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Resuming Negotiations With North Korea

The window of opportunity to prevent North Korea from fielding nuclear-armed ballistic missiles is closing. Diplomatic engagement with North Korea has been scant in recent years. In response to Pyongyang's nuclear and missile tests, the United States and other countries, through actions of the United Nations Security Council and independent policies, have adopted an approach of increasing political and economic isolation. Yet, during this time, Pyongyang has improved its nuclear weapons capability quantitatively and qualitatively.

The next presidential administration must prioritize reviewing and renewing Washington's diplomatic approach to North Korea. With each successive nuclear and missile test, North Korea advances its knowledge and consolidates its capability. History has shown that it is far easier to convince North Korea to negotiate away a military capability it does not yet possess. Washington's stated primary concern is a North Korean nuclear-armed intercontinental ballistic missile (ICBM). Pyongyang will achieve this capability if it is not reined in through a diplomatic agreement or understanding. Once Pyongyang achieves this status, the security balance in Asia will be disrupted and U.S. diplomats will be hard-pressed to convince North Korea to abandon the capability.

HIGHLIGHTS

- The window of opportunity to prevent North Korea from developing and deploying nuclear-armed intermediate- and long-range ballistic missile systems is closing.
- Sanctions pressure is now the centerpiece of U.S. policy toward North Korea. Washington must, however, begin to leverage that pressure diplomatically with North Korea in order to begin and sustain negotiations to freeze North Korea's nuclear and missile programs and move toward the denuclearization of the Korean peninsula.
- Washington must be willing to explore every serious diplomatic overture from Pyongyang and not reject them outright as insincere.
- Disarmament negotiations with Pyongyang must be restarted and without the prohibitive precondition of denuclearization. Washington should take advantage of the diplomatic and cultural expertise of experienced U.S. and North Korean negotiators before their critical insights are lost.

Some of the views expressed in this policy brief were shared by participants at a roundtable discussion hosted by the Arms Control Association in February 2016. The Arms Control Association thanks these participants for their thoughtful analysis and contributions to advancing policy to resolve the North Korean nuclear issue.

Current Policy

In past negotiations, Washington and the international community have achieved various levels of success in diplomatic engagement with Pyongyang on the nuclear issue. The most recent official multilateral negotiations with North Korea, however, have been stalled since North Korea walked out of the six-party talks in 2009. The six-party talks are a series of denuclearization negotiations held between China, Japan, North Korea, Russia, South Korea, and the United States.¹ (See Figure 1.)

The period since 2009 has been marked by a practice of “strategic patience.” Strategic patience was never a policy of the U.S. government, but rather verbiage widely used to describe the U.S. approach to resuming negotiations with North Korea: that the U.S. would be prudent and hold off on restarting talks with North Korea until Pyongyang was deemed to be prepared to meet its earlier denuclearization commitments.

The current U.S. policy toward North Korea is characterized by three aims: to maintain the strongest possible deterrent against Pyongyang, to sustain pressure on Pyongyang through sanctions, and to engage in diplomacy with Pyongyang. In addition, the United States upholds extended deterrence in the region, and has strong alliances with Japan and South Korea. Washington’s efforts to maintain a deterrent and pressure are apparent, but these pieces alone are not sufficient to resolve the North Korea nuclear issue.

U.S. policy to counter North Korea’s nuclear and missile programs is heavily reliant on national and international sanctions. Most recently, in May 2016, the U.S. Department of the Treasury designated North Korea as a state of money laundering concern in light of Pyongyang’s abuse of U.S. and other states’ banking systems to fund its illegal activities. The additional sanctions applied with this designation effectively exclude

Figure 1: Past Diplomatic Success with North Korea

YEAR	DESCRIPTION
December 1991	North and South Korea issue a Joint Declaration on the Denuclearization of the Korean Peninsula by which they agree not to “test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons” or to “possess nuclear reprocessing and uranium enrichment facilities.”
July 1993	United States and North Korea issue a Joint Statement stating that Pyongyang is prepared to begin consultations with the IAEA on outstanding safeguards issues and inspection of its nuclear sites.
June 1994	Former U.S. President Jimmy Carter negotiates a deal with North Korea in which Pyongyang confirms its willingness to freeze its nuclear weapons program and resume high-level talks with the United States.
October 1994	The United States and North Korea adopt the Agreed Framework which called for North Korea to freeze and eventually eliminate its nuclear facilities in exchange for the construction of two light-water reactors and heavy fuel oil assistance.
October 2000	Secretary of State Madeline Albright concludes a two-day visit to Pyongyang to meet with Kim Jong Il. During the visit, Kim says that North Korea would not further test the Taepodong-1 missile, launched in 1998 as a purported space-launch vehicle.
September 2002	North Korea announces that it will indefinitely extend its moratorium on missile testing as part of the North Korea-Japan Pyongyang Declaration.
September 2005	The participants of the six-party talks release a Joint Statement agreeing on steps for the denuclearization of the Korean peninsula and committing North Korea to abandoning all nuclear weapons.
February 2007	The participants of the six-party talks agree on an action plan for the 2005 Joint Statement, which results in Pyongyang shutting down the Yongbyon nuclear site later that year.
February 2012	The United States and North Korea reach an agreement in which Pyongyang agrees to refrain from nuclear and missile testing and suspend operations at a uranium-enrichment facility in exchange for humanitarian aid from Washington.



A man watches a television news channel in Seoul showing footage of a North Korean missile launch on April 24, 2016.

North Korea completely from the U.S. financial system.²

The internationally supported UN Security Council resolutions (see Figure 2) carry symbolic value, as well as meaningful nonproliferation measures like sanctions, interdiction authority, and travel bans on individuals associated with Pyongyang's nuclear and missile programs. These sanctions must be diligently enforced to be effective. A UN Panel of Experts mandated to assess implementation of sanctions on North Korea said in February 2016 that the efficacy of UN sanctions regime was questionable as a result of states' "low level of implementation" of Security Council resolutions.³

Background: North Korea's Nuclear and Missile Programs

North Korea currently produces plutonium and has the capacity to produce highly-enriched uranium (HEU) for nuclear weapons. Pyongyang is known to have diverted nuclear materials from civilian use to its weapons program. The government did this in clear violation of its international commitments as a party to the nuclear Nonproliferation Treaty (NPT). This action elicited International Atomic Energy Agency (IAEA) and additional scrutiny in the lead-up to North Korea's

withdrawal from the NPT in 2003, a step that was not considered legitimate by the world community.⁴

To field a nuclear-armed ICBM, Pyongyang would need to develop both a re-entry vehicle and a miniaturized nuclear device.⁵ Pyongyang has yet to test a re-entry vehicle, but made efforts in recent years to convince the international community of its ability to miniaturize a nuclear weapon.

North Korea has been pursuing a variety of ballistic missile capabilities for decades and is working toward deploying an array of nuclear-armed ballistic missiles. Most of North Korea's missiles are SCUD variants or use Soviet-produced SCUD engines to power a missile constructed with some indigenously produced parts, having reverse engineered certain designs.

North Korea now has a viable medium-range ballistic missile known as the Nodong, and is actively developing several other ballistic missile types, including the Musudan intermediate-range ballistic missile (IRBM), the KN-11 submarine-launched ballistic missile (SLBM), and a space-launch vehicle, the Unha, which has applications for ICBM development. It has displayed mockups of the proposed KN-08 and KN-14 ICBMs at military parades, but has not yet flight-tested one.

North Korea tested two new ballistic missiles within the last year. The KN-11 SLBM was first tested in May 2015, and subsequently on three other occasions with varying levels of success, most recently in April 2016. The government is now working to perfect its launch capability from the Gorae submarine.

Pyongyang has displayed the road-mobile Musudan IRBM in military parades since late 2010 and tested it for the first time in April 2016. The range of the missile

isolated internationally. The United States, however, has failed in recent years to leverage that pressure to bring about the desired nuclear and missile restraint from North Korea.

The missing ingredient is diplomatic engagement. In the coming months, the United States should entertain engagement opportunities with Pyongyang's UN representatives, known as the New York channel.

Likewise, the United States should take advantage

It should be a priority of the next president to engage North Korea and to review and implement their North Korea policy soon after taking office.

is estimated to be up to 4,000 km. It has been tested six times this year. The first four tests failed, but the two most recent tests in June 2016 appear to demonstrate some incremental improvements to the missile system.

Some independent analysts believe that North Korea could deliver a nuclear warhead on its Nodong missile or on a military version of its Unha space-launch vehicle in a last-resort use scenario.⁶ Its ability to miniaturize a nuclear device and successfully deliver it on a ballistic missile has been the subject of ongoing debate. North Korea purports to have developed a miniaturized nuclear warhead.

Through images publicized by its state run media, North Korea in March 2016 displayed a compact nuclear warhead. Even if this device was a model, this display should be taken seriously as it is believed that the government has enough separated fissile material for up to 16 weapons.⁷

Pyongyang has conducted four nuclear explosive tests since 2006, most recently in January 2016 when it claimed to have tested a hydrogen bomb. It is more likely, however, that it tested a boosted-fission device, which uses hydrogen isotopes to increase the explosive yield of the bomb, rather than a classic two-stage hydrogen bomb.⁸

North Korea will likely continue to test nuclear devices, and has declared that it will continue to advance its nuclear arsenal in both "quality and quantity."⁹

Turning Pressure Into Progress

North Korea is now under extremely tight international financial sanctions, severe limits on arms trade, and is

of the connections between former U.S. and North Korean negotiators. There remains a generation of experienced diplomats and experts who have maintained communications over the years. Their knowledge should be drawn upon when reconstituting a diplomatic process with North Korea.

In May, Pyongyang appointed a new foreign minister, Ri Yong Ho, who has participated in Track II negotiations and formerly held the post of envoy to the six-party talks. He has been described as Pyongyang's top expert on the United States and a diplomat with whom Americans are able to effectively communicate.¹⁰ The United States should take advantage of a familiar and experienced negotiator holding the highest diplomatic office in North Korea.

While it is the case that the six-party process has been defunct since 2009, it is the most appropriate forum for negotiations to denuclearize the Korean peninsula. The states involved – China, Japan, North Korea, Russia, South Korea, and the United States – continue to have the greatest stake in the stability and nuclear-free status of the Korean peninsula. Within this forum, there should also be opportunities for bilateral discussions between North Korea and the United States, as well as the other parties, to discuss ongoing disputes tangential to the nuclear issue.

As part of its "strategic patience" approach in recent years, the United States has maintained stringent preconditions to negotiations with Pyongyang; that it must take steps toward "CVID" – the complete, verifiable, and irreversible denuclearization of the Korean peninsula, before the United States will begin

negotiations. The United States should forgo these preconditions and not demand that Pyongyang achieve this long-term goal of the negotiations before even beginning talks. Maintaining this approach gives North Korea additional time to delay and stall on negotiations while advancing its nuclear and missile programs through further testing and fissile material production.

The current U.S. administration should continue to actively lay the groundwork for the resumption of negotiations. It should be a priority of the next president to engage North Korea and to review and implement their North Korea policy soon after taking office.

On Regime Stability

Regime stability is paramount to Pyongyang and it will be a great challenge to convince it to give up any option seen as a guarantor of its continuation.

Washington should move forward under the assumption that Kim Jong Un will remain in power for the foreseeable future. His grandfather and father ruled the state until their deaths at ages 82 and 70, respectively. Kim Jong Un is believed to be born in 1984, making him now 32 years old. He is doing everything he can to consolidate power and influence, including his glorified missile and nuclear demonstrations of 2016 and the convening of the Korean Workers' Party Congress to highlight his achievements.

Anticipating regime change as the future opening for dealing with and denuclearizing North Korea is an unrealistic strategy. Washington should anticipate that Kim will stay in power for many more years rather than waiting for the moment when he is not. If the nuclear issue is to be managed in the short term, the United States must create its moment to engage the current regime.

Objectives for Negotiation

Washington cannot reasonably expect Pyongyang to simply bend to the will of the United States and give up its nuclear weapons, which are viewed as ensuring the survivability of the regime, without incentives. Even though North Korea is a bad actor, it retains its own autonomous decision making ability. In fact, isolation seems to have made it even less beholden to the international community.

In the short term, the United States and its partners should insist on a freeze of North Korea's nuclear and ballistic missile testing and fissile material production leading up to and during negotiations.¹¹ Achieving such a freeze would be significant, as Pyongyang has rejected any limits on its nuclear and missile capabilities for

Figure 2: UN Security Council Resolutions on North Korea

The Security Council has unanimously adopted five resolutions in response to North Korea's nuclear activities since 2006.¹² The resolutions prohibit North Korea from nuclear testing and ballistic missile launches, call for an end to both programs, and urge Pyongyang's return to multilateral negotiations on its nuclear program. The resolutions also successively expand the arms embargo and limitations on financial transactions with North Korea, and introduce subsequent travel bans on North Korean nationals. Below are some highlights of the resolutions:

RESOLUTION 1718 (2006)

- Adopted on October 14 in response to North Korea's first nuclear test, conducted October 9.
- Establishes the "1718 Committee" to oversee implementation and enforcement of sanctions against North Korea.
- Establishes an arms embargo against North Korea, which extends to nuclear technology and nuclear weapons-related development training.

RESOLUTION 1874 (2009)

- Adopted on June 12 in response to North Korea's nuclear test on May 25.
- Gives UN member states interdiction authority to inspect and destroy North Korean cargo transiting their territory which violates the arms trade embargo on North Korea.
- Establishes a Panel of Experts to report to the Security Council on the status of sanctions implementation and enforcement.

RESOLUTION 2087 (2013)

- Adopted on January 22 after North Korea's successful satellite launch using ballistic missile technology on December 12, 2012.
- Expands states' rights to seize and destroy goods suspected of being intended for use in Pyongyang's nuclear and missile programs.

RESOLUTION 2094 (2013)

- Adopted on March 7 in response to North Korea's third nuclear test on February 12.
- Expands the list of items prohibited from import to North Korea that could have dual use functions in its nuclear, missile, or other WMD programs.

RESOLUTION 2270 (2016)

- Adopted on March 2 after North Korea's nuclear test of January 6 and successful satellite launch using ballistic missile technology of February 7.
- Bans the sale of aviation fuel to North Korea.
- Bans states from providing technical training to North Korean nationals which could contribute to the country's nuclear or missile programs.
- Requires states to inspect all North Korean cargo transiting through their territory to ensure that goods are not "transferred in violation of resolutions."
- Requires states to terminate joint financial ventures with North Korea, and prohibits states from hosting North Korean financial institutions.

several years. (See Figure 1.)

Such a freeze, however, would demonstrate to the international community a commitment by Pyongyang to further negotiations and ensure that the government is not simply prolonging the talks to allow additional time to improve its nuclear and missile capabilities.

The long-term goal of negotiations should be two-fold: to verifiably denuclearize the Korean peninsula, and to reintegrate North Korea back into the international community in such a way that it will neither have reason to seek a nuclear weapons arsenal again nor retain a latent capability to do so.

Denuclearization

Complete and verifiable denuclearization would require that North Korea adopt transparency regarding its nuclear infrastructure during the disarmament process, rejoin the NPT, and resubmit sites to inspection by the IAEA. North Korea must also be prepared to disclose the size of its nuclear stockpile, and reveal all enrichment and reprocessing sites, as well as storage, assembly, and other related sites for fissile material and warheads, and submit these sites to IAEA inspection.

Pyongyang must conform to UN Security Council resolutions banning it from nuclear testing. A step further would be for it to join the Comprehensive Test Ban Treaty, which would be an important step to limiting and eventually giving up its nuclear weapons capability as well as facilitating its reintegration with the

international community.¹⁴

Likewise, North Korea must agree to limits on weapons systems capable of delivering nuclear payloads, disclose missile stockpile numbers and production sites, and so long as it is pursuing nuclear weapons, conform to the UN Security Council ban on space launches. North Korea must also agree to cease its proliferation of ballistic missile technology and address concerns about potential transfer of nuclear material or technology to other parties.

Normalizing Relations with North Korea

As in any negotiation, when dealing with Pyongyang, Washington must be prepared to offer North Korea incentives for cooperation. North Korea is suspicious of U.S. motives to elicit regime change. Therefore, a security guarantee from Washington to Pyongyang would likely be a desirable benefit for North Korea. Reducing financial sanctions, adopted as punitive measures for Pyongyang's nuclear and missile activities, is another option. North Korea has the potential for even greater gains by rejoining the norm-abiding international community, affording the Pyongyang financial stability and political inclusion it has never known.

Normalizing relations with North Korea is complicated by its status with South Korea: neither Korea recognizes the other's government. North Korea has repeatedly called for talks on a peace treaty to replace the Korean War Armistice and formally end hostilities. This desire serves the goal of normalizing North Korea in that it will promote stability on the peninsula. North Korea has proposed talks on a formal peace treaty with the United States. Washington should be prepared to entertain this, but only as a follow-up to the denuclearization process. The negotiation of a nuclear deal with North Korea in which South Korea also participates will provide an entrée into further negotiations on the political status of the two.

Timing

There may never be a perfect opportunity for diplomatic engagement with North Korea but the United States should seize any available opening before North Korea further advances its nuclear program in militarily significant ways. The next year and half is one of transitions, with the U.S. presidential transition in January 2017 and a presidential election in South Korea in December 2017.

In response to North Korea's ballistic missile tests, Japan and South Korea are discussing possibilities for deploying more capable missile defenses in Asia, and

Lessons from Iran

The negotiations between Iran and the six countries known as the P5+1 (China, France, Germany, Russia, the United Kingdom and the United States) from 2013 to 2015, demonstrated that unity is paramount when dealing with a state of nuclear concern. A unified strategy by the P5+1 was key to success in achieving the Joint Comprehensive Plan of Action (JCPOA) with Iran.¹³

While the North Korean case is complicated by the fact that North Korea already has a nuclear explosive capability, unity between the United States and key countries in the region like South Korea and China will be critical for engagement with Pyongyang.

Success in Iran was also due in part to sustained engagement by a team of experienced diplomats. France in particular, maintained dialogue with Iran for nearly ten years leading up to the deal, well before JCPOA negotiations were undertaken. Moreover, it was through U.S. teams spending time with the Iranian negotiators that the U.S. team came to better understand Iranian interests and positions, leading to a successful outcome.



Eskinder Debebe/UN

U.S. Permanent Representative to the UN Samantha Power (left), Japanese Permanent Representative Motohide Yoshikawa (center), and South Korean Permanent Representative Oh Joon (right), address journalists on March 2, 2016, following the UN Security Council’s unanimous adoption of Resolution 2270 (2016), imposing additional sanctions on North Korea in response to that country’s continued pursuit of a nuclear weapons and ballistic missile program.

the prospect of North Korea’s neighbors acquiring their own nuclear deterrent has once again become a subject of debate. While it is important to have relevant defense plans in place, it is paramount for stability in the region and for the future of the nonproliferation regime that the international community reaches a peaceful and diplomatic resolution to the North Korea nuclear threat.

Pyongyang has frequently reacted to the regularly scheduled military drills between the United States and South Korea as an opportunity to express its outrage regarding the U.S. presence on the Korean peninsula. Pyongyang responds with military drills of its own and aggressive statements in state-run media.

In March 2016, the United States and South Korea conducted large joint military drills and further bilateral exercises are scheduled. North Korea has proposed suspending its nuclear testing in exchange for a cessation of these military drills.

Mutual Assured Instability

The current state of affairs is dangerous and destabilizing. Current U.S. policies have failed to stop North Korea from engaging in conventional military provocations and qualitative improvements in its nuclear and missile capabilities.¹⁵

North Korea’s *byungjin* policy of pursuing military and economic expansion in tandem and its aggressive pursuit of a qualitative and quantitatively improved nuclear arsenal cannot protect it from international economic and political isolation. The only viable path for Washington and Pyongyang to arrest the deteriorating situation and achieve the stability and security they both desire is for a renewal of diplomatic efforts on the nuclear weapons issue.

ENDNOTES

1. For an overview of the six-party talks, see the Arms Control Association fact sheet “The Six-Party Talks at a Glance.”
2. Josh Stanton, “The Treasury Department just went full Alderaan on North Korea (updated),” *One Free Korea*, June 2, 2016.
3. “Report of the Panel of Experts established pursuant to resolution 1874 (2009),” S/2016/157, February 24, 2016.
4. In 2003, North Korea withdrew from the NPT with just one day’s notice, citing that the requisite number of days for legal withdrawal from the treaty was fulfilled was combined with the days from its previous period of threatened withdrawal in 1993 when it announced and then rescinded its withdrawal from

the treaty. The international community questions the legality of this justification as well as the adequacy of North Korea's reasons for withdrawal. For a discussion of this topic, see George Bunn and Roland Timerbaev, "The Right to Withdraw From the Nuclear Non-proliferation Treaty (NPT): The Views of Two NPT Negotiators," *Yaderny Kontrol*, Fall 2005.

5. For an examination of the prospects for a North Korean ICBM, see Michael Elleman and Emily Werk, "Can a North Korean ICBM Be Prevented?," *Arms Control Today*, May 2016.

6. John Schilling and Henry Kan, "The Future of North Korean Nuclear Delivery Systems," *North Korea's Nuclear Futures Series*, April 2015.

7. Joel S. Wit and Sun Young Ahn, "North Korea's Nuclear Futures: Technology and Strategy," *North Korea's Nuclear Futures Series*, February 2015.

8. Elizabeth Philipp, "North Korea Claims Hydrogen Bomb Test," *Arms Control Today*, January/February 2016.

9. "DPRK Proves Successful in H-bomb Test," Korean Central News Agency, January 6, 2016.

10. Insights on Ri Yong Ho are drawn from comments at a press conference held at the US-Korea Institute at SAIS

addressing the North Korean Workers' Party Congress on May 10, 2016.

11. Greg Thielmann, "North Korea's Nuclear Threat: How to Halt Its Slow But Steady Advance," Arms Control Association, February 19, 2016.

12. For a detailed review of these resolutions on North Korea, see the Arms Control Association fact sheet "UN Security Council Resolutions on North Korea."

13. For a detailed overview of the Iran nuclear deal, see "Solving the Iranian Nuclear Puzzle: The Joint Comprehensive Plan of Action," Arms Control Association, August 2015.

14. North Korea is an Annex 2 state and its ratification of the CTBT is required for the treaty to enter into force.

15. In March 2010, North Korea torpedoed the South Korean *Cheonan*, resulting in the sinking of the ship and the death of 46 personnel. In November 2010, North Korea attacked South Korean Yeonpyeong Island with artillery and rockets, killing four South Koreans and injuring others. North Korea is also responsible for placing landmines in the demilitarized zone of the inter-Korean border, which maimed two South Korean soldiers in August 2015.