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Nuclear Negotiations with North Korea: In Brief

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December 4, 2017

Congressional Research Service

7-5700

www.crs.gov

R45033

CRS REPORT

Prepared for Members and
Committees of Congress

Summary

Some analysts have suggested that, in response to the accelerated pace of North Korea's nuclear and missile testing programs and its continued threats against the United States and U.S. allies, the United States might engage in an aggressive negotiation strategy. Since the early 1990s, successive U.S. Presidents have faced the question of whether to negotiate with the North Korean government to halt Pyongyang's nuclear program and ambitions. Questions for policymakers include the utility, timing, scope, and goals of diplomatic talks with Pyongyang.

The United States has engaged in four major sets of formal nuclear and missile negotiations with North Korea: the bilateral Agreed Framework (1994-2002), the bilateral missile negotiations (1996-2000), the multilateral Six-Party Talks (2003-2009), and the bilateral Leap Day Deal (2012). In general, the formula for these negotiations has been for North Korea to halt, and in some cases disable, its nuclear or missile programs in return for economic and diplomatic incentives. While some of the negotiations have shown progress, North Korea has continued to advance its nuclear and missile programs.

Congress possesses a number of tools to influence whether and how intensely the Administration pursues negotiations with North Korea. The tools include oversight hearings, resolutions expressing congressional sentiment, restrictions on the use of funds for negotiations and the required diplomatic team through the appropriations process, and legislation that attaches or relaxes conditions and requirements for implementation of agreements.

Past Congresses have influenced U.S.-DPRK talks and in several cases affected the implementation of the negotiated agreements. Congress's role has been particularly significant in negotiations over the provision of U.S. energy and humanitarian assistance to North Korea through the appropriations process.

This report summarizes past nuclear and missile negotiations between the United States and North Korea, also known by its formal name, the Democratic People's Republic of Korea (DPRK), and highlights some of the lessons and implications that can be drawn from these efforts. Other CRS products address various aspects of U.S. policy toward North Korea, including those listed below.

- CRS Report R41259, *North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation*, coordinated by Emma Chanlett-Avery
- CRS In Focus IF10467, *Possible U.S. Policy Approaches to North Korea*, by Emma Chanlett-Avery and Mark E. Manyin
- CRS Report R41438, *North Korea: Legislative Basis for U.S. Economic Sanctions*, by Dianne E. Rennack
- CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth D. Nikitin
- CRS Report R44994, *The North Korean Nuclear Challenge: Military Options and Issues for Congress*, coordinated by Kathleen J. McInnis
- CRS Report R44912, *North Korean Cyber Capabilities: In Brief*, by Emma Chanlett-Avery et al.
- CRS In Focus IF10472, *North Korea's Nuclear and Ballistic Missile Programs*, by Steven A. Hildreth and Mary Beth D. Nikitin

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Introduction

Faced with the accelerated pace of North Korea's nuclear and missile testing programs and continued threats against the United States and U.S. allies, U.S. policymakers have several options. One is an aggressive negotiation strategy. Among the questions related to negotiations with Pyongyang are their utility, timing, scope, and goals.¹ This report summarizes past formal nuclear and missile negotiations between the United States and North Korea, also known by its official name, the Democratic People's Republic of Korea (DPRK), and highlights some of the lessons and implications that can be drawn from these efforts.²

Trump Administration officials have offered differing statements about their intention to seek a diplomatic solution to the North Korean challenge. President Donald J. Trump at times has disparaged negotiations. On August 30, 2017, he tweeted, "The U.S. has been talking to North Korea, and paying them extortion money, for 25 years. Talking is not the answer!" In another tweet days later, he called South Korean President Moon Jae-in's efforts to resume dialogue "appeasement."³ President Trump also tweeted on October 1, 2017, that Secretary of State Rex Tillerson was "wasting his time trying to negotiate with Little Rocket Man," using a disparaging nickname for North Korean leader Kim Jong-un.⁴ At other times, President Trump has appeared to support diplomacy. A joint statement released by the United States and South Korea during President Trump's November 2017 visit to South Korea spoke of using "coordinated global pressure" to "bring North Korea back to authentic and credible denuclearization talks."⁵ During the same visit, President Trump said "I really believe that it makes sense for North Korea to come to the table and to make a deal that's good for the people of North Korea and the people of the world."⁶

The Administration's Secretary of State, Secretary of Defense, and Director of National Intelligence issued a joint statement of Administration policy in April 2017 indicating that the Administration's approach of "maximum pressure"—through strengthened United Nations Security Council sanctions, increased unilateral economic pressure, and ramped-up military cooperation with allies—is aimed at convincing Pyongyang eventually "to de-escalate and return to the path of dialogue."⁷ Other senior military officials have also said that their actions to bolster deterrence are in support of diplomacy. Admiral Harry B. Harris, Commander of U.S. Pacific

¹ See, for example, Will Ripley, "North Korea Revives Guam Threat Ahead of U.S.-South Korea Drills," *CNN.com*, October 15, 2017.

² Over the past three decades, U.S. and DPRK officials have engaged in numerous informal contacts, as have U.S. scholars and think-tank representatives and DPRK officials. This report does not attempt to provide a history of these contacts, though they are briefly discussed in the "Format" section below.

³ @realDonaldTrump, August 30, 2017, 5:47am Eastern Standard Time (EST); @realDonaldTrump, September 3, 2017, 4:46am EST.

⁴ @realDonaldTrump, October 1, 2017, 7:30am EST.

⁵ The White House, "Joint Press Release by the United States of America and the Republic of Korea," November 8, 2017.

⁶ The White House, "Remarks by President Trump and President Moon of the Republic of Korea in Joint Press Conference," November 7, 2017.

⁷ Office of the Spokesperson, U.S. Department of State, "Joint Statement by Secretary of State Rex Tillerson, Secretary of Defense James Mattis, Director of National Intelligence Dan Coats," April 26, 2017. Secretaries Tillerson and Mattis reiterated this position in a joint August 2017 commentary, James Mattis and Rex Tillerson, "We're Holding Pyongyang to Account: The U.S. its allies and the world are united in our pursuit of a denuclearized Korean Peninsula," *The Wall Street Journal*, August 13, 2017.

Command, stated in August 2017, “So we hope and we work for diplomatic solutions to the challenge presented by Kim Jong-un.”⁸ Secretary Tillerson has stated that, “we do not seek regime change, we do not seek a regime collapse, we do not seek an accelerated reunification of the peninsula, and we do not seek a reason to send our forces north of the Demilitarized Zone.”⁹ South Korean President Moon Jae-in supports diplomacy to resolve the crisis, stating that “[W]e have to add dialogue to the current menu of sanctions and pressure” under the right conditions.¹⁰ On the other hand, Japanese Prime Minister Shinzo Abe has supported President Trump’s statements against talks, stating in September 2017 that “more dialogue with North Korea would be a dead end.”¹¹

In the past several years and particularly under Kim Jong-un, who rose to power in 2011, North Korea has rejected the idea of denuclearization outright and reaffirmed the role of nuclear weapons in national policy. North Korea long has insisted that the nuclear issue cannot be settled until the United States ends its “nuclear threat” and “hostile policy” against North Korea, and that nuclear weapons are key to regime survival.¹² When it has entered talks with the United States, Pyongyang’s apparent negotiation goals have often have included establishing official relations with the United States, securing economic assistance, obtaining the removal of sanctions and other restrictions on its interactions with the United States and the rest of the world, downgrading if not removing the U.S. military presence on the Korean Peninsula, concluding a nonaggression pact with or winning security assurances from the United States, signing a peace treaty to replace the 1953 armistice that halted the Korean War, and, more recently, being recognized as a nuclear-weapons state.¹³

Congress has tools to influence whether and how intensely the Administration pursues negotiations with North Korea, including oversight hearings, resolutions expressing congressional sentiment, restrictions on the use of funds for negotiations and the required diplomatic team through the appropriations process, and legislation that attaches or relaxes conditions and requirements for implementation of agreements. Congress has influenced past U.S.-DPRK talks and in several cases affected the implementation of the negotiated agreements. Congress’s role has been particularly significant in negotiations over the provision of U.S. energy and humanitarian assistance to North Korea through the appropriations process. In an example of other levers of influence, in 2004 Congress established a Special Envoy on North Korean human rights issues, with the rank of Ambassador, within the State Department.¹⁴

⁸ Stephanie Nebehay, “U.S., North Korea Clash at U.N. Forum Over Nuclear Weapons,” Reuters, August 22, 2017.

⁹ State Department, “Rex W. Tillerson Remarks at a Press Availability,” August 1, 2017. State Department Press Office, “Rex W. Tillerson Interview with CBS’s Face the Nation,” September 17, 2017.

¹⁰ “South Korea’s New President: ‘Trump and I Have a Common Goal’,” *Washington Post* interview, June 20, 2017.

¹¹ Shinzo Abe, “Solidarity Against the North Korean Threat,” *New York Times*, September 17, 2017.

¹² Under Kim Jong-un, North Korea pursues an official policy of *byungjin*—simultaneous development of the country’s nuclear weapons and its economy. North Korean Foreign Ministry official Choe Son Hui reiterated in October 2017 his government’s past statements that its nuclear arsenal is meant to deter attack from the United States and that keeping its weapons is, “a matter of life and death for us.” Leo Byrne, “N. Korea ‘not planning negotiations over nuclear weapons,’” *NKNews*, October 20, 2017.

¹³ See Larry Diamond, “There Is a Peaceful Way Out of the North Korea Crisis,” *The Atlantic*, April 26, 2017; “The Six Party Talks on North Korea’s Nuclear Program,” *Council on Foreign Relations Backgrounder*, September 30, 2013; Victor Cha, “What Do They Really Want?: Obama’s North Korea Conundrum,” *The Washington Quarterly*, October 2009.

¹⁴ Section 107, North Korea Human Rights Act of 2004 (P.L. 108-333; 22 U.S.C. 7807), as amended. The Special Envoy is required to report to Congress annually; this requirement expires at the end of 2017. The position has been vacant since President Trump’s inauguration. Secretary Tillerson, in reorganizing the State Department, announced he (continued...)

Nuclear and Missile Negotiations from 1994 to 2012

Since the early 1990s, successive U.S. Presidents have faced the question of whether and how to negotiate with the North Korean government to halt Pyongyang's nuclear program and ambitions.¹⁵ The United States and North Korea have engaged in four major sets of formal negotiations: talks that resulted in the bilateral Agreed Framework (in place from 1994 until 2002), bilateral missile negotiations (1996-2000), multilateral Six-Party Talks (2003-2009), and the bilateral Leap Day Deal (2012). In general, the formula for these negotiations involved North Korea halting or dismantling its nuclear or missile programs in return for economic and diplomatic incentives.

Negotiations to Defuse the First Nuclear Crisis (1993-1994)

Background

Pyongyang joined the Nuclear Nonproliferation Treaty (NPT) as a non-nuclear weapon state in 1985, in response to Soviet pressure, and agreed to allow inspections of its nuclear facilities by the International Atomic Energy Agency (IAEA). Evidence had surfaced in the 1980s that North Korea was engaged in a clandestine nuclear weapons development effort.¹⁶ In 1992, the DPRK submitted its declaration of nuclear facilities and materials to the IAEA, which was to verify the statement's accuracy and completeness.

The first nuclear crisis was triggered in February 1993, when the IAEA identified two sites suspected of being nuclear waste storage depots and demanded inspections. North Korea refused inspections and declared that it would withdraw from the NPT, leading to over a year of negotiations between North Korea, on one side, and the United States and the IAEA on the other. These talks produced multiple joint statements and agreements, none of which held for more than several months, centering around North Korea allowing IAEA inspectors access to the disputed facilities in exchange for U.S. guarantees not to attack (referred to as "security assurances"), and possible civil-use energy assistance. At that time, Western intelligence agencies estimated that North Korea had separated enough plutonium for one or two bombs. The U.S. Secretary of Defense at the time, William J. Perry, described the Clinton Administration policy as "coercive diplomacy" under which offers for talks were "backed with a very credible threat of military force."¹⁷ The Clinton Administration considered conducting a military strike against the DPRK's Yongbyon nuclear facility, where the plutonium-based nuclear facilities were located.

The crisis was defused in June 1993, when former President Jimmy Carter traveled to Pyongyang and brokered the outlines of a deal—backed by the Clinton Administration—with North Korean leader Kim Il-sung. North Korea agreed to freeze its plutonium production program in exchange for a light-water nuclear power reactor, to be provided by the United States, and a move toward

(...continued)

will leave the position unfilled, assigning the work instead to the Under Secretary of State for Civilian Society, Democracy, and Human Rights. Josh Rogin, "Tillerson scraps full-time North Korean human rights envoy," *The Washington Post*, August 31, 2017.

¹⁵ Julie Hirschfield Davis, "With North Korea, Past Presidents Preferred Words Over 'Fire,'" *The New York Times*, August 9, 2017.

¹⁶ North Korea built several facilities for plutonium production in the 1980s including a plutonium separation plant and graphite-moderated reactor.

¹⁷ "Kim's Nuclear Gamble," Interview with William Perry, *PBS Frontline*, February 2003.

normalized diplomatic and economic relations between the two nations. Kim Il-sung died in July 1994, but bilateral negotiations continued under his successor and son, Kim Jong-il.

The nuclear talks during the early 1990s took place against a backdrop of a worsened geopolitical and economic situation for Pyongyang. The easing of Cold War hostilities and subsequent collapse of the Soviet bloc provided an opening for South Korea, under President Roh Tae-woo's "Nordpolitik" (northern policy), to establish relations in 1990 and 1992 with Moscow and Beijing, respectively. Over the same period, a collapse in economic support from the Soviet Union and China, which for decades had provided the DPRK with significant assistance and concessional trade, produced economic hardship inside North Korea that ultimately contributed to a massive famine later in the decade. Additionally, the end of the Cold War led the United States to announce in 1991 that the United States would withdraw all of its land-based tactical nuclear weapons from overseas bases, including those in South Korea. These were among the factors that appear to have both pressured and encouraged Kim Il-sung and Kim Jong-il to seek a new and improved relationship with the West, including on nuclear issues. In 1992, the two Koreas negotiated a joint declaration in which the two sides said they "shall not test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons" and would create the conditions for "peaceful reunification."¹⁸

The Agreed Framework (1994-2002)

Three months after Kim Il-Sung's death, the U.S.-DPRK nuclear talks culminated in the October 1994 Agreed Framework, which committed North Korea to remain a party to the NPT, freeze its plutonium production programs, and eventually dismantle them under international inspection in return for several kinds of assistance from the United States and other countries.¹⁹ Under the agreement, the DPRK would receive two nuclear power light-water reactors (LWRs). North Korea complied with the plutonium freeze terms of the Agreed Framework, allowing IAEA verification tools to be installed—including the "canning" of spent fuel rods at the Yongbyon reactor—and consented to permanent remote monitoring and inspectors at its nuclear facilities. The Agreed Framework also stated that the United States "will provide formal assurances to the DPRK against the threat or use of nuclear weapons by the U.S."²⁰ Both North Korea and the United States committed to political and economic normalization. The Agreed Framework also provided for U.S. energy assistance to North Korea and improvements in economic relations, such as easing of U.S. sanctions.

The Agreed Framework called for 500,000 metric tons of heavy fuel oil (HFO) to be provided to North Korea annually while the two LWRs were constructed, through the Korean Peninsula Energy Development Organization (KEDO), a consortium first formed by the United States, Japan, and South Korea.²¹ From 1995 to 2002, the United States provided over \$400 million in

¹⁸ U.S. Department of State, "Joint Declaration of the Denuclearization of the Korean Peninsula," January 20, 1992, <https://2001-2009.state.gov/t/ac/rls/or/2004/31011.htm>.

¹⁹ See CRS Report RL33590, *North Korea's Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch, and CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth D. Nikitin.

²⁰ U.S. Department of State, "Agreed Framework Between the United States of America and the Democratic People's Republic of Korea," October 21, 1994, <https://2001-2009.state.gov/t/ac/rls/or/2004/31009.htm>.

²¹ Full text of the KEDO-DPRK supply agreement at <http://www.kedo.org/pdfs/SupplyAgreement.pdf>. Membership in KEDO expanded to include Argentina, Australia, Canada, Chile, the Czech Republic, the European Union (as an executive board member), Indonesia, New Zealand, Poland, and Uzbekistan. KEDO also received material and financial support from nineteen other nonmember states.

energy assistance to North Korea through KEDO.²² Supplying North Korea with a nuclear power plant was controversial in Congress, particularly after Republicans took control of the House of Representatives in 1995. U.S. contributions covered heavy fuel oil shipments and KEDO administrative costs. South Korea and Japan funded the bulk of the LWR construction costs.²³ Starting in 1998, Congress required the President to certify progress in nuclear and missile negotiations before allocating money to KEDO operations. The Clinton Administration viewed this conditionality as fatal to the Agreed Framework, and it nearly disrupted several appropriations requests.²⁴

In August 1998, when North Korea tested a long-range ballistic missile—its first—over Japan, there were calls in Congress to end the Agreed Framework. The Clinton Administration initiated a policy review, concluding that, although the Agreed Framework had stopped plutonium production, North Korea had likely continued its nuclear weapons-related work and had developed and exported ballistic missiles of increasing range. The review determined that the Agreed Framework should be kept in place but supplemented by additional negotiations to end all North Korean nuclear weapons activities and long-range ballistic missile testing, production, deployment, and export in exchange for the United States lifting sanctions, normalizing relations, and providing a security guarantee.

U.S.-DPRK Missile Negotiations

The Clinton Administration pursued a series of negotiations with North Korea, beginning in 1996, that focused on curbing the DPRK's missile program and ending its missile exports, particularly to countries in the Middle East.²⁵ In September 1999, North Korea agreed to a moratorium on testing long-range missiles in exchange for the partial lifting of U.S. sanctions and a continuation of bilateral talks. (North Korea maintained its moratorium until July 2006.) In December, KEDO signed a contract to begin construction on two LWRs.

Separately, in a sign of an improved overall negotiating climate with Pyongyang, North and South Korea held a summit in June 2000, their first, and began implementing initiatives aimed at improving relations.²⁶ North Korea was suffering from a widespread famine, which may have

²² CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth D. Nikitin. Membership in KEDO expanded to include additional states and organizations that contributed funds, goods, or services: Argentina, Australia, Canada, Chile, the Czech Republic, the European Union's European Atomic Energy Community (as an executive board member), Indonesia, New Zealand, Poland, and Uzbekistan. KEDO also received material and financial support from nineteen other nonmember states. See http://www.kedo.org/au_history.asp.

²³ Over the 10 years of KEDO's operations, until it was shut down in December 2005, South Korea provided around 60% (\$1.5 billion) of the financial support for KEDO, followed by Japan (around 20%/\$500 million), the United States (around 15%/\$400 million), and the EAEC (around 5%/\$120 million). KEDO, *2005 Annual Report*, Annex B, p. 10.

²⁴ From 1998 until the United States halted funding for KEDO in FY2003, Congress included in each Foreign Operations Appropriation requirements that the President certify progress in nuclear and missile negotiations with North Korea before allocating money to KEDO operations. See CRS Report 97-356, *The U.S.-North Korea Nuclear Accord of October 1994: Background, Status, and Requirements of U.S. Nonproliferation Law*, by Richard P. Cronin and Zachary S. Davis.

²⁵ North Korea reportedly exported missiles to a range of countries in the 1990s, including Egypt, Iran, Libya, Pakistan, Syria and the United Arab Emirates. Joseph S. Bermudez Jr., *A History of Ballistic Missile Development in the DPRK*, Occasional Paper No. 2, Center for Nonproliferation Studies, 1999.

²⁶ See CRS Report RL30811, *North-South Korean Relations: A Chronology of Events in 2000 and 2001*, by Mark E. Manyin. The summit was an initiative of the “sunshine policy” of largely unconditional engagement pursued by South Korea under President Kim Dae Jung (1998-2003) and Roh Moo-hyun (2003-2008). It later was revealed that South Korea arranged for the transfer of hundreds of millions of dollars to North Korea before the summit.

motivated Pyongyang to engage internationally. Then-Secretary of State Madeleine Albright visited Pyongyang in October 2000 to finalize the terms of a new agreement, under which North Korea would end ballistic missile development and missile exports in exchange for international assistance in launching North Korean satellites. Reportedly, if final details had been reached, a framework agreement would have been signed in Pyongyang between President Bill Clinton and Kim Jong-il. However, the Clinton Administration decided the President would not make the trip due, in part, to the disputed 2000 U.S. presidential election results, and talks were not held before Clinton left office.²⁷

The Six-Party Talks (2003-2009)

Background: The George W. Bush Administration and the Agreed Framework

Shortly after President George W. Bush took office in January 2001, the new Administration began a full review of U.S. policy toward North Korea, distancing itself from Clinton policies. The next two years would be marked by a mix of high-level diplomatic outreach and difficulties in implementing the agreements already in place. Key members of the Administration and some Members of Congress were opposed to continuing the Agreed Framework in its existing form. The Agreed Framework required Pyongyang to fully disclose its nuclear program, but North Korea was not fully cooperating and the IAEA could not verify the completeness of North Korea's report. In June 2001, the Administration announced that it would pursue "comprehensive" negotiations that would include further lifting U.S. sanctions, providing humanitarian assistance, and "other political steps" if the North agreed to verifiable steps to reduce its conventional military posture toward South Korea, "improved implementation" of the Agreed Framework, and accepted "verifiable constraints" on its missile program and a ban on its missile exports.²⁸

In his January 2002 State of the Union address, the first since the September 11, 2001, attacks, President Bush grouped North Korea into an "axis of evil," along with Iraq and Iran. The speech emphasized the idea that the United States "must not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons." In contrast to statements about use of force in Iraq, however, in a February 2002 speech in Seoul, President Bush said that the United States had no intention of invading North Korea and was supportive of the South Korean President's "sunshine policy" that emphasized engagement.²⁹ The United States and North Korea scheduled talks for summer 2002, but they were postponed after a June 29, 2002, naval skirmish between North and South Korea in which 19 South Korean troops were killed.

Meanwhile, the parties continued to implement the Agreed Framework; the concrete foundation for the first light-water reactor to be provided under the KEDO agreement was poured in August 2002, with U.S. envoy Jack Pritchard present. The United States then urged North Korea to cooperate with the IAEA on verification, but North Korea said it would not do so for another three years and threatened to pull out of the Agreed Framework altogether if faster progress was not made on reactor construction. While construction of the promised LWRs had begun in

²⁷ Michael Gordon, "How Politics Sank Accord on Missiles With North Korea," *New York Times*, March 6, 2001.

²⁸ "Statement on the Completion of the North Korea Policy Review," June 6, 2001, University of California, Santa Barbara, The American Presidency Project.

²⁹ The American Presidency Project, University of California, Santa Barbara, "George W. Bush: Remarks at the Dorasan Train Station in Dorasan, South Korea," February 20, 2002, and The White House, "President Bush & President Kim Dae-Jung Meet in Seoul," press release, February 20, 2002.

February 2000, no nuclear components could be delivered under the terms of the Agreed Framework until the IAEA verified the completeness of North Korea's declaration.³⁰ In addition, delays in raising funds, setting up the organization, and concluding contracts prevented KEDO from meeting the original goal of constructing the first LWR by 2003.³¹

A Japan-North Korea Summit in September 2002, between Prime Minister Junichiro Koizumi and Kim Jong-il, raised hopes for resolution to this and other issues. North Korea renewed its commitment to a missile testing moratorium in September 2002, in advance of a high-level visit to Pyongyang by U.S. diplomats. However, a new crisis began in October 2002. During a visit to Pyongyang, then-Assistant Secretary of State for East Asian and Pacific Affairs James A. Kelly reportedly presented the North Koreans with evidence of a clandestine highly-enriched uranium (HEU) production program in North Korea. Plutonium or HEU can be used as fissile material for a nuclear weapon. According to the Bush Administration, North Korea confirmed the allegations and said the Agreed Framework was nullified. The United States, Japan, and South Korea issued a trilateral statement saying that the undeclared uranium enrichment program constituted a violation of the Agreed Framework, the NPT, North Korea's safeguards agreement with the IAEA, and the Joint North-South Declaration on the Denuclearization of the Korean Peninsula.³²

On October 25, 2002, North Korea issued a statement saying that it was entitled to possess nuclear weapons. North Korea also rejected repeated attempts by the IAEA to discuss the uranium enrichment issue. The IAEA Board of Governors passed a resolution on November 29, 2002, calling on North Korea to clarify reports of a uranium enrichment program and come into compliance with its safeguards agreement. The resolution said that "any other covert nuclear activities would constitute a violation of the DPRK's international commitments, including the DPRK's safeguards agreement with the Agency pursuant to the NPT."³³ On November 14, 2002, KEDO board members also determined that the hidden program was a violation of these agreements and decided to halt fuel oil shipments to North Korea beginning in December. KEDO said that, "Future shipments will depend on North Korea's concrete and credible actions to dismantle completely its highly-enriched uranium program." North Korea then told the IAEA in mid-December 2002 that, since the United States had failed to live up to its obligations by suspending heavy fuel oil deliveries, it was expelling inspectors from its Yongbyon nuclear site and removing all monitoring cameras and breaking seals. North Korea announced its withdrawal from the NPT effective January 11, 2003, and resumed plutonium production after an apparent eight-year freeze.³⁴ With this confrontation, the already uneasy U.S.-DPRK relationship shifted to a more hostile one.

³⁰ Section IV.3 of the Agreed Framework says, "When a significant portion of the LWR project is completed, but before delivery of key nuclear components, the D.P.R.K. will come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), including taking all steps that may be deemed necessary by the IAEA, following consultations with the Agency with regard to verifying the accuracy and completeness of the D.P.R.K.'s initial report on all nuclear material in the D.P.R.K." Also see CRS Report RL34256, *North Korea's Nuclear Weapons: Technical Issues*, by Mary Beth D. Nikitin.

³¹ "What did we learn from KEDO?" *The Stanley Foundation Policy Dialogue Brief*, November 2006.

³² Richard Boucher, Department of State Spokesman, Press Statement, "North Korean Nuclear Program," October 16, 2002; Joint US-Japan-ROK Trilateral Statement, October 27, 2002; "KEDO Executive Board Meeting Concludes," November 14, 2002, KEDO website.

³³ IAEA GOV/2002/60, November 29, 2002.

³⁴ "KCNA 'Detailed Report' Explains NPT Withdrawal," KCNA, January 22, 2003, accessed at <http://www.fas.org>; Director of Central Intelligence's Worldwide Threat Briefing, "The Worldwide Threat in 2003: Evolving Dangers in a Complex World," February 11, 2003.

The Six-Party Process and Agreements

To try to resolve the crisis, the Bush Administration focused on convening multilateral talks, rather than the bilateral negotiations with the United States that Pyongyang preferred. Months of effort led to China convening the first round of the Six-Party Talks, involving China, Japan, North Korea, Russia, South Korea, and the United States, in August 2003. In September 2005, after the fourth round of talks, the six parties issued a joint statement outlining principles for achieving verifiable denuclearization of the Korean Peninsula, which formed the basis for future agreements.³⁵ Specific steps to address the nuclear program were known as “CVID,” standing for complete, verifiable, irreversible dismantlement. In the statement, the DPRK agreed to abandon “all nuclear weapons and existing nuclear programs.” The statement outlined compromises on the provision of LWRs and other energy assistance to the DPRK, U.S. security guarantees, normalization of diplomatic relations between the DPRK and the United States and Japan, and the negotiation of a peace treaty.

Follow-up negotiations stalled almost immediately, particularly after the U.S. Treasury Department’s September 2005 designation of Banco Delta Asia (BDA), a bank in the Chinese territory of Macau, as a financial institution of primary money laundering concern, due to suspected counterfeiting.³⁶ The action was taken the same week the Joint Statement was released, leading some observers to conclude that antinegotiation policymakers within the Administration were trying to sabotage the agreement.³⁷ The U.S. government froze \$25 million of North Korea’s funds in BDA accounts, prompting financial institutions in other countries to pull out of BDA and close many of the accounts they held for North Korean entities, even those engaged in legitimate business. The BDA action had a chilling effect on the Six-Party Talks, with North Korea demanding a resolution before it would make significant concessions on the nuclear issue.

On October 9, 2006, North Korea tested a nuclear device for the first time. The test led the other members of the talks to toughen their stance toward North Korea and seek stronger multilateral sanctions. Within a week, the United Nations Security Council (UNSC) passed its first DPRK sanctions resolution, 1718, which called on North Korea to abandon its nuclear weapons in a “complete, verifiable, and irreversible manner” and required its member states to impose international sanctions.³⁸

Following months of diplomacy, the Six-Party Talks resumed and, in February 2007, reached an agreement to begin the initial 60-day phase to implement the 2005 Joint Statement.³⁹ North Korea

³⁵ U.S. Department of State, “Joint Statement of the Fourth Round of the Six-Party Talks, Beijing,” September 19, 2005, <https://www.state.gov/p/eap/regional/c15455.htm>.

³⁶ U.S. Department of the Treasury, “Treasury Designates Banco Delta Asia as Primary Money Laundering Concern under USA PATRIOT Act,” September 15, 2005, <https://www.treasury.gov/press-center/press-releases/Pages/js2720.aspx>. Under 31 U.S.C. 5818A, the Department of the Treasury’s Financial Crimes Enforcement Network can impose a range of special measures—from diligent recordkeeping and reporting of suspicious financial activities to prohibiting the opening or maintaining of correspondent or payable-through accounts for the designated financial institution. These special measures are often referred to as “311 Special Measures,” referring to Section 311 of the USA PATRIOT Act (P.L. 107-56) that amended 31 United States Code to establish the authority. Banco Delta Asia was subject to the most stringent (5th) special measure.

³⁷ Stephen Haggard, “Christopher Hill’s Outpost: The BDA Problem (Part I),” *Witness to Transformation* blog, Peterson Institute for International Economics, March 23, 2015.

³⁸ United Nations Security Council Resolution 1718, October 14, 2006.

³⁹ The February 2007 Denuclearization Action Plan did not address uranium enrichment-related activities or the dismantlement of warheads and instead focused on shutting down and disabling the key plutonium production facilities at Yongbyon. A third phase was expected to deal with all aspects of North Korea’s nuclear program.

agreed to disable all nuclear facilities and provide a “complete and correct” declaration of all its nuclear programs, in exchange for the delivery of heavy fuel oil and removal of the United States’ Trading with the Enemy Act (TWEA) and State Sponsors of Terrorism (SST) designations.⁴⁰ Separately, the United States assured North Korea that it would return frozen North Korean funds to North Korea, which it did later that year.⁴¹ China, Japan, Russia, South Korea, and the United States agreed to divide their obligation to provide energy assistance to North Korea evenly among them. IAEA inspectors returned to North Korea in July 2007 to monitor and verify the shut-down, install seals, and monitor facilities at Yongbyon, and had a continuous presence there until mid-April 2009.⁴²

During this nearly two-year period, agreement on verification measures was elusive—North Korea refused to allow IAEA inspectors access to its facilities, which was followed by a slowing of benefits from the other countries. This led to growing tensions.⁴³ The six parties held their last round of talks, which ended in a stalemate over verification procedures, in December 2008.

The Six-Party Talks Collapse

In 2009, North Korea shifted its policy away from the Six-Party Talks and toward a more concerted effort to develop its nuclear weapons capability. This shift coincided with a decline in Kim Jong-il’s health, which reportedly began in the summer of 2008. At the same time, President Barack Obama’s inaugural address on January 21, 2009, sought to distinguish his Administration from his predecessor’s “axis of evil” approach, saying that the United States would “extend a hand” if dictatorships of the world were willing to “unclench” their fists.⁴⁴

But the new Administration changed gears when North Korea launched a long-range rocket in April 2009. The following week, the UNSC issued a statement condemning the launch as a violation of the UNSC’s 2006 DPRK resolution and calling for additional punitive measures. In response, North Korea announced its withdrawal from the Six-Party Talks, expelled international monitors, and restarted its reprocessing facility. The following month, it conducted a second nuclear test. North Korea subsequently restored its disabled plutonium production facilities and reactor, and built a uranium enrichment plant at Yongbyon. In November 2009, North Korea invited a group of former high-level U.S. officials to tour a pilot uranium enrichment plant at Yongbyon in a likely attempt to demonstrate its growing capabilities.⁴⁵ Two North Korean attacks on South Korea in 2010 made the atmosphere for talks even more difficult. In March, an

⁴⁰ “Denuclearization Action Plan,” February 13, 2007. For details of these negotiations, see CRS Report RL34256, *North Korea’s Nuclear Weapons: Technical Issues*, by Mary Beth D. Nikitin.

⁴¹ In June 2007, the United States arranged for the \$25 million in frozen North Korea assets in BDA accounts to be transferred through the New York Federal Reserve Bank to a bank in Russia, which transferred the funds on to North Korea. North Korea confirmed receipt of the money on June 25, 2007. Pyongyang promised that it would punish the counterfeiters and destroy their equipment.

⁴² “IAEA Team Confirms Shut Down of DPRK Nuclear Facilities,” IAEA press release, July 18, 2007.

⁴³ See CRS Report RL32743, *North Korea: A Chronology of Events, October 2002–December 2004*, by Mark E. Manyin, Emma Chanlett-Avery, and Helene Machart; CRS Report RL34256, *North Korea’s Nuclear Weapons: Technical Issues*, by Mary Beth D. Nikitin; and CRS Report R43865, *North Korea: Back on the State Sponsors of Terrorism List?*, by Mark E. Manyin et al.

⁴⁴ President Barack Obama’s Inaugural Address, January 21, 2009.

⁴⁵ Siegfried S. Hecker, “Where is North Korea’s Nuclear Program Heading?” *Physics & Society*, Vol. 40, No. 2, American Physical Society, April 2011. North Korea reportedly told New Mexico governor and former U.S. Ambassador to the United Nations Bill Richardson during a December 2010 Pyongyang visit that it would allow IAEA inspectors into the country to verify the peaceful nature of the uranium enrichment plant at Yongbyon. Chris Buckley, “North Korea to allow in IAEA inspectors—Richardson,” *Reuters*, December 21, 2010.

explosion sank a South Korean navy corvette, the *Cheonan*, killing 46 sailors. A multinational investigation team led by South Korea determined that the ship was sunk by a North Korean submarine. In November 2010, North Korea launched an artillery attack against South Korea's Yeonpyeong Island, killing two South Korean marines and two civilians, and wounding dozens. Thereafter, the Obama Administration adopted what has been dubbed a strategy of "strategic patience," with a focus on coordinating its efforts with allies and insisting that North Korea first change its aggressive behavior toward the South before international talks could commence.

U.S. Food Aid Policy and Nuclear Talks

From 1996 to 2009, the United States was one of the largest providers of food assistance to North Korea, which suffers from chronic food shortages and experienced a massive famine in the 1990s that killed an estimated 5%-10% of North Korea's population. Under the George W. Bush Administration, the aid continued but at lower levels and less consistently than under the Clinton Administration. Under the Clinton and Bush Administrations, U.S. officially stated policy was to delink food and humanitarian aid from strategic interests. Many observers contended, however, that from 1996 to 2001, the Clinton Administration used food aid to secure North Korea's participation and increased cooperation in a variety of security-related negotiations.⁴⁶ The Bush Administration instead made improved monitoring of food aid and access to its intended recipients one of multiple explicit conditions for providing food aid to North Korea, arguably weakening the linkage between food aid and security issues. The Obama Administration's February 2012 understanding with North Korea on the resumption of food assistance appeared to reverse this shift by directly linking the aid to concessions that North Korea was expected to make on the nuclear issue. The United States has not provided food aid to North Korea since early 2009.

According to some sources, although acute, systemic food shortages no longer appear to exist in North Korea, food insecurity continues, causing conditions like malnutrition in certain areas and among certain population groups. The severity of the problem is difficult to ascertain, in part because of the North Korean government's restrictions on international organizations such as the U.N.'s Food and Agricultural Organization (FAO) that attempt to monitor the situation. Between 2010 and 2015, North Korean domestic harvests appeared to have increased significantly. Since then, the combination of increasing sanctions and poor weather conditions may have reduced domestic food production. However, food prices in domestic markets appear to have been relatively stable between 2015 and late October 2017 (the latest date for which data were available), leading one U.S. analyst who tracks North Korean agriculture closely to conclude that although food insecurity may have increased relative to the previous few years, a food crisis was not at hand.⁴⁷

The 2012 Leap Day Deal

Throughout 2011, the Obama Administration held secret bilateral discussions with North Korea in an attempt to return to denuclearization negotiations, while also pursuing steps to increase sanctions on Pyongyang. After Kim Jong-il died in December 2011, U.S. officials were uncertain whether Kim's son and successor, Kim Jong-un, would agree to terms that had been discussed under his father. In the months after Kim Jong-un took power, the North Korean state consolidated its commitment to nuclear weapons development, eventually changing its constitution in May 2012 to say that it was a "nuclear-armed state." The Obama Administration focused on strengthening international sanctions through the U.N. Security Council, but also held several rounds of bilateral talks.

A breakthrough in talks came on February 29, 2012, when the United States and North Korea separately announced agreement on a number of steps that the United States hoped would pave

⁴⁶ Andrew Natsios, *The Great North Korean Famine. Famine, Politics, and Foreign Policy* (Washington, DC: United States Institute of Peace Press), Chapter 7; Marcus Noland, *Avoiding the Apocalypse. The Future of the Two Koreas* (Washington, DC: Institute for International Economics), 182-91.

⁴⁷ Benjamin Katzeff Silberstein, "Between Sanctions, Drought and Tensions: How Bad is North Korea's Food Situation?" *38North*, November 14, 2017, <https://www.38north.org/2017/11/bksilberstein111417/>.

the way for a return to denuclearization under the Six-Party Talks process. North Korea committed to a long-range missile testing moratorium; a nuclear testing moratorium; a moratorium on nuclear activities, including uranium enrichment at Yongbyon; and a return of IAEA inspectors to the Yongbyon nuclear facilities. Separately, the United States announced that the two countries would hold further talks to finalize details of a “targeted U.S. program consisting of an initial 240,000 metric tons of nutritional assistance with the prospect of additional assistance based on continued need.”⁴⁸ The U.S. statement also emphasized a range of issues, including the United States’ continued commitment to the 1953 armistice agreement and desire to increase people-to-people contacts with the DPRK. However, the movement toward a restart of U.S.-North Korean diplomacy was halted less than three weeks later, with North Korea’s April 2012 launch of an “earth observation satellite,” in violation of UNSC resolutions. After North Korea announced it would launch, the United States suspended its portion of the “Leap Day” arrangement, saying that the launch went against the terms of the agreement.⁴⁹

Future Considerations/Issues for Congress

Since the Leap Day Agreement collapsed in 2012, the North Korean government has overtly restarted its nuclear weapons material production, continued nuclear testing, and accelerated long-range ballistic missile testing. Future talks could include elements of past denuclearization agreements, such as nuclear testing moratoria and possible dismantlement of any nuclear testing site; international monitoring of a freeze in nuclear material production facilities; verification of weapons material stocks; and pledges not to sell missile components or nuclear materials to other countries. Before agreeing to any of these, North Korea is likely to demand more economic incentives or other security concessions than it was promised during the Agreed Framework, Six-Party Talks, and Leap Day Agreement.⁵⁰ Arguably, Pyongyang is now in a better negotiating position because of the improvements it has shown in its nuclear weapons and its medium- and long-range missile capabilities. Many DPRK-watchers anticipate that North Korea will become more receptive to, and perhaps even aggressively pursue, negotiations after it has conducted more tests of long-range missiles capable of reaching the mainland United States.⁵¹ Others, however, see little value in further negotiations, as they doubt that North Korea will be willing to accept any limits on its nuclear and missile programs.

Utility or Futility of Negotiations?

The utility of negotiating with North Korea is heavily debated. A small group of analysts argue not only that negotiations are necessary to reduce the chances of conflict, but also that they are feasible, because Kim Jong-un’s “real goal is economic development,” in the words of one North Korea-watcher.⁵² Implied in this is the concept of a basic bargain of economic benefits and sanctions removal in exchange for nuclear weapons and missile limitations or dismantlement.

⁴⁸ “U.S.-DPRK Bilateral Discussions,” State Department Press Statement, February 29, 2012. See CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth D. Nikitin.

⁴⁹ Victoria Nuland, “Daily Press Briefing,” U.S. Department of State, March 16, 2012.

⁵⁰ Andrei Lankov, “Strategic Ambiguity: Even in DC, No-One Knows what Trump Will Do Next,” *NKNews*, October 30, 2017.

⁵¹ Anna Fifield, “Could North Korea’s missile test lead to talks? Some see a slight opening,” *Washington Post*, November 29, 2017.

⁵² John Delury, “Instead of threatening North Korea, Trump should try this,” *Washington Post*, April 23, 2017.

Many analysts believe, however, that the North Korean regime, regardless of inducements, will not voluntarily give up its nuclear weapons capability. The U.S. intelligence community assesses that Pyongyang is pursuing this capability to obtain a more robust deterrent against a U.S./South Korean attack, and as an additional tool to coerce more cooperative behavior from Washington and Seoul and a way to achieve international respect and prestige.⁵³ Kim Jong-un also has domestic political motivations for aggressively pushing the development of the DPRK's nuclear and missile programs. To many critics, North Korea's record of not abiding by or pulling out of past agreements proves that Pyongyang was never committed to full denuclearization but reaped benefits and bought time while secretly advancing its nuclear weapons and missile programs.⁵⁴ This has led to a debate in North Korea policy circles over the past five years about how to avoid scenarios where North Korea pulls out of or is not fully committed to an agreement.⁵⁵ Additionally, some argue that as North Korea has achieved certain technical milestones, a freeze may no longer be a relevant solution, and there would be a risk of the Kim regime continuing to build up its arsenal, perhaps secretly, while negotiations are ongoing.⁵⁶

A third camp, while not optimistic about the prospects of negotiations achieving full denuclearization, argues that talks can still produce tangible security benefits to the United States. Most fundamentally, supporters of diplomacy argue that the potential for catastrophic loss of life if a conflict escalates is unacceptable, and diplomacy makes a conflict less likely. A 2017 Center for Strategic and International Studies study found a correlation between U.S.-DPRK diplomacy and the decreased frequency of North Korean provocations between 1990 and 2017, though, as the report stated, the absence of a provocation did not necessarily mean that North Korea had halted its weapons development programs.⁵⁷

Some argue that previous agreements with North Korea have resulted in tangible, if temporary, benefits. The Agreed Framework slowed North Korea's nuclear weapons development by shutting down plutonium nuclear facilities at its Yongbyon nuclear complex from 1994 to 2002 and subjecting the complex to continuous international monitoring. Between 1999 and 2006, North Korea abided by a moratorium on long-range missile tests. As part of the Six-Party process, Pyongyang disabled some of its plutonium facilities. These partial successes, all of which occurred before Kim Jong-un became DPRK leader, are sometimes cited by those arguing that convincing North Korea to halt its nuclear and/or missile testing should be the focus of U.S. diplomatic efforts to materially slow the development of DPRK capabilities.

⁵³ Scott W. Bray, National Intelligence Manager East Asia, "North Korea's Nuclear Weapons and Missile Capability," presented at the Institute for Korean-American Studies Symposium, June 26, 2017.

⁵⁴ For example, North Korea developed an undeclared uranium enrichment capability during the Agreed Framework era; balked at more comprehensive verification measures toward the end of the Six Party Talks agreements; and agreed to a ballistic missile test moratorium in the 2012 Leap Day deal but then launched a satellite using similar technology in contravention of U.N. Security Council resolutions. Speaking on Air Force One during President Trump's November trip to Asia, a senior Administration official said that past negotiations with North Korea had "just bought them time to continue building these kind of capabilities," referring to nuclear and missile weapons. White House, "Press Gaggle by a Senior Administration Official Aboard Air Force One en route Beijing, China," November 8, 2017.

⁵⁵ "A horse worth the price," *The Economist*, March 3, 2012; "The U.S. is bribed by North Korea – again," *The Washington Post*, March 12, 2012.

⁵⁶ David Albright, "A Freeze of North Korea's Nuclear Program: Finding a Definition More Fitting of Today's Reality," June 13, 2017.

⁵⁷ *U.S.-DPRK Negotiations and North Korean Provocations*, Center for Strategic and International Studies Beyond Parallel Program, October 2, 2017.

Goals

The United States says the goal of diplomacy with North Korea is the “complete, verifiable, and irreversible denuclearization of the Korean Peninsula in a peaceful manner.” In July 2017, President Trump, South Korean President Moon Jae-in, and Japanese Prime Minister Abe issued a joint statement reiterating their shared commitment to achieving complete, verifiable, irreversible dismantlement on the Korean Peninsula.⁵⁸ Some analysts believe that, particularly in the short and medium term, the United States and its allies should seek more limited goals that might be more achievable than CVID. North Korea has repeatedly said that it will not give up its nuclear weapons until the threat from the United States is lifted. Therefore, to halt weapon advancements and lower tensions, some analysts argue for a different near-term goal: freezing nuclear and missile programs, which would require a testing moratorium, and possibly monitoring of nuclear facilities. Former Secretary of Defense William J. Perry, for example, says the focus now should be an agreement that would halt testing of nuclear explosive devices and intercontinental ballistic missiles (ICBM), and commit Pyongyang not to export nuclear or missile technology.⁵⁹

Others say North Korea will not be persuaded to give up its nuclear weapons, and talks should focus on deterring North Korea from using its weapons and preventing war.⁶⁰ Former Secretary of Defense Robert M. Gates argues that acceptance of a limited North Korean nuclear force is necessary to avoid war, and could include a testing moratorium, limits on missile range, and verification measures.⁶¹ Others argue for putting aside discussions over nuclear and missile programs and instead focusing first on confidence-building measures that could reduce the chance of military conflict. This could include hotlines or other transparency measures, such as were established between the United States and the Soviet Union during the Cold War and between India and Pakistan in the past two decades. Supporters of this approach emphasize that resuming channels of contact could at the very least reduce the risks of miscalculation and inadvertent escalation of a conflict.⁶²

Linkage to Other Issues

In the past, the United States has generally focused negotiations on halting progress on North Korea’s nuclear weapons and missile programs. However, several other contentious issues could be included in a prospective negotiation, including

- North Korea’s chemical and biological weapons programs;
- North Korea’s conventional forces;
- other confidence-building measures, such as increasing the transparency of DPRK and U.S./ROK forces to reduce tensions on the Korean Peninsula;⁶³

⁵⁸ The White House, “Joint Statement from the United States of America, Republic of Korea, and Japan,” July 7, 2017.

⁵⁹ William J. Perry, “North Korea Called Me a ‘War Maniac.’ I Ignored Them, and Trump Should Too,” *Politico*, October 3, 2017.

⁶⁰ “Former CIA Chief Michael Morell Says U.S. Faces 2 Options on North Korea,” *CBS News*, September 4, 2017; Michael Mazarr and Michael Johnson, “Contain, Deter, Transform: A Winning Strategy on North Korea,” *The Hill*, August 9, 2017.

⁶¹ Gerald F. Seib, “What Would Gates Do? A Defense Chief’s Plan for North Korea,” *Wall Street Journal*, July 10, 2017.

⁶² Joshua Pollack, “U.S. Should Start Talking with North Korea to Prevent Nuclear War,” *New York Daily News*, August 8, 2017.

⁶³ For a list of examples, see Klingner, *Ibid.*, Appendix 2.

- North Korea's human rights conditions;
- U.S. citizens detained in North Korea;
- international humanitarian and/or development assistance;
- reunification meetings between Korean Americans and their North Korean relatives;
- the search for the remains of U.S. servicemen who remain missing in action (MIA) from the Korean War; and
- cultural, educational, and sports exchanges.

Preconditions

A key issue is whether the United States should insist on any preconditions before negotiations begin, and if so, what they should be. In summer and fall 2017, Trump Administration officials appeared to signal that for negotiations with North Korea to begin, it must "signal its desire to negotiate in good faith." Administration officials repeatedly have stated that two such signals would be Pyongyang halting its "threats" and stopping its nuclear and missile tests.⁶⁴ Officials have offered different impressions on whether North Korea must also take steps to denuclearize before formal talks could begin. An August 2017 opinion piece by Secretary Mattis and Tillerson, for instance, made no mention of such a requirement. However, President Trump, in a November 2017 speech before the South Korean National Assembly, said that the "path to a much better future ... begins with an end to the aggression of your regime, a stop to your development of ballistic missiles, and *complete, verifiable, and total denuclearization*" (emphasis added). The following day, when asked what it would take for the United States to have talks with North Korea, a senior Administration official said that President Trump "made clear that [it would take] reducing the threats, ending provocations, and *moving towards sincere steps to ultimately denuclearize*" (emphasis added).⁶⁵ A further question is whether the Administration would insist on North Korea committing to ultimately denuclearizing, as it did during the Six-Party Talks process.

North Korea generally has rejected dialogue on denuclearization unless other countries drop their preconditions and take certain steps, such as the United States withdrawing its protection of South Korea. However, adhering to the ultimate goal of denuclearization does not necessarily mean that the United States insists that North Korea take denuclearization steps before negotiations can begin. China and Russia have proposed a "suspension for suspension" approach with preconditions for North Korea (a moratorium on missile and nuclear tests) and for the United States and South Korea (a halt in large-scale joint military exercises). The United States and South Korea have rejected these conditions, and North Korea, as of mid-November 2017, had not indicated that it would accept such a deal.⁶⁶ Instead, for much of 2017, North Korea accelerated its testing. Some have suggested that adjusting the size, scope, and/or public tone of U.S.-South Korea joint exercises could be explored.⁶⁷ Others, however, have rejected this trade, view it as

⁶⁴ Jim Mattis and Rex Tillerson, "We're Holding Pyongyang to Account," *Wall Street Journal*, August 13, 2017.

⁶⁵ Jim Mattis and Rex Tillerson, "We're Holding Pyongyang to Account," *Wall Street Journal*, August 13, 2017; White House, "Remarks by President Trump to the National Assembly of the Republic of Korea," November 7, 2017; and White House, "Press Gaggle by a Senior Administration Official Aboard Air Force One en route Beijing, China," November 8, 2017.

⁶⁶ William Ide, "State Department Says N. Korea Has No Interest in Talks," Voice of America, September 30, 2017.

⁶⁷ Motoko Rich, "Looming War Games Alarm North Korea, but May Be a Bargaining Chip," *The New York Times*, August 16, 2017. Suzanne DiMaggio and Joel Wit, "How Trump Should Talk to North Korea," *The New York Times*, (continued...)

rewarding North Korea for provocative behavior, and doubt that it would have any effect on the North Korean nuclear program.

Distinguishing between Diplomatic Contacts and Formal Negotiations

At times, opponents of negotiating with North Korea, if taken literally, can appear to oppose *all* contact with North Korea. When discussing diplomatic options it may be useful to distinguish between U.S. officials holding discussions with North Korean officials and entering into formal negotiations. Many commentators have expressed concern that a lack of any contact with the regime in Pyongyang heightens the risk of inadvertent escalation. This is particularly true because of how little U.S. analysts and officials know about Kim Jong-un and his sensitivity to rhetoric from Washington. By the same token, North Koreans likely struggle to understand mixed signals from the Trump Administration about their intention to pursue diplomacy or military options.⁶⁸

Format

The format of U.S.-DPRK negotiations has varied. The Agreed Framework was reached after months of bilateral negotiations. South Korea and Japan, later followed by the European Union and other countries, helped to fund and implement the agreement. Several rounds of so-called “four-party talks” among China, North Korea, South Korea, and the United States were held in the late 1990s to discuss negotiating a peace treaty to replace the 1953 armistice that ended the Korean War. The Six-Party Talks also adopted a multilateral format, but bilateral negotiations, including between the United States and North Korea, were embedded into the Six-Party structure. The 2011/2012 Leap Day Deal negotiations were bilateral. The Trump Administration has not clarified whether it would be receptive to the Six-Party Talks’ multilateral format, but has repeated its commitment to coordinate with South Korea and Japan.

North Korea has tended to prefer dealing with the United States in a bilateral setting.⁶⁹ A line of communication through the North Korean mission to the United Nations—known as “the New York channel”—has sometimes been used to explore the possibility of various proposals. Unofficial “Track 2” discussions (among nongovernment officials) and “Track 1.5” discussions (among nongovernment officials and government representatives) also have been used to convey messages and explore possibilities for official negotiations, reports say, and could be used in the future. These unofficial discussions generally are held in third countries, though occasionally U.S. Administrations have given permission for North Koreans to enter the United States to participate.⁷⁰

(...continued)

November 7, 2017.

⁶⁸ Evan Osnos, “The Risk of Nuclear War with North Korea,” *The New Yorker*, September 18, 2017; Bruce Klingner, “The Trump Administration Must Recognize the Dangers of Premature Negotiations with North Korea,” *Heritage Backgrounder*, No. 3211, May 11, 2017.

⁶⁹ Rosemary O’Hara, “What America’s key diplomat on North Korea says about ‘Rocket Man’,” *Sun Sentinel*, October 14, 2017.

⁷⁰ “Trump Administration cancels back-channel talks with North Korea,” *The New York Times*, February 25, 2017.

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