

BACKGROUND

No. 3342 | SEPTEMBER 4, 2018

U.S.–North Korea Summit Deal on Denuclearization Faltering *Bruce Klingner*

Abstract

Claims by President Trump that “there is no longer a nuclear threat from North Korea” and that “total denuclearization [is] already starting to take place” have run into the reality of North Korean intransigence. Pyongyang has resorted to its usual negotiating tactics of the past two decades—dragging out negotiations and demanding benefits even for incremental progress on peripheral matters while holding back progress on the real issues. Negotiators should emphasize that North Korea must demonstrate progress toward denuclearization and reject Pyongyang’s demands for U.S. action to reduce regime security concerns.

Claims by President Trump that “there is no longer a nuclear threat from North Korea”¹ and that “total denuclearization [is] already starting to take place”² have run into the reality of North Korean intransigence. The terse Singapore summit communiqué was a shaky foundation upon which to build a comprehensive agreement to compel Pyongyang to abandon its nuclear, missile, and biological and chemical weapons (BCW) programs.

The striking differences between U.S. and North Korean statements reveal that little actual progress toward denuclearization has been made. The Trump Administration sought to add meat to the bare bones of the Singapore agreement by getting the regime to publicly and unambiguously affirm that it would abandon its weapons of mass destruction (WMD) arsenals in an expeditious manner. Such a declaration was needed to combat mounting skepticism—fueled by evidence that the regime was *expanding* its nuclear and missile programs after the summit.

KEY POINTS

- The striking differences between U.S. and North Korean statements regarding the recent nuclear talks reveal that little actual progress toward denuclearization has been made.
- The Trump Administration sought to add meat to the bare bones of the Singapore Agreement by getting the North Korean regime to publicly and unambiguously affirm that it would abandon its weapons of mass destruction arsenals in an expeditious manner.
- North Korea categorically rejected Trump Administration proposals, accused Washington of violating the spirit of the Singapore summit, and threatened to retract its denuclearization pledge.
- Washington and Pyongyang remain far apart even over the definition of “denuclearization,” let alone the sequencing, linkages, and timeline for achieving it.
- Still, Pyongyang has not pulled the plug on diplomacy. The Trump Administration should learn from the mistakes of past negotiations and not be overeager for an agreement.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3342>

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Instead, the regime unleashed a lengthy and vitriolic upbraiding within hours of Secretary of State Mike Pompeo's departure from Pyongyang. North Korea categorically rejected Trump Administration proposals, accused Washington of violating the spirit of the Singapore summit, and threatened to retract its denuclearization pledge.

Washington and Pyongyang remain far apart even over the definition of "denuclearization," let alone the sequencing, linkages, and timeline for achieving it. North Korea's insistence on addressing its security concerns *prior* to implementing denuclearization runs counter to positions taken by the Trump Administration. The regime demands that the U.S. first improve bilateral relations and provide security assurances, including declaring an end to the Korean War.

Yet despite its harsh missive, Pyongyang has not pulled the plug on diplomacy. The regime, however, expressed a clear preference for dealing only with President Trump, trying to decouple Secretary Pompeo from the process. By praising Trump personally, Kim Jong-un seeks additional concessions from the President, whom the regime sees as more eager to maintain the proclaimed success of the summit.

The diplomatic path with Pyongyang remains open, but it will be far longer and bumpier than has been depicted by the Trump Administration. The U.S. should maintain maximum pressure until Pyongyang makes significant, tangible steps toward denuclearization. Washington must also continue to confront the regime on its human rights violations.

Singapore Communiqué: Key Issues Unresolved

Although the first summit meeting between U.S. and North Korean leaders was historic, the resulting joint statement broke no new ground. Each of the four components of the Trump–Kim communiqué was in previous accords in stronger and more encompassing terms. Most notably, the North

Korean pledge "to work toward complete denuclearization of the Korean Peninsula" in the Singapore communiqué was weaker than the September 2005 Six-Party Talks Joint Statement.

Despite pre-summit claims by the Trump Administration that North Korea had moved toward accepting the U.N.-required concept of complete, verifiable, and irreversible dismantlement (CVID) of its nuclear programs, there was no evidence of that in the communiqué. Nor did the Trump–Kim joint statement include any reference to missiles, a nuclear/missile test moratorium, biological and chemical weapons, verification, or human rights—all topics that the Trump Administration promised would be addressed during the summit.

Conflicting Interpretations of the Communiqué. The imprecise terms of the communiqué enabled both sides to give contrasting public characterizations of what had been agreed, a flaw consistent with previous agreements with North Korea. The Six-Party Talks and the February 2012 Leap Day Agreement both collapsed in part due to divergent interpretations.

The U.S. and North Korea disagree on even basic concepts such as "denuclearization" and "the Korean Peninsula." Pyongyang has long rejected calls for its unilateral disarmament, instead embedding denuclearization within a broader context of global arms control. As a self-professed member of the nuclear club, Pyongyang has stated it will abandon its nuclear arsenal only when the other members, including the United States, abandon theirs.

North Korea defines the Korean Peninsula not as the landmass encompassing North and South Korea (as the U.S. does), but instead as anything that influences or impacts the peninsula. As such, the U.S. extended deterrence guarantee to its allies ("nuclear umbrella") and any nuclear-capable system, including submarines, aircraft carriers, dual-capable aircraft, and strategic bombers in Guam, would all be susceptible to restrictions.

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1. Eileen Sullivan, "Trump Says 'There Is No Longer a Nuclear Threat' After Kim Jong-un Meeting," *The New York Times*, June 13, 2018, <https://www.nytimes.com/2018/06/13/us/politics/trump-north-korea-nuclear-threat-.html> (accessed August 22, 2018).
 2. David Brunnstrom and James Oliphant, "Trump: North Korea 'Total Denuclearization' Started; Officials See No New Moves," Reuters, June 21, 2018, <https://www.reuters.com/article/us-northkorea-usa-sites/trump-north-korea-total-denuclearization-started-officials-see-no-new-moves-idUSKBN1JH2QX> (accessed August 22, 2018).
 3. U.S. Department of State, "U.S. Secretary of State Michael R. Pompeo, Japanese Foreign Minister Taro Kono, and South Korean Foreign Minister Kang Kyung-wha at a Press Availability," July 8, 2018, <https://www.state.gov/secretary/remarks/2018/07/283888.htm> (accessed August 22, 2018).
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Secretary Pompeo asserts that Kim Jong-un committed to the fully verified and complete denuclearization of North Korea.³ Pompeo emphasizes that “the sanctions and economic relief that North Korea will receive will only happen after the full denuclearization, the complete denuclearization, of North Korea [which both sides] agreed that we need to do it in as timely a fashion as is possible to achieve the outcome.”⁴

Conversely, North Korean official media criticized Washington’s demand for CVID of North Korea since it “denies and belittles the historical significance” of the Singapore summit. In mid-July, North Korea rebuked Pompeo for his “gangster-like demand for denuclearization” calling for CVID, declaration, and verification, all of which it claims run “counter to the spirit of the Singapore summit.”⁵

North Korea insists that the onus for action is on Washington “if the U.S. side takes genuine measures for building trust in order to improve the [North Korea]–U.S. relationship, [Pyongyang] too can continue to take additional good-will measures of next stage commensurate with them.”⁶ The regime is pushing for a peace treaty to end the Korean War, a security guarantee for the regime, and removal of sanctions.

Pyongyang claims that President Trump agreed to lift sanctions as well as “abide by the [North Korean] principle of step-by-step and simultaneous action in achieving peace, stability[,] and denuclearization of the Korean Peninsula.”⁷

The regime prefers gaining front-loaded concessions prior to it moving toward compliance with its previous denuclearization commitments,

U.N. resolutions, and international law. In this matter, the North Korean regime acts like a criminal inquiring what benefits a policeman will provide to convince him not to rob banks anymore. Pyongyang thus signaled its unwillingness to allow the Trump Administration to claim credit for agreements that had not actually occurred. The regime warned that U.S. failure to adopt its framework would lead to a “dangerous situation where we may be shaken in our unshakable will for denuclearization.”⁸

The regime also signaled that its human rights record was off the table. North Korean media declared that the U.S. should abandon any attempt to criticize the regime on human rights. The regime accused the Department of State’s annual human rights report of being contrary to the spirit of the Singapore agreement.⁹

U.S.–South Korea Military Exercises

In a post-summit press conference, President Trump unilaterally declared that he would suspend the “provocative” U.S.–South Korea “war games”—terms that Washington had previously rejected when used by North Korea. Trump’s decision was made without consulting or notifying South Korean and Japanese allies, the Pentagon, or U.S. Forces Korea.

Trump characterized the routine training exercises as “inappropriate” while negotiating with North Korea, but focused more on their cost. He commented that the exercises are “tremendously expensive. The amount of money we spend on that is incredible.... South Korea contributes, but not 100

4. Nick Wadhams and Jihye Lee, “Pompeo Says ‘Unanimity’ North Korea Sanctions to Stay Until Nukes Are Gone,” Bloomberg, June 14, 2018, <https://www.bloomberg.com/news/articles/2018-06-14/pompeo-pushes-back-against-north-korean-sanctions-relief-claims-jje0v9bx> (accessed August 22, 2018).

5. Nick Wadhams and Anthony Capaccio, “North Korea Slams U.S. ‘Gangster-Like’ Demands at Nuclear Talks,” Bloomberg, July 7, 2018, <https://www.bloomberg.com/news/articles/2018-07-07/pompeo-says-u-s-north-korea-weighed-denuclearization-timeline> (accessed August 22, 2018).

6. “N. Korea Says Trump Recognizes Phased, Simultaneous Actions Toward Denuclearization,” Yonhap, June 13, 2018, <http://english.yonhapnews.co.kr/news/2018/06/13/0200000000AEN20180613000753315.html> (accessed August 22, 2018).

7. Jacqueline Thomsen, “North Korea: Trump Agreed to ‘Step-by-Step’ Approach to Denuclearization,” *The Hill*, June 12, 2018, <http://thehill.com/policy/international/asia-pacific/391964-north-korea-trump-agreed-to-step-by-step-approach-to> (accessed August 22, 2018).

8. David Brunnstrom, Tim Kelly, and Patricia Zengerle, “After Pyongyang Put-Down, Pompeo Stands by ‘Difficult’ Denuclearization Talks,” Reuters, July 9 2018, <https://www.yahoo.com/news/japan-says-reaffirmed-commitment-north-korea-sanctions-u-033534312.html> (accessed August 23, 2018).

9. “North Korea Slams U.S. Over Human Rights Report Ahead of Pompeo’s Visit,” *The Straits Times*, July 6, 2018, <https://www.straitstimes.com/asia/east-asia/north-korea-slams-us-over-human-rights-report-ahead-of-pompeos-visit> (accessed August 23, 2018).

percent.”¹⁰ He added, “We save money—a lot”¹¹ by cancelling. The Pentagon subsequently announced that cancelling the exercises saved only \$14 million.¹²

Maintaining strong alliances and robust forward-deployed U.S. forces is a critical and cost-effective component to mitigating risk in northeast Asia. As The Heritage Foundation’s *Index of Military Strength* explains:

The costs of alliances, including the sometimes disproportionate cost of alliance leadership, must not be weighed against cash savings but rather against the cost of possible conflict in blood as well as treasure without them. Preserving peace and sustaining the global political and economic system’s current U.S. orientation can be achieved most cost-effectively with allied support.

The alternatives would call for either the maintenance of a huge U.S. military presence overseas far in excess of what is being maintained now or the holding of substantial forces in readiness at home in case the need arose to fight their way back into Europe or Asia to confront trouble in support of what is called “offshore balancing.”¹³

Trump’s decision was a major unilateral concession for which the United States received nothing in return. Pyongyang neither codified its missile and nuclear test moratorium in the Singapore communiqué nor announced reciprocal constraints on its own military exercises.

For years, the U.S. rebuffed North Korea’s “freeze for freeze” proposal, in which Pyongyang would suspend its prohibited nuclear and missile tests in return for Washington and Seoul suspending allied conventional military exercises. In September 2017, U.S. Ambassador to the U.N. Nikki Haley had dismissed the proposal as insulting, noting that when “a rogue regime has a nuclear weapon and an [intercontinental ballistic missile] pointed at you, you don’t take steps to lower your guard.”¹⁴

President Trump’s decision risks degrading U.S. and South Korean deterrence and defense capabilities. The exercises are necessary to ensure the interoperability and integration of allied military operations and ensure readiness to respond to North Korean attacks.

After Trump cancelled the bilateral Freedom Guardian exercise, South Korea cancelled its *Taeguk* commandpost-exercise¹⁵ as well as its *Ulchi* exercise,¹⁶ and the allies cancelled two joint Marine Corps exercises and indefinitely suspended the Marine Exercise Program. South Korea is also reportedly considering cancelling its independent live-fire artillery drills in the West Sea.¹⁷

Heritage analyst Lieutenant General Thomas Spoehr (Ret.), U.S. Army, assessed that “suspending these large joint exercises for an extended period of time, particularly for more than six months, could erode the readiness of U.S. and South Korean forces to successfully work together to defend South Korea. If the President’s [pledge]...encompasses lower-level

10. Dan Lamothe, “Trump Pledged to End Military Exercises With South Korea. But Will It Ever Happen?” *The Washington Post*, June 12, 2018, https://www.washingtonpost.com/news/checkpoint/wp/2018/06/12/trump-pledged-to-end-military-exercises-with-south-korea-but-will-it-ever-happen/?utm_term=.e838104f41f2 (accessed August 23, 2018).
11. Amanda Macias, “Trump Boasted About Big Savings, But a Canceled Military Exercise With South Korea Would Have Cost Less Than One Fighter Jet,” *CNBC*, July 12, 2018, <https://www.cnn.com/2018/07/10/us-saved-14-million-by-canceling-south-korea-military-exercise.html> (accessed August 23, 2018).
12. Tom O’Connor, “Trump Saves U.S. \$14 Million by Canceling Korea War Games,” *Newsweek*, July 9, 2018, <http://www.newsweek.com/trump-saves-14-million-canceling-korea-war-games-cost-fight-isis-every-day-1015138> (accessed August 22, 2018).
13. Martin Murphy, “The Importance of Alliances for U.S. Security,” in Dakota L. Wood, ed., *2017 Index of Military Strength: Assessing America’s Ability to Provide for the Common Defense* (Washington, DC: The Heritage Foundation, 2016), <https://index.heritage.org/military/2017/essays/importance-alliances-u-s-security/#fn10-3781>.
14. Jeremy Herb, Joshua Berlinger, and Taehoon Lee, “Haley: Kim Jong Un ‘Begging for War,’” *CNN*, September 4, 2017, <https://www.cnn.com/2017/09/04/politics/haley-north-korea-united-nations/index.html> (accessed August 24, 2018).
15. “S. Korea Halts Its Own Military Drill Amid Dialogue Mood,” *Yonhap*, June 20, 2018, <http://english.yonhapnews.co.kr/national/2018/06/20/0301000000AEN20180620005300315.html> (accessed August 23, 2018).
16. “S. Korea Suspends Annual Defense Drill,” *Yonhap*, July 10, 2018, <http://english.yonhapnews.co.kr/news/2018/07/10/0200000000AEN20180710005100315.html> (accessed August 23, 2018).
17. “We Expect North Korea to Relocate Long-Range Artillery Away From the Front,” *Hankryeoh*, June 27, 2018, http://english.hani.co.kr/arti/english_edition/e_editorial/850873.html (accessed August 22, 2018).

el exercises, the negative impact on readiness will be more immediate and severe.” He summarized, “Because ceasing these exercises would erode the U.S. and South Korea’s ability to defend the peninsula.”¹⁸

Trump’s decision could create a slippery slope in which Pyongyang demands curtailing additional allied military activity. North Korea has often responded critically to an opponent who violated the regime’s interpretation of a vague agreement.

Beautification of Kim Jong-un

After the summit, President Trump claimed to have established a strong relationship with Kim Jong-un as a measure of the summit’s success. More disturbing, however, was Trump’s praise of the North Korean leader, commenting: “He’s got a great personality. He’s a funny guy, he’s very smart, he’s a great negotiator. He loves his people.”¹⁹

Kim is on the U.S. sanctions list for human rights violations. In 2014, the U.N. Commission of Inquiry concluded that North Korea’s human rights violations were so “systemic, widespread, and gross” as to legally constitute crimes against humanity. The report catalogues North Korea’s atrocities included “extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation.”²⁰

Trump’s post-summit praise was a stark contrast to his earlier eloquent and powerful condem-

nation of Pyongyang’s atrocities. In his State of the Union Address, Trump declared that “no regime has oppressed its own citizens more totally or brutally than the cruel dictatorship in North Korea.”²¹ The president movingly highlighted the plight of North Korean escapee Ji Seong-ho and the tragic death of Otto Warmbier due to his treatment in North Korean captivity.²²

In his November 2017 speech to the South Korean National Assembly, Trump proclaimed that “North Korea is a country ruled as a cult.... Far from valuing its people as equal citizens, this cruel dictatorship measures them, scores them, and ranks them based on the most arbitrary indications of their allegiance to the state.”²³

Trump described how “an estimated 100,000 North Koreans suffer in gulags, toiling in forced labor, and enduring torture, starvation, rape, and murder on a constant basis.”²⁴ He also stated that “North Korean women are forced to abort babies that are considered ethnically inferior. And if these babies are born, the newborns are murdered.”²⁵

WMD Programs Expansion

Contrary to President Trump’s assertion that Pyongyang has begun to denuclearize, the regime still retains the same arsenal and production capabilities that it had before the summit. There has been no reduction in the North Korean nuclear, missile, or BCW threat to the United States and its allies—and the regime continues to upgrade and expand its nuclear and missile programs.

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18. Thomas Spoehr, “Suspending Military Exercises in South Korea Carries Risks,” *Heritage Foundation Commentary*, June 12, 2018, <https://www.heritage.org/asia/commentary/suspending-military-exercises-south-korea-carries-risks>.
 19. Maegan Vazquez, “Trump Says Accused Human Rights Abuser Kim Jong Un ‘Loves His People,’” *CNN*, June 12, 2018, <https://www.cnn.com/2018/06/12/politics/donald-trump-kim-jong-un-loves-his-people/index.html> (accessed August 22, 2018).
 20. United Nations Human Rights Council, Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea, No. A/HRC/25/63, February 7, 2015, p. 14, <http://www.ohchr.org/EN/HRBodies/HRC/ColDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx> (accessed August 22, 2018).
 21. Elise Hu, “Will Trump Raise North Korea’s Human Rights Abuses at Summit with Kim Jong Un?” *NPR*, June 7, 2018, <https://www.npr.org/2018/06/07/617804581/will-trump-confront-n-koreas-human-rights-abuses-with-kim-well-see> (accessed August 22, 2018).
 22. Kaitlyn Schallhorn, “Otto Warmbier’s Parents Recognized at State of the Union in Emotional Moment,” *Fox News*, January 31, 2018, <http://www.foxnews.com/politics/2018/01/30/otto-warmbiers-parents-recognized-at-state-union-in-emotional-moment.html> (accessed August 23, 2018).
 23. “Trump Condemns Brutal Dictatorship of N.K., Warns It Not to ‘Underestimate Us,’” *Yonhap*, November 8, 2017, <http://english.yonhapnews.co.kr/national/2017/11/08/0301000000AEN20171108006754315.html> (accessed August 22, 2018).
 24. Ken Dilanian, “U.S. Won’t Bring Up North Korea’s Human Rights Issues at Singapore Summit,” *NBC News*, June 11, 2018, <https://www.nbcnews.com/news/north-korea/u-s-won-t-bring-north-korea-s-human-rights-n880986> (accessed August 23, 2018).
 25. “Donald Trump’s South Korean Speech: The Key Points,” *The Guardian*, November 7, 2017, <https://www.theguardian.com/world/2017/nov/08/donald-trumps-south-korea-speech-key-points-kim-jong-un> (accessed August 23, 2018).

After the summit, the U.S. Intelligence Community assessed that Pyongyang had increased production of fissile material for nuclear weapons²⁶ and continued production of ICBMs that can target the United States.²⁷ Unclassified satellite imagery revealed North Korea has upgraded its missile, re-entry vehicle, missile launcher, and nuclear weapon production facilities, as well as identified a covert nuclear-weapons-related highly enriched uranium production facility.²⁸

The North Korean activity was not *per se* a violation of the Singapore communiqué, since no real deal had been created. But Pyongyang's actions run counter to the spirit of the summit and are inconsistent with a government preparing to abandon its nuclear programs. They are also a continuing violation of numerous U.N. resolutions.

Watered-Down U.S. Policy

North Korea pushed the Trump Administration into abandoning its earlier advocacy for rapid implementation of unilateral nuclear disarmament, providing no benefits until North Korean denuclearization was complete, and possibly even its insistence on CVID.

U.S. Abandoned Insistence on Timelines. In May, Pompeo commented that the U.S. wanted "rapid" denuclearization "that won't be extended over time."²⁹ Shortly after the summit, Pompeo declared that "with respect to the pace at which denuclearization will take place, I think we both agreed that we need to do it in as timely a fashion as is possible."³⁰

But after North Korea rejected the U.S. approach, the Trump Administration fell off its earlier insistence on rapid denuclearization. Secretary Pompeo admitted, "It may take some time to get where we need to go," adding, there was "no time limit" on the process and "no rush."³¹ He now admits that "the ultimate timeline for denuclearization will be set by Chairman Kim."³²

President Trump declared that "we have no rush for speed" and "[w]e have no time limit."³³ He explained that "it's like rushing the turkey out of the stove. It's not going to be as good.... The more they rush, the worse it's going to be. The longer we take, the better."³⁴ North Korea now effectively controls the pace of the negotiations.

Dropping CVID? There are also questions as to whether the Administration is walking back

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26. Courtney Kube, Ken Dilanian, and Carol E. Lee, "North Korea Has Increased Nuclear Production at Secret Sites, Say U.S. Officials," June 30, 2018, <https://www.nbcnews.com/news/north-korea/north-korea-has-increased-nuclear-production-secret-sites-say-u-n887926> (accessed August 22, 2018).
 27. Ellen Nakashima and Joby Warrick, "U.S. Spy Agencies: North Korea Is Working on New Missiles," *The Washington Post*, July 30, 2018, https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fnational-security%2fus-spy-agencies-north-korea-is-working-on-new-missiles%2f2018%2f07%2f30%2fb3542696-940d-11e8-a679-b09212fb69c2_story.html%3f&utm_term=.b70bf4bfb8d9 (accessed August 22, 2018).
 28. Jonathan Cheng, "North Korea Expands Key Missile-Manufacturing Plant," *The Wall Street Journal*, July 1, 2018, <https://www.wsj.com/articles/north-korea-expands-key-missile-manufacturing-plant-1530486907> (accessed August 22, 2018); Frank V. Pabian, Joseph S. Bermudez Jr., and Jack Liu, "Infrastructure Improvements at North Korea's Yongbyon Nuclear Research Facility," June 26, 2018, <https://www.38north.org/2018/06/yongbyon062618/> (accessed August 22, 2018); Ankit Panda, "Exclusive: North Korea Has Continued Ballistic Missile Launcher Production in 2018, Per U.S. Intelligence," *The Diplomat*, June 30, 2018, <https://thediplomat.com/2018/07/exclusive-north-korea-has-continued-ballistic-missile-launcher-production-per-us-intelligence/> (accessed August 22, 2018); and Ankit Panda, "Exclusive: Revealing Kangson, North Korea's First Covert Uranium Enrichment Site," *The Diplomat*, July 13, 2018, <https://thediplomat.com/2018/07/exclusive-revealing-kangson-north-koreas-first-covert-uranium-enrichment-site/> (accessed August 22, 2018).
 29. Nick Wadhams, "Pompeo Eases Demand That North Korea Give Up Nukes Immediately," *Bloomberg*, May 23, 2018, <https://www.bloomberg.com/news/articles/2018-05-23/pompeo-seeks-credible-n-korean-steps-toward-denuclearization> (accessed August 22, 2018).
 30. Anne Gearan and John Hudson, "Trump Administration Insists Agreement Means North Korea Will Denuclearize," *The Washington Post*, June 15, 2018, https://www.washingtonpost.com/politics/trump-administration-insists-agreement-means-north-korea-will-denuclearize/2018/06/14/d97c59ac-6fea-11e8-bf86-a2351b5ece99_story.html?utm_term=.93735d112cc7 (accessed August 23, 2018).
 31. Roberta Rampton and David Brunnstrom, "Pompeo Says North Korea Deal 'May Take Some Time,' Sanctions to Remain," *U.S. News and World Report*, July 18, 2018, <https://www.usnews.com/news/world/articles/2018-07-18/pompeo-says-north-korea-deal-may-take-some-time-sanctions-to-remain> (accessed August 22, 2018).
 32. "Pompeo Says North Korea Will Set Denuclearization Timeline," *CBS News*, August 3, 2018, <https://wdef.com/2018/08/03/pompeo-says-north-korea-will-set-denuclearization-timeline/> (accessed August 23, 2018).
 33. "Trump: No Time Limit on N. Korea's Denuclearization," *Yonhap*, June 18, 2018, <http://english.yonhapnews.co.kr/news/2018/07/18/020000000AEN20180718000252315.html> (accessed August 22, 2018).
 34. "Trump Says Won't Rush Negotiations with N. Korea," *Yonhap*, June 29, 2018, <http://english.yonhapnews.co.kr/news/2018/06/29/020000000AEN20180629000200315.html> (accessed August 22, 2018).

from its previous insistence on CVID—the concept required of North Korea by numerous U.N. Security Council Resolutions. Secretary Pompeo has recently described U.S. policy as Permanent Verifiable Irreversible Dismantlement (PVID),³⁵ and then as Final, Fully Verified Denuclearization (FFVD).³⁶

Pompeo has not explained why the Administration stopped using the term codified in the U.N. resolutions. During Pompeo's recent testimony, Senators from both political parties expressed concern that the new terminology reflects a watering down of U.S. demands. The Administration has needlessly caused confusion over U.S. objectives toward North Korea.

Maximum Pressure Is Not Maximum. President Trump described his policy as “maximum pressure,” yet he has not fully enforced U.S. laws against North Korean violators. After meeting with senior North Korean official Kim Yong-chol on June 1 of this year, Trump said he put “hundreds” of North Korean sanctions in abeyance because “we’re talking so nicely” with Pyongyang. He added, “I don’t even want to use the term ‘maximum pressure.’”³⁷

Trump subsequently disclosed that he would not sanction 300 North Korean entities, a number equal to the cumulative total that the U.S. sanctioned during the nine-and-half years of the Obama and Trump Administrations.³⁸ Trump explained, “I can’t really put on new sanctions when I’m meeting with [Kim], I thought it would be disrespectful.”³⁹

In addition, the U.S. Treasury Department deferred the implementation of sanctions against three dozen Russian and Chinese entities providing prohibited support to North Korea. Nor has the

White House taken any action against a dozen Chinese banks that Congress recommended be sanctioned for their dealings with North Korea.

North Korea mended ties with China, which relaxed its restrictions against economic engagement with the regime. South Korea's Moon Jae-in Administration is urging the United States to relax pressure by allowing exemptions from sanctions for Seoul to resume large-scale economic projects with Pyongyang.

By abandoning timelines, downplaying regime human rights violations, and continuing to pull U.S. punches on sanctions, the Trump Administration has now effectively adopted President Obama's “strategic patience” policy. In his July testimony before the Senate Foreign Relations Committee, Pompeo described current policy as “patient diplomacy.”⁴⁰ The Trump Administration has made it harder to increase international pressure if talks stall or collapse. Some fear that the high water mark of international pressure has already passed.

The Cost of Failure

U.S. engagement is likely to continue for several months. If Pyongyang were to engage in blatantly bad-faith behavior, such as a nuclear test, missile flight, or openly declaring an end to negotiations, the U.S. would be faced with a clear policy decision point.

But a bigger challenge for the Trump Administration will be to decide, in the absence of a dramatic provocation, when it has gone too far down the rabbit hole. If negotiations continue for three months or six months without real progress, what would be the catalyst for pulling the plug? If the U.S. signals

35. Sarah Kim, “Pompeo Alters Wording on Nukes,” *JoongAng Daily*, May 4, 2018, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3047690> (accessed August 23, 2018).

36. David Brunnstrom, John Walcott, and Hyonhee Shin, “U.S. Softens North Korea Approach As Pompeo Prepares For More Nuclear Talks,” Reuters, July 4, 2018, <https://www.reuters.com/article/us-northkorea-usa/us-softens-north-korea-approach-as-pompeo-prepares-for-more-nuclear-talks-idUSKBN1JU26E> (accessed August 24, 2018).

37. Shannon Pettypiece and Nick Wadhams, “Trump Says North Korea Summit Back On for June 12 in Singapore,” Bloomberg, June 1, 2018, <https://www.bloomberg.com/news/articles/2018-06-01/trump-receives-north-korean-aide-in-historic-white-house-visit> (accessed August 23, 2018).

38. Anthony Ruggiero, “Maximum Pressure 2.0: How to Improve Sanctions on North Korea,” Foundation for the Defense of Democracies *Memorandum*, June 4, 2018, http://www.defenddemocracy.org/content/uploads/documents/MEMO_Ruggiero_June2018.pdf (accessed August 22, 2018).

39. “Trump’s Optimistic News Conference After Meeting with Kim Jong Un, Annotated,” *The Washington Post*, June 12, 2018, https://www.washingtonpost.com/gdpr-consent/?destination=%2fnews%2fthe-fix%2fwf%2f2018%2f06%2f12%2ftrumps-optimistic-news-conference-after-meeting-with-kim-jong-un-annotated%2f%3f&utm_term=.ac20acefe4e2 (accessed August 28, 2018).

40. David Brunnstrom, “North Korea Making Bomb Fuel Despite Denuclearization Pledge: Pompeo,” Reuters, July 25, 2018, <https://www.reuters.com/article/us-northkorea-usa/patient-north-korea-diplomacy-wont-drag-out-to-no-end-pompeo-idUSKBN1KF2QT> (accessed August 22, 2018).

it is considering altering course, China, Russia, and South Korea would counsel allowing yet more time for diplomacy.

As the talks drag on with no progress, the clock is ticking on the Trump Administration's earlier admonitions that the North Korean nuclear threat to the American homeland was getting dangerously close. When he was Director of the CIA, Mike Pompeo declared in January 2018 that Pyongyang was only a "handful of months" away from being able to target the United States with a nuclear ICBM.⁴¹

The Trump Administration deemed Pyongyang crossing that threshold to be "intolerable"⁴²—and justification for a U.S. preventive military attack on North Korea.⁴³ In June 2018, Trump retrospectively stated, "We were very close to going to war. You could have lost 30 million people, 50 million people."⁴⁴ Similarly, Pompeo commented that the opening of discussions with Pyongyang "de-escalated a situation which the prospect for conflict was rising daily."⁴⁵

A lack of progress in negotiations could lead President Trump to feel that Kim had personally betrayed him. Trump put great emphasis on the personal assurance Kim had given him: "I have confidence that Kim Jong Un will honor the contract we signed and, even more importantly, our handshake."⁴⁶ Trump commented earlier this year that if diplomacy did not work out, "we'll have to go to Phase Two [which] may be a very rough thing. Maybe very, very unfortunate for the world."⁴⁷

Prior to returning to government as National Security Advisor, John Bolton commented that

the purpose of engaging with North Korea was "to foreshorten the amount of time that we're going to waste in negotiations that will never produce the result we want, which is Kim giving up his nuclear program."⁴⁸

Congress Exercising a Role

While the Trump Administration has the lead on diplomatic engagement with North Korea, the U.S. Congress is insisting on a role. Frustration with both the Obama and Trump Administrations for pulling U.S. punches against North Korea led Congress to enact new legislation to induce the executive branch into applying the authorities it already possessed.

For example, the North Korea Sanctions and Policy Enhancement Act of 2016, Sections 401 and 402, stipulate that prior to suspending (for one year) or removing sanctions, the President must certify North Korea has taken significant steps toward:

- Verifiably ceasing counterfeiting of U.S. currency;
- Implementing financial transparency [and] preventing money laundering;
- Verifying compliance with U.N. resolutions;
- Accounting for and repatriating abducted citizens of other countries;
- Abiding by internationally recognized standards for the distribution and monitoring of humanitarian aid;

41. "N. Korea 'Handful of Months' Away from Ability to Nuke U.S.: CIA Chief," Yonhap, January 23, 2018, <http://english.yonhapnews.co.kr/news/2018/01/23/0200000000AEN20180123000200315.html> (accessed August 22, 2018).

42. Miranda Green, "McMaster: 'We Have to Provide All Options' on North Korea," CNN, August 5, 2017, <https://www.cnn.com/2017/08/05/politics/mcmaster-military-options-north-korea/index.html> (accessed May 11, 2018).

43. Bruce Klingner, "Save Preemption for Imminent North Korean Attack," Heritage Foundation *Backgrounder* No. 3095, March 1, 2017, <https://www.heritage.org/missile-defense/report/save-preemption-imminent-north-korean-attack>.

44. "Trump Says Won't Rush Negotiations With N. Korea."

45. Mike Pompeo, testimony before the Foreign Relations Committee, U.S. Senate, July 25, 2018, https://www.foreign.senate.gov/imo/media/doc/072518_Pompeo_Testimony.pdf (accessed August 22, 2018).

46. Jordan Fabian, "Trump: China May Be Exerting 'Negative Pressure' on North Korea," *The Hill*, July 9, 2018, <http://thehill.com/homenews/administration/396087-trump-china-may-be-exerting-negative-pressure-on-nuclear-deal-with> (accessed August 22, 2018).

47. David Choi, "Trump Warns of Very Rough Phase Two Against North Korea If Sanctions Don't Work: Very, Very Unfortunate for the World," *Business Insider*, February 23, 2018, <http://uk.businessinsider.com/trump-phase-2-north-korea-sanctions-2018-2?r=US&IR=T> (accessed May 11, 2018).

48. "John Bolton on Trump's Decision to Meet with Kim Jong Un," Fox News, March 9, 2018, http://video.foxnews.com/v/5748784936001/?playlist_id=2114913880001#sp=show-clips (accessed August 23, 2018).

- Providing credible assurances that it will not support further acts of international terrorism;
- Improving living conditions in its political prison camps;
- Completely, verifiably, and irreversibly dismantling all of its nuclear, chemical, biological, and radiological weapons programs;
- Releasing all political prisoners; and
- Ceasing censorship of peaceful political activity.⁴⁹

In 2017, Congress further enhanced sanctions measures against North Korea through the Countering America's Adversaries Through Sanctions Act.⁵⁰ Additional congressional measures being considered to press the Trump Administration are the North Korea Policy Oversight Act⁵¹ and the Otto Warmbier Banking Restrictions Involving North Korea (BRINK) Act.⁵² In August 2018, Congress passed a defense authorization bill that would prevent President Trump from reducing U.S. troops in South Korea and affirms CVID as a key component of U.S. policy toward North Korea.⁵³

Representative Ted Yoho (R-FL), Chairman of the Asia-Pacific Subcommittee of the House Foreign Affairs Committee, proposed legislation to impose fines against Chinese banks and other entities aiding North Korea. Emphasizing the Treasury Department's reluctance to sanction Chinese banks, Yoho explained his goal was to make sanctions "mandatory, [to] have the force of law behind them that these need to be implemented; and if they're not implemented, [the administration has] let us know why."

Yoho disputed the Treasury Department's characterization that it would be "too disruptive" to blacklist

the largest Chinese banks. Yoho argued, "There are no banks too big to sanction when it comes down to doing this stuff with North Korea. They're going to have to decide, is the price of doing business with North Korea worth the pain the United States is causing?"⁵⁴

What Washington Should Do

Guiding principles for negotiating with North Korea should include:

- **CVID.** North Korea should unequivocally, explicitly, and publicly accept the U.N.-required abandonment of the regime's nuclear, missile, and BCW weapons programs in a "complete, verifiable, and irreversible manner."⁵⁵ The Trump Administration should cease its use of alternative terms such as PVID and FFVD.
- **Require detailed, carefully crafted text.** Past negotiations with North Korea were flawed because the allies, overeager to achieve an agreement, acquiesced to short, ambiguously worded agreements that paid insufficient attention to details. Negotiators should press for clearly identifying definitions, provisions, and requirements—such as the extensively detailed arms-control treaties with the Soviet Union.
- **Get it in writing.** There has been a long history of negotiators being surprised that North Korea had a different interpretation of the provisions and requirements of agreements. U.S. negotiator claims of oral agreements with North Korean counterparts have enabled the regime to pocket concessions without reciprocating. Oral agreements with North Korea are not worth the paper they are written on.

49. North Korea Sanctions and Policy Enhancement Act of 2016, H.R. 757, 114th Cong., 2nd Sess., §§ 401 and 402.

50. Countering America's Adversaries Through Sanctions Act, H.R. 3364, Public Law 115-44.

51. North Korea Policy Oversight Act of 2018, S. 3142, <https://www.govtrack.us/congress/bills/115/s3142/summary> (accessed August 23, 2018).

52. Otto Warmbier Banking Restrictions Involving North Korea Act of 2017, S. 1591, <https://www.congress.gov/bill/115th-congress/senate-bill/1591> (accessed August 23, 2018).

53. "U.S. Congress Passes Defense Bill Restricting Drawdown of Troops in S. Korea," Yonhap, August 2, 2018, <http://english.yonhapnews.co.kr/news/2018/07/27/0200000000AEN20180727000400315.html> (accessed August 22, 2018).

54. Joel Gehrke, "GOP Plans Sanctions Against Chinese Banks That Aid North Korea," *Washington Examiner*, July 16, 2018, https://www.washingtonexaminer.com/policy/defense-national-security/gop-plans-sanctions-against-chinese-banks-that-aid-north-korea?_amp=true&__twitter_impression=true (accessed August 22, 2018).

55. U.N. Security Council, Resolution 2371, S/RES/2371, August 5, 2017, paragraph 2, <http://unscr.com/en/resolutions/doc/2371> (accessed August 22, 2018).

- **Create a road map.** Once both sides agree on what will be constrained and eliminated, there must be settlement on linkages and sequencing of responsibilities, as well as the timelines under which they will be carried out. Washington should identify steps for North Korea to quickly demonstrate commitment to come into compliance with U.N. resolutions.
- **Distrust, but verify.** North Korean cheating on previous agreements makes it even more important to have more a robust and intrusive verification regime. The U.S. should reject any agreement that does not include robust verification. Parameters should be commensurate with the verification protocols of the Strategic Arms Reduction Treaty, Intermediate-Range Nuclear Forces Treaty, and Conventional Armed Forces in Europe Treaty with the Soviet Union and Warsaw Pact.
 - Provisions must include data declaration of North Korea's nuclear, chemical, biological, and missile production, fabrication, test, and storage facilities, and the stockpile of fissile material and WMD arsenals; dismantlement of those facilities and destruction of the regime's WMD arsenals; on-site inspections of declared facilities; and short-notice challenge inspections of non-declared facilities.
- **Implement maximum pressure.** The Trump Administration is correct in not removing existing sanctions—but has erred in not fully enforcing U.S. laws. Washington must take action against new entities as evidence arises that they have violated U.N. sanctions or U.S. legislation and regulations. U.S. sanctions are responses to North Korean actions. As long as the sanctioned behavior continues, then Washington should maintain its targeted financial measures. Reducing U.S. sanctions is subject to legal constraints.
- **Make treaty contingent on reducing conventional force threat.** The U.S. and South Korea should not sign a peace treaty until the North Korean nuclear threat is eliminated and the con-

ventional threat reduced. North Korea has extensive conventional, mechanized, armor, and artillery corps deployed near the demilitarized zone, posing a threat to the South.

A peace treaty should be an endpoint of arms control negotiations—rather than the opening gambit to improve relations with North Korea. Signing a peace treaty prematurely could dangerously degrade allied deterrence and defense capabilities, and create societal and legislative momentum in both South Korea and the U.S. for reduction or removal of U.S. forces.

These forces should be capped and then weaned away from the forward area using measures similar to those in the Conventional Armed Forces in Europe Treaty and the accompanying Vienna Document of Confidence and Security Building Measures. Reducing the potential for either side to conduct a sudden-start invasion while increasing transparency on military forces can lower tensions by reducing the potential for miscalculation leading to a military clash.

- **Predicate economic assistance on CVID progress.** Provision of aid and assistance should be implemented in a manner to encourage economic reform, marketization, and the opening up of North Korea to the outside world rather than providing direct financial benefits to the regime.

Aid should be consistent with U.S. laws, such as Executive Order No. 13722 which bans “new investment in North Korea [and] any approval, financing, facilitation, or guarantee by a U.S. person...where the transaction...would be prohibited... if performed by a United States person or within the United States.”⁵⁶

- **No normalization of diplomatic relations without progress on human rights.** For denuclearization, the devil is in the details. But for North Korean human rights violations, the devil is in Pyongyang. The U.S. should not formalize diplomatic ties without progress on improving

56. Donald J. Trump, “Blocking Property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea,” Executive Order No. 13722, March 18, 2016, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/nk_eo_20160316.pdf (accessed August 23, 2018).

the regime's atrocious human rights record. Suspension or removal of some U.S. sanctions is predicated on such progress.

Conclusion

Pyongyang has resorted to its usual negotiating tactics of the past two decades to drag out negotiations and eke out benefits even for incremental progress on peripheral matters—while holding back progress on the real issue of denuclearization. Like a magician diverting his audience's attention, Kim is dangling progress on shiny objects (such as the return of U.S. service member remains and closing non-essential sites) to distract Washington.

There is a long history of failed diplomatic efforts to resolve North Korean security threats. That does

not preclude yet another attempt under a new North Korean leader, but skepticism and wariness are warranted. The Trump Administration should learn from the mistakes of past negotiations and not be overeager for an agreement.

Negotiators should emphasize that North Korea must demonstrate progress toward denuclearization and reject Pyongyang's demands for U.S. action to reduce regime security concerns. North Korea is in violation of U.N. resolutions—not the United States or its allies.

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