Appendix: Partial List of Heritage Foundation Research on North Korea

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