

North Korea: September 2022 Update

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For more than 30 years, 16 Congresses and 6 presidential administrations have struggled with North Korea's (officially the Democratic People's Republic of North Korea, or DPRK) advancing nuclear weapons and missile programs, human rights abuses, sponsorship of cyber-attacks and cyber-crime, and threats to U.S. regional allies. As Members of Congress seek to shape and oversee U.S. policy toward North Korea, they may wish to consider a number of developments that have occurred since nuclear talks collapsed in 2019.

The Biden Administration says it is pursuing a "calibrated, practical approach" that "is open to and will explore diplomacy with North Korea" to eventually achieve the "complete denuclearization of the Korean Peninsula. The Administration appears to envision offering partial sanctions relief in exchange for partial steps toward denuclearization. Its approach appears to be in alignment with that of South Korean President Yoon Suk-yeol, who assumed office in May 2022 and has hardened Seoul's stance toward the DPRK. Since Yoon's inauguration, Washington and Seoul have shifted their emphasis from diplomacy to deterrence, for instance by expanding the size and scope of bilateral military exercises. They also have offered Pyongyang unconditional humanitarian assistance, and Yoon has pledged to provide large-scale economic assistance if North Korea "embarks on a genuine and substantive process for denuclearization."

Pyongyang largely has ignored attempts by the Biden and Yoon Administrations, and their predecessors, to resume dialogue and has rejected offers of humanitarian assistance, including COVID-19 vaccines. Meanwhile, North Korea reportedly has continued to produce fissile material for weapons. It also has continued to test missiles of various ranges and capabilities, including more than 30 ballistic missiles since the start of 2022, in violation of United Nations Security Council (UNSC) sanctions. The tests appear to have advanced the reliability and precision of its missile forces, and improved its ability to defeat regional missile defense systems. In March 2022, North Korea tested an intercontinental ballistic missile (ICBM) for the first time since 2017. Many observers see evidence that North Korea is preparing to conduct its seventh nuclear weapons test. It has not tested a nuclear device since 2017.

The United States has responded to North Korea's missile tests by introducing new unilateral sanctions designations, dispatching U.S. military assets to Northeast Asia, and working with the Yoon Administration to expand U.S.-ROK deterrent activities and to reinvigorate trilateral cooperation with Japan. In June 2022, the Senate passed the Otto Warmbier Countering North Korean Censorship and Surveillance Act of 2021 (S. 2129) that, among other steps, would require the State and Treasury Departments to report annually to Congress on U.S. government sanctions-related activities and enforcement.

North Korea has undertaken these activities despite signs that its economy has contracted significantly since the start of the COVID-19 pandemic. Since early 2020, the North Korean government has largely closed the country's borders and imposed restrictions on economic activities. Between January 2020 and January 2022, North Korea's official trade, which already had been reduced to a trickle due to sanctions, fell by nearly 90%. The difficulty of importing food and agricultural products during the border shutdown, combined with poor weather, appears to have exacerbated North Korea's chronic food shortages. The U.N. estimates that over 10 million North Koreans, roughly 40% of the population, are undernourished. However, there are few outward signs that North Korea's economic difficulties are threatening the regime's stability or are compelling North Korea to pursue engagement with the United States.

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Overview

Over the past six years, North Korea's advances in nuclear weapons and missile capabilities under its leader Kim Jong-un have catapulted Pyongyang from a threat to U.S. interests in East Asia to a potential direct threat to the U.S. homeland. Efforts to halt North Korea's (officially the Democratic People's Republic of North Korea, or DPRK) nuclear weapons program have been a concern to at least the past 16 Congresses (and six presidential administrations), and North Korea is the target of scores of U.S. and United Nations Security Council (UNSC) sanctions. Although the DPRK's nuclear and missile programs have been the primary focus of U.S. policy toward North Korea, other U.S. concerns include North Korea's illicit activities, such as cyberattacks and cyber-crime, as well as the potential resumption of small-scale conventional military attacks against South Korea (officially known as the Republic of Korea, or ROK). Congress has expressed particular concern about the state of human rights in North Korea, passing multiple laws directing the State Department to prioritize pressuring the Pyongyang regime to improve human rights conditions. Currently, egregious human rights violations by the North Korean state, dire food insecurity, and the effects of the Coronavirus Disease 2019 (COVID-19) pandemic continue.

The Biden Administration's North Korea Policy

The Biden Administration said in 2021 that it is pursuing a "calibrated, practical approach" that "is open to and will explore diplomacy with North Korea" to eventually achieve the "complete denuclearization of the Korean Peninsula."¹ UNSC and U.S. sanctions bar nearly all of North Korea's exports and many of its imports, with exceptions for livelihood and humanitarian purposes. The Biden Administration's approach appears to envision offering partial sanctions relief in exchange for partial steps toward denuclearization in concert with allies in the region. Incremental sanctions relief could be difficult to accomplish without congressional support, given U.S. legal benchmarks for improved conditions and changed behavior.² U.S. officials say they have offered to meet with North Korean counterparts without preconditions, and that "the ball is in [Pyongyang's] court."³ Some analysts criticize the Administration's approach as offering little substantive content that might provide sufficient incentives for North Korea to re-engage.⁴ Other observers see merit in the return to an approach that emphasizes cooperation with allies and seeks incremental progress on denuclearization.⁵ The Administration says that it supports providing humanitarian aid to the most vulnerable North Koreans "regardless of denuclearization

¹ The White House, "Press Gaggle by Press Secretary Jen Psaki Aboard Air Force One En Route Philadelphia, PA," April 30, 2021.

² For more, see CRS Report R41438, *North Korea: Legislative Basis for U.S. Economic Sanctions*, by Dianne E. Rennack.

³ Jeongmin Kim, "Sung Kim: US Willing to Meet North Korea 'Anytime, Anywhere,'" *NKNews*, June 21, 2021; State Department, *Department Press Briefing*, June 21, 2021; State Department, "Secretary Antony J. Blinken on ABC's This Week with George Stephanopoulos," May 23, 2021.

⁴ See, for example, Jenny Town, "Restarting Diplomacy with Pyongyang," *Arms Control Today*, July/August 2021.

⁵ See, for example, Bruce Klingner, "Biden and Yoon Aligned on Approach to North Korea," *The Heritage Foundation*, July 5, 2022; Peter Baker and Zolan Kanno-Youngs, "Rejecting 'Love Letters' to North Korea, Biden Offers Carrots and Sticks Instead," *New York Times*, May 21, 2021.

progress.”⁶ In May 2022, Congress held a hearing reviewing the Biden Administration’s North Korea policy.⁷

South Korea’s North Korea Policy Under Yoon Suk-yeol

Since the May 2022 inauguration of ROK President Yoon Suk-yeol, South Korea has hardened its stance toward North Korea compared to Yoon’s predecessor, Moon Jae-in. In multiple bilateral meetings—including a summit between Biden and Yoon—the United States and South Korea appeared to shift their emphasis from diplomacy to deterrence. The two sides expanded the size and scope of their bilateral military exercises, which had been curtailed under Yoon’s predecessor.⁸ Alongside these measures, Yoon also has offered to provide North Korea with large-scale economic assistance if North Korea “embarks on a genuine and substantive process for denuclearization.”⁹ North Korea has dismissed the plan as “absurd,” and many analysts in South Korea and the United States argue that Yoon’s plan is unlikely to appeal to North Korea, particularly in the short term.¹⁰

North Korea’s Actions

Since 2019, following the collapse of personal diplomacy between then-President Donald Trump and Kim Jong-un, Pyongyang largely has ignored attempts by the Trump and Biden Administrations to resume dialogue and has rejected offers of humanitarian assistance, including COVID-19 vaccines. Kim has characterized U.S. offers of diplomacy as “no more than a petty trick for deceiving the international community and hiding its hostile acts,” pointing specifically to the continuation of U.S.-ROK military exercises and the maintenance of sanctions against North Korea. Kim also has criticized South Korea’s acquisition of and advances in indigenous production of sophisticated military equipment.¹¹ In general, North Korea has ignored South Korean offers of aid, cooperation, and diplomatic engagement. Kim’s reluctance to engage may be partly due to the COVID-19 pandemic. Since early 2020, the North Korean government has largely closed the country’s borders and imposed restrictions on economic activities, further damaging an economy already weakened by international sanctions.¹²

In the meantime, North Korea has continued to test missiles of various ranges and capabilities, including more than 30 ballistic missiles since the start of 2022.¹³ On March 24, 2022, North Korea tested an intercontinental ballistic missile (ICBM), its first ICBM launch since November

⁶ William Gallo, “US Says Open to N. Korea Aid, Regardless of Denuclearization Progress,” VOA, August 24, 2021.

⁷ U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Asia, the Pacific, Central Asia and Nonproliferation, *The Way Forward on U.S. North Korea Policy*, 117th Cong., 2nd sess., May 12, 2022.

⁸ The White House, “United States-Republic of Korea Leaders’ Joint Statement,” May 21, 2022; Scott Snyder, “Evolution of U.S.-South Korean Coordination: Parsing Biden’s Joint Statements with Moon and Yoon,” *Asia Unbound blog*, May 24, 2022.

⁹ South Korea’s Presidential Office, “Address by President Yoon Suk Yeol on Korea’s 77th Liberation Day,” August 15, 2022.

¹⁰ “Press Statement of Vice Department Director of C.C., WPK Kim Yo Jong,” *Rodong Sinmun*, August 19, 2022, accessed on NKNews’ KCNA Watch website; James Fretwell, “Yoon Suk-yeol’s Plan to Denuclearize North Korea Isn’t So ‘Audacious’ After All,” NK PRO, August 17, 2022.

¹¹ Timothy Martin, “North Korea Sees U.S. as Ongoing Threat, Kim Jong Un Says in Speech,” *Wall Street Journal*, September 30, 2021.

¹² Bank of Korea, “Gross Domestic Product Estimates for North Korea in 2021,” July 27, 2022; Ethan Jewell, “North Korea’s Economy Contracts for Second Straight Year, ROK Central Bank Says,” *NK News*, July 28, 2022.

¹³ “U.S. Special Representative to the Democratic People’s Republic of Korea Sung Kim on Recent DPRK Missile Launches,” *U.S. Department of State Special Briefing*, June 7, 2022.

2017. That same month, press reports said South Korean government sources, as well as analysts using publicly available satellite imagery, detected North Korean activities to restore the Punggye-ri nuclear test site, which the regime had closed in 2018.¹⁴ These observations prompted predictions that North Korea would carry out its seventh test of a nuclear weapon, and its first since 2017.¹⁵ The United States responded to North Korea's missile tests by introducing new unilateral sanctions designations, attempting to expand UNSC sanctions, dispatching U.S. military assets to Northeast Asia, and working with the new Yoon Administration to expand U.S.-ROK deterrent activities and to reinvigorate trilateral cooperation with Japan.

The war in Ukraine may lead Kim Jong-un to conclude that he has greater freedom of action. In the 1990s, Ukraine relinquished Soviet-legacy nuclear weapons in return for economic support and security guarantees from the United States, the United Kingdom, and the Russian Federation. Russia's breach of this agreement by invading Ukraine may strengthen arguments inside North Korea that denuclearization would increase the country's vulnerability to larger foreign powers.¹⁶ Additionally, perceptions of a trend toward an international system of zero-sum competition between two blocs—the United States and its allies and partners on one side, and China and Russia on the other—could embolden North Korea. Kim may conclude that if he uses the country's nuclear weapons and missile programs to coerce concessions from Seoul, Washington, and/or Tokyo, China and Russia would not take punitive actions against North Korea and may even provide economic assistance to preserve the DPRK's regime stability, similar to how they supported North Korea during the Cold War.¹⁷ In May 2022, China and Russia vetoed a U.S.-led UNSC resolution that would have imposed new sanctions on North Korea in response to its ICBM tests.¹⁸ In the past, both countries had supported new UNSC sanctions resolutions following a DPRK ICBM test.¹⁹

North Korea's Internal Situation

Obtaining an accurate picture of North Korea's internal economy presents a challenge. The government publishes relatively little reliable data, leaving outside observers to rely on indirect indicators to estimate trends inside the country. One of the few observable ways to measure changes is to chart other countries' reported trade with DPRK. Using these so-called “mirror statistics,” during 2020 and 2021 North Korea's official trade, which already had been reduced to a trickle due to sanctions, plummeted further. (See **Table 1**.)

¹⁴ Katsuhisa Furukawa and Jaewoo Shin, “Update: Developments at the DPRK's Punggye-Ri Nuclear Test Site between 24 March and 6 April 2022,” Open Nuclear Network, April 6, 2022.

¹⁵ Bruce Klingner, “Waiting for the North-Korean-Nuclear-Test Godot,” Heritage Foundation commentary, August 29, 2022.

¹⁶ “Ukraine Conflict, a Cautionary Tale for Security-Wary N. Korea,” *Yonhap News*, February 24, 2022; “Putin's Invasion of Ukraine May Supercharge Nuclear Proliferation,” Foundation for Defense of Democracies, February 25, 2022.

¹⁷ Andrei Lankov, “The War in Ukraine Changes Everything—including the Future of North Korea,” *NKNews*, April 4, 2022.

¹⁸ United Nations Security Council, Written Record of 9048th Meeting, May 26, 2022, S/PV.9048.

¹⁹ Between 2006 and 2017, the UNSC adopted 10 resolutions sanctioning North Korea. Each was adopted unanimously (15-0) in response to a North Korean ICBM and/or nuclear test. See United Nations, Security Council Official Records, *Resolutions and Decisions of the Security Council*, various years, at research.un.org.

Table I. Estimated DPRK Trade, 2019-2021

Year	Total Trade Value (USD, Mil.)	% Change from Previous Year
2019	2,957.4	14%
2020	663.0	-78%
2021	394.1	-41%

Source: Compiled from Trade Data Monitor of all reporting countries' exports and imports with North Korea.

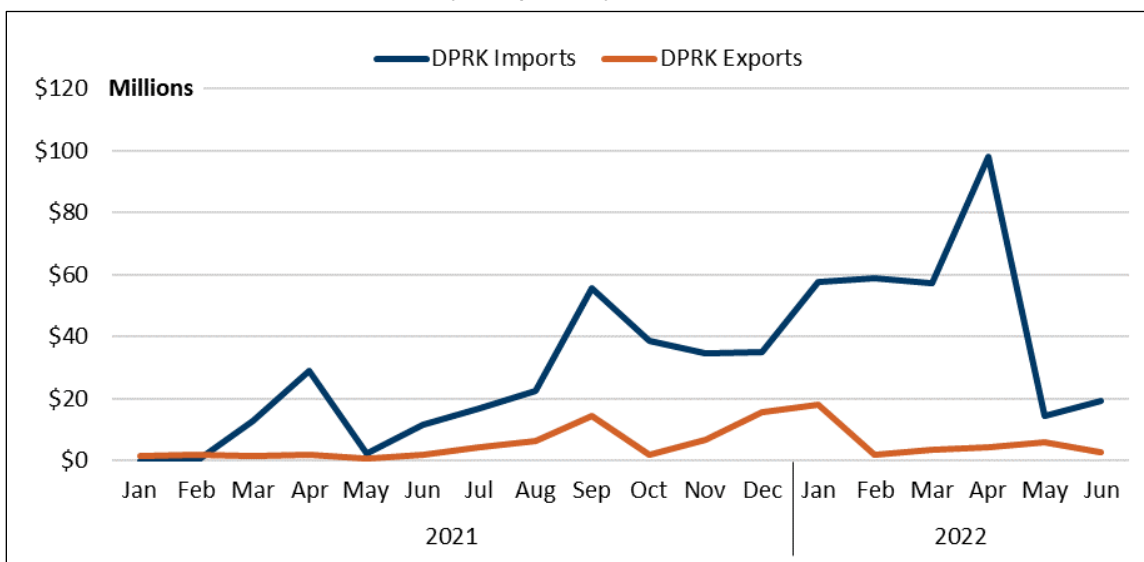
Notes: North Korea's estimated total trade shrank by approximately 95% between 2016 and 2021. 2016, when North Korea's estimated trade was \$6.4 billion, is the year the UNSC began to apply sectoral sanctions on North Korea in response to its expanded missile and nuclear tests.

Data is an estimation of DPRK trade, based on 'mirror statistics' of all other countries' reported trade with DPRK. Customs data only account for legal trade of goods; illicit trade or trade in services is not represented in these data. Along with standard data-entry errors, weak institutions and graft can diminish the reliability of customs data. For example, South Korea's Korea Trade-Investment Promotion Agency estimates an additional \$200-\$500 million in oil exports from China that is not reflected in official customs data.

Starting in the third quarter of 2021, the DPRK's external trade began to gradually increase from its lowest point. Trade with China, which has accounted for over 85% of North Korea's total trade for nearly a decade, began to return to early pandemic levels (i.e., before and around the time restrictions were first imposed), reportedly due to North Korea's slight relaxation of border controls.²⁰ In May 2022, however, trade severely contracted again after Pyongyang re-imposed border restrictions following its first-ever public acknowledgement of a domestic COVID-19 outbreak in May.²¹ (See **Figure 1**.)

Figure 1. DPRK-China Trade

January 2021–June 2022



Source: China Customs, via Trade Data Monitor.

²⁰ Ethan Jewell, "North Korea-China Trade Climbs to Highest Level Since Early 2020: Customs Data," *NK News*, April 18, 2022.

²¹ Ethan Jewell, "COVID Outbreaks Depress North Korea-China Trade in June," *NK News*, July 19, 2022.

Notes: Customs data only account for legal trade of goods; illicit trade or trade in services is not represented in these data.

Following storms in 2021 that damaged domestic agriculture, the Kim government said the country was facing a “food crisis.”²² North Korea has experienced food shortages for decades, and the difficulty of importing food and agricultural products during the 2020-2022 border shutdown period may be exacerbating the problem. The United Nations Food and Agriculture Organization (FAO) estimates that over 10 million North Koreans, roughly 40% of the population, are undernourished.²³

There are few outward signs that North Korea’s economic difficulties are threatening the regime’s stability. The poor conditions of the DPRK economy also have not led Kim to pursue engagement with the United States or South Korea. Despite some domestic constraints on his rule, Kim continues to dominate North Korea’s polity, promoting, demoting, and resurrecting top officials frequently, as he has done since succeeding his father in 2011.²⁴ Since the beginning of the pandemic, Kim’s government has taken a number of measures that appear aimed at strengthening social control, particularly aiming to reduce the influence of foreign culture.²⁵ The government also has intensified the state and party’s control over the economy, though some observers contend it has not gone so far as to reverse many of the measures adopted in the early years of Kim’s reign that granted greater economic independence.²⁶ Additionally, the hundreds of millions of dollars North Korea reportedly has earned through sanctions-evading activities and cyber-crime, discussed below, likely is enabling the Kim regime to prolong its control, as well as maintain and advance its weapons programs.

North Korea’s Nuclear and Missile Programs

North Korea continues to advance its nuclear weapons and missile programs, including reportedly producing fissile material (plutonium and highly enriched uranium) for weapons, despite UNSC sanctions and high-level diplomatic efforts to deter such pursuits.²⁷ North Korea made multiple

²² Colin Zwirko, “North Korea Admits ‘Food Crisis,’ Says Grain to Be Distributed to Population,” *NK News*, June 20, 2021; Robert King, “North Korea Facing ‘Acute Food Insecurity’ but United Nations Plans No Aid,” December 10, 2021.

²³ United Nations Food and Agricultural Organization, *The State of Food Security and Nutrition in the World 2022*, p. 140.

²⁴ For an example of the reshuffles, see Martin Weiser, “Reshuffles at North Korea’s Parliament Session Suggest Volatility at the Top,” *NK PRO*, January October 4, 2021. For more on the constraints Kim Jong-un confronts, see Peter Ward, “The Limits to Tyranny: Why Kim Jong Un Doesn’t Actually Have Absolute Power,” *NK PRO*, August 29, 2022; and Ruediger Frank, “Not Monolithic: The Need to Better Understand North Korea’s Internal Dynamics,” *NK PRO*, January 7, 2022.

²⁵ Benjamin Katzeff Silberstein, “North Korea’s ‘Anti-Capitalist’ Crackdown,” *38 North*, November 5, 2021.

²⁶ Rachel Minyoung Lee and Robert Carlin, “Understanding Kim Jong Un’s Economic Policymaking,” *38 North*, March 24, 2022. One interpretation of the apparent contradictions in this description of Kim’s economic policies is that he has sought to formalize previously illegal forms of economic activities, such as buying and selling in consumer markets, not only to boost economic productivity but also to enable the party and state greater administrative control over such activities. Additionally, legalizing some market-based behaviors and allowing somewhat more independence for individuals and enterprises likely have boosted state revenue through increased taxes and fees. See Benjamin Katzeff Silberstein, “Kim Jong Un’s Congress Report: More Economic and Social Controls on the Horizon,” *38 North*, February 9, 2021; William Brown, “North Korea’s Economy in the Kim Jong Un Era,” Presentation for GW North Korea School, October 25, 2021, available at <https://naeia.com/analysis>.

²⁷ “IAEA Director General’s Introductory Statement to the Board of Governors,” International Atomic Energy Agency, (continued...)

commitments during previous episodes of U.S.-DPRK diplomacy to allow inspections or completely dismantle nuclear weapons material production sites, but failed to fulfill those promises when those talks eventually collapsed. Recent ballistic missile tests and military parades suggest that North Korea is continuing to build a nuclear warfighting capability designed to evade regional ballistic missile defenses. North Korea also possesses biological weapons and chemical weapons capabilities.²⁸

According to the U.S. intelligence community's 2022 annual threat assessment, Kim Jong-un views nuclear weapons and ICBMs as "the ultimate guarantor of his totalitarian and autocratic rule of North Korea and believes that over time he will gain international acceptance as a nuclear power."²⁹ In a speech at an April 2022 military parade, Kim said the country "will continue to take measures for further developing the nuclear forces of our state at the fastest possible speed." As in past statements, he underscored the primary mission of its nuclear forces is to "deter a war" while also emphasizing the survivability of its nuclear deterrent force and readiness to apply "nuclear combat capabilities in any situations of warfare."³⁰ In a September 9, 2022, speech to North Korea's Supreme People's Assembly, Kim Jong Un said, "there will never be any declaration of 'giving up our nukes' or 'denuclearization,' nor any kind of negotiations or bargaining to meet the other side's conditions." He vowed the country would continue developing its "nuclear power." The Assembly adopted a new law that reportedly expands the conditions under which North Korea would use nuclear weapons to include non-nuclear attacks and situations that threaten the regime's survival.³¹

Despite a long-standing UNSC ban on "all ballistic missile tests" by North Korea, the country continues to flight-test a variety of systems, advancing the reliability and precision of its missile forces, and improving its ability to defeat regional missile defense systems. North Korea has publicly announced plans to develop and test new delivery vehicles. At the 8th North Korean Workers Party Congress in January 2021, Kim announced North Korea would field a new nuclear-capable submarine, develop its tactical nuclear weapons, deploy multiple warheads on a single missile, and improve its ICBMs' accuracy, among other goals.³² North Korea accelerated its testing in 2022, flight-testing 30 ballistic missiles.³³ In mid-April 2022, North Korea flight-tested a short-range "tactical guided weapon" that is nuclear-capable.³⁴

September 12, 2022. For more, see CRS In Focus IF10472, *North Korea's Nuclear Weapons and Missile Programs*, by Mary Beth D. Nikitin.

²⁸ Defense Intelligence Agency (DIA), *North Korea Military Power 2021*; Department of State, "Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments," 2022.

²⁹ Office of the Director of National Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community*, February 7, 2022, p. 16.

³⁰ North Korea has made similar statements since 2013. Defense Intelligence Agency, *North Korea Military Power 2021*, p. 26; "Respected Comrade Kim Jong Un Makes Speech at Military Parade Held in Celebration of 90th Founding Anniversary of KPRA," *Chongnyon Chonwi*, April 26, 2022, accessed on NKNews' KCNA Watch website.

³¹ Ellen Kim, "North Korea States It Will Never Give Up Nuclear Weapons," *CSIS Critical Questions*, September 9, 2022; Colin Zwirko, "Kim Jong Un Says He Will 'Never Give Up' Nuclear Weapons, Rejects Future Talks," *NK News*, September 9, 2022; "Second-Day Sitting of 7th Session of 14th SPA of DPRK Held," *Rodong Sinmun*, September 9, 2022, accessed on NKNews' KCNA Watch website.

³² "Great Programme for Struggle Leading Korean-Style Socialist Construction to Fresh Victory on Report Made by Supreme Leader Kim Jong Un at Eighth Congress of WPK," *Rodong Sinmun*, January 10, 2021, accessed on NKNews' KCNA Watch website.

³³ U.S. Special Representative to the Democratic People's Republic of Korea Sung Kim on Recent DPRK Missile Launches," *U.S. Department of State Special Briefing*, June 7, 2022.

³⁴ Ankit Panda, "North Korea's Latest Missile Launch a Step Toward Tactical Nuclear Weapons," *NKNews*, April 18, 2022.

In 2022, North Korea has resumed efforts to improve its ability to strike the continental United States with an ICBM, ending a nearly five-year pause in long-range tests.³⁵ On March 16, a failed ICBM flight test exploded over Pyongyang. North Korea followed up with a second ICBM test on March 24, which it claimed was a Hwasong-17, but South Korean intelligence reportedly assessed it as a Hwasong-15 test.³⁶ The U.S. Defense Intelligence Agency assesses that the Hwasong-17 ICBM, first displayed at an October 2020 military parade, is “probably designed to deliver multiple warheads.”³⁷ On May 25, North Korea again test launched an ICBM, on the heels of President Biden’s visit to South Korea and Japan.³⁸ In early June, North Korea test-launched eight short-range ballistic missiles following the conclusion of a joint U.S.-South Korea naval exercise.³⁹ U.S. Forces Korea and the South Korean military responded to that test launch by jointly firing eight ballistic missiles, similar to their response to the May 25 test.⁴⁰ A U.S. Forces Korea statement said the response was to “demonstrate the ability of the combined ROK-U.S. force to respond quickly to crisis events.”⁴¹ A South Korean Joint Chiefs of Staff statement said, “Our military’s show of force was intended to highlight our resolve to firmly respond to any North Korean provocations, including an ICBM launch, and our overwhelming capability and readiness to conduct a surgical strike on the origin of the provocation.”⁴²

In July 2022, the Senate Armed Services Committee cited North Korea’s expanded nuclear and missile capabilities as part of the committee’s justification for including provisions in the FY2023 National Defense Authorization Act (NDAA) that address the modernization of the U.S. nuclear weapons programs.⁴³ The House version of the FY2023 NDAA includes a requirement that the Department of Defense produce an annual public report on North Korea’s military capabilities, similar to past NDAA’s.⁴⁴

U.S. and U.N. Sanctions

Intermixed with the ebb and flow of U.S. and international efforts at engagement are moments when U.S. law or domestic politics, or North Korea’s flouting of international norms, have prompted the United States to impose unilateral economic sanctions and the United Nations Security Council to impose international economic sanctions. The United States has imposed unilateral sanctions in response to North Korea’s first detonation of a nuclear explosive device in 2006; rampant money laundering; use of an illicit chemical agent in violation of international law

³⁵ State Department, Briefing with Special Representative for the Democratic People’s Republic of Korea Sung Kim on Recent Developments in the DPRK and U.S. Efforts to Advance Denuclearization on the Korean Peninsula,” April 6, 2022.

³⁶ Vann H. Van Diepen, “Revisiting the Hwasong 17/15 Controversy,” *38North*, April 27, 2022, <https://www.38north.org/2022/04/revisiting-the-hwasong-17-15-controversy-what-if-north-korea-had-launched-a-hwasong-15/>.

³⁷ Defense Intelligence Agency (DIA), *North Korea Military Power 2021*.

³⁸ Hyonhee Shin and Soo-Hyang Choi, “North Korea Launches ICBM After Biden Summits with Asia Allies,” *Reuters*, May 25, 2022.

³⁹ Mitch Shin, “North Korea Launches 8 Ballistic Missiles,” *The Diplomat*, June 6, 2022.

⁴⁰ Jack Kim and Soo-Hyang Choi, “South Korea, U.S. Launch Eight Missiles in Response to North Korea Missile Tests,” *Reuters*, June 6, 2022.

⁴¹ “U.S. ROK Conduct Combined Live Fire Missile Launch,” United States Forces Korea press releases, May 25, 2022 and June 5, 2022.

⁴² Hyonhee Shin and Soo-Hyang Choi, “North Korea Launches ICBM After Biden Summits with Asia Allies,” *Reuters*, May 25, 2022.

⁴³ Section 153 of S. 4543, reported by the Senate Armed Services Committee July 18, 2022.

⁴⁴ Section 1205 of H.R. 7900.

to assassinate Kim Jong-un's half-brother in Malaysia in 2017; and ongoing belligerent activities that resulted in a return of its designation as a state sponsor of acts of international terrorism, also in 2017. These sanctions affect foreign aid, exports including arms sales, and support in international financial institutions.⁴⁵ In addition, a succession of U.S. Presidents, dating back to the outbreak of the Korean War in 1950, have invoked national emergency authorities to curtail most aid and trade with the rogue state.⁴⁶

The United States also participates in international sanctions required by the UNSC. Beginning with its response to North Korea's 2006 nuclear weapons test, the Security Council has adopted 10 resolutions that require member states to restrict trade, banking, and other engagement with North Korea.⁴⁷ UNSC sanctions cite North Korea's weapons proliferation, including its ballistic missile program and "diversion of financial, technical, and industrial resources toward developing its nuclear weapons and ballistic missile program";⁴⁸ the threat to regional stability; domestic humanitarian conditions; misuse of diplomatic privileges; and abrogation of international obligations, including its active efforts to evade and undermine sanctions.⁴⁹

Despite international agreement to stop all trade in resources required to advance North Korea's weapons and ballistic missile programs and adoption of measures intended to curtail the North Korean government's access to finances, Pyongyang continues to evade sanctions and conduct illicit activities to raise funds. In its most recent report, the U.N. Panel of Experts (POE) that monitors and informs the Security Council on DPRK sanctions implementation noted that weapons and ballistic missile programs continue to progress, and trade that either directly provides materiel for the illicit programs or generates revenue to underwrite weapons

⁴⁵ On December 7, 2006, President George W. Bush determined that North Korea, a non-nuclear-weapon state, had detonated a nuclear explosive device, citing Section 102(b) of the Arms Export Control Act and Section 129 of the Atomic Energy Act. Presidential Determination No. 2007-07, *Public Papers of the President*, December 18, 2006. In late 2017, the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued an "Advisory on North Korea's Use of the International Financial System," FIN-2017-A008, November 2, 2017; and "Imposition of Special Measure Against Bank of Dandong as a Financial Institution of Primary Money Laundering Concern," 31 C.F.R. Part 1010, 82 *Federal Register* 51758. On March 5, 2018, Assistant Secretary of State for International Security and Nonproliferation Christopher Ford announced that the government of North Korea was in violation of international norms for its illicit use of a chemical agent. Department of State Public Notice 10340, "Bureau of International Security and Nonproliferation; Determinations Regarding Use of Chemical Weapons by North Korea Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991," 83 *Federal Register* 9362, March 5, 2018. Secretary of State Rex Tillerson designated the Government of North Korea as a state sponsor of acts of international terrorism on November 17, 2017. Department of State Public Notice 10211, "Democratic People's Republic of Korea (DPRK) Designation as a State Sponsor of Terrorism (SST)," November 27, 2017, 82 *Federal Register* 56100.

⁴⁶ President George W. Bush revoked the proclamation invoking the Trading With the Enemy Act (first issued in Presidential Proclamation 2914; December 16, 1950; 15 *Federal Register* 9029) as being "no longer in the national interest of the United States." Presidential Proclamation 8271, June 26, 2008, 73 *Federal Register* 36785. He replaced it, however, on the same day, with a national emergency declaration invoking the National Emergencies Act and the International Emergency Economic Powers Act (NEA and IEEPA, respectively), in Executive Order 13466, "Continuing Certain Restrictions with Respect to North Korea and North Korean Nationals," 73 *Federal Register* 36787, June 26, 2008; 31 C.F.R. Part 510, November 4, 2010. The President is required to continue annually any national emergency he issues under NEA, or it expires, along with the sanctions established under IEEPA. President Biden most recently renewed the national emergency declared in Executive Order 13466 in a notice of June 13, 2022 (87 *Federal Register* 36049).

⁴⁷ United Nations Security Council resolutions pertaining to North Korea and supporting documentation are available at <https://www.un.org/securitycouncil/sanctions/1718>.

⁴⁸ United Nations Security Council Resolution 2270 (2016) of March 2, 2016.

⁴⁹ Sanctions evasion is first addressed in United Nations Security Council Resolution 2087 (2013) of January 23, 2013, which cites North Korea's misuse of financial institutions, bulk cash smuggling, seagoing vessels refusing to cooperate with inspection and the related challenges of seizing contraband, and the complicity of third parties in North Korea's sanctions evasion.

development also continues.⁵⁰ The POE particularly noted that sanctions evaders were finding the means to accomplish their goals by⁵¹

- engaging in “intangible transfer of technology” by participating in or facilitating academic exchanges (the POE cites universities in China; study-abroad programs in Sweden, Brazil, the United Kingdom, and elsewhere in Europe, South America, and Asia; conferences in the European Union; and exchanges with Malaysia);
- taking advantage of a lack of clarity in defining restricted goods and services (the POE cites illicit procurement activities in China and Russia);
- misusing—deliberately or by accounting error—country codes in reporting imports and exports (to hide data on goods eventually arriving in/from North Korea);
- increasing the maritime export of coal from North Korea (primarily to China);
- increasing the importation of refined petroleum into the DPRK (primarily from China and Russia, but with other East Asian oil terminals also implicated as a source);
- manipulating financial and ownership networks in shipping so that the DPRK’s relationship to a transaction is obfuscated, considered “sophisticated evasion” (the POE notes seemingly “stateless” sea-going vessels capable of onloading or offloading energy resources docking in DPRK ports; it also notes Chinese ports being used to alter the appearance of vessels in order to evade country-affiliation or ownership-identification);
- DPRK diplomatic representatives misusing their overseas positions, including earning prohibited income (the POE cites activities in Russia); and
- engaging in “cyberattacks, in particular on cryptocurrency assets,” which are an “important revenue source” for the North Korean government.⁵²

Recent U.S. Sanctions Decisions

In the past several months, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) or the Department of Commerce’s Bureau of Industry and Security (BIS) has designated multiple North Korean entities or their affiliates for sanctions, including

⁵⁰ United Nations Security Council Resolution 1874 (2009) established the Panel of Experts (POE). The POE’s most recent report was issued on March 1, 2022 (S/2022/132).

⁵¹ Bullet points all from the most recent POE report, Ibid.

⁵² Ibid. In July 2022, U.S. Deputy National Security Advisor for Cyber and Emerging Technology Anne Neuberger said that cybercrime provides as much as a third of the funds for North Korea’s missile program. Center for a New American Security, “Virtual Event. Cybersecurity Threats and Information Sharing,” July 28, 2022, <https://www.cnas.org/events/virtual-event-cybersecurity-threats-and-information-sharing-with-anne-neuberger>; relevant discussion begins at 16’05”. See also Benjamin R. Young, “North Korea Knows How Important Its Cyberattacks Are: Pyongyang’s Tradition of Guerrilla Warfare Keeps Its ‘All-Purpose Sword’ Sharp,” *Foreign Policy*, February 9, 2022; Bruce Klingner, *North Korean Cyberattacks: A Dangerous and Evolving Threat*, Heritage Foundation report, September 2, 2021, 51 p.; and Stephanie Kleine-Ahlbrandt, “North Korea’s Illicit Cyber Operations: What Can Be Done?” Henry L. Stimson Center, *38 North*, February 2020, 16 p.

- The DPRK's Second Academy of Natural Science Foreign Affairs Bureau and affiliated DPRK, Chinese, and Russian entities and individuals for illicit weapons proliferation;⁵³
- Three Russian entities and two Russian individuals for providing material or technological support for a DPRK entity subject to sanctions (secondary sanctions);⁵⁴
- Corad Technology Ltd., a Chinese (Hong Kong) entity, and its affiliates in Singapore and Japan, for involvement in sales of sensitive technology to Iran, North Korea, and restricted Chinese government or defense subordinate entities;⁵⁵ and
- Blender and Tornado Cash, "virtual currency mixers," were designated on May 6, 2022, and August 8, 2022, respectively, in part for processing a virtual currency heist pulled off by Lazarus Group, a DPRK state-sponsored cyber hacking group. The Lazarus Group theft of nearly \$620 million is considered the largest-ever virtual currency heist; Blender's designation was the United States' first such action targeting a virtual currency facilitator.⁵⁶ On August 10, 2022, the Netherlands arrested Alexey Pertsev, a software developer with Tornado Cash, and charged him with "concealing criminal financial flows and facilitating money laundering."⁵⁷

In addition, in 2021 and 2022, the Department of Justice filed charges against persons under U.S. jurisdiction and foreign persons for violating U.S. sanctions laws by engaging in transactions with North Korean designees or by evading sanctions. Reports cited in this memorandum and reports of the POE in recent years note that North Korea's illicit trade and cyber activities offer targets—in North Korea and in third countries—that are not yet subject to economic restrictions.

In June 2022, the Senate passed the Otto Warmbier Countering North Korean Censorship and Surveillance Act of 2021 (S. 2129), which among other steps would require the State and Treasury Departments to report annually to Congress on U.S. government sanctions-related activities and enforcement. The bill, in addition, would require the State Department to submit to Congress a strategy "on combating North Korea's repressive information environment," and

⁵³ Department of State, Public Notice 11689, March 24, 2022. "Imposition of Nonproliferation Measures Against Foreign Persons, Including a Ban on U.S. Government Procurement," 87 *Federal Register* 16819. In addition, the Department of Commerce's Bureau of Industry and Security (BIS) added one of the Chinese entities—Jiangsu Tianyuan Metal Powder Co., Ltd.—to its Entity List, requiring a presumption of denial for any export licenses to that end-user. See Department of Commerce, Bureau of Industry and Security, "Addition of Certain Entities to the Entity List," February 14, 2022, 87 *Federal Register* 8180.

⁵⁴ Department of the Treasury, Office of Foreign Assets Control, "Notice of OFAC Sanctions Actions," March 10, 2022, 87 *Federal Register* 15491.

⁵⁵ Department of Commerce, Bureau of Industry and Security, "Addition of Entities and Revision of Entries on the Entity List; and Addition of Entity to the End-User (MEU) List," November 26, 2021, 86 *Federal Register* 67317.

⁵⁶ Department of the Treasury, "U.S. Treasury Issues First-Ever Sanctions on a Virtual Currency Mixer, Targets DPRK Cyber Threats," May 6, 2022; "U.S. Treasury Sanctions Notorious Virtual Currency Mixer Tornado Cash," August 8, 2022.

⁵⁷ Fiscale inlichtingen—en opsporingsdienst (FIOD; Fiscal Information and Investigation Service), "Arrest of Suspected Developer of Tornado Cash," August 12, 2022; Ravie Lakshmanan, "Tornado Cash Developer Arrested After U.S. Sanctions the Cryptocurrency Mixer," *The Hacker News*, August 14, 2022.

would authorize \$10 million annually for FY2022-FY2026 to increase U.S. government-sponsored broadcasting and information dissemination efforts into North Korea.⁵⁸

In August 2022, the State Department extended its restrictions on the use of U.S. passports to travel to North Korea through August 2023.⁵⁹ Since 2017, U.S. travel to the DPRK has required a special validation passport issued by the State Department. Such passports are reserved for travel in the U.S. national interest and are intended for professional reporters, officials with the American Red Cross or International Committee of the Red Cross, or those who have a compelling humanitarian justification.⁶⁰

Regional Responses to North Korea's Tests

South Korea

Implications of South Korean Presidential Election

President Yoon's victory in South Korea's March 2022 election ushered in greater alignment between South Korea and the United States on policy toward North Korea. During the election campaign, Yoon criticized the Moon government for being insufficiently committed to North Korea's denuclearization. Under the overarching policy of seeking "reciprocity" in most dealings with North Korea, he proposed making economic aid to North Korea and inter-Korean economic cooperation conditional on North Korea's progress in denuclearizing. Yoon argued that sanctions should be maintained until North Korea's "complete denuclearization."⁶¹ Yoon has unveiled some incentives for DPRK denuclearization, including offering "large-scale" food assistance; assistance for power generation, transmission, and distribution infrastructure; help modernizing North Korea's ports and airports; agricultural assistance; aid to help modernize the DPRK's hospitals and medical infrastructure; and help to "implement international investment and financial support initiatives." In Yoon's plan, North Korea would need to begin the process of denuclearization to begin receiving such assistance. Yoon also has promised that he would not try to change North Korea's government by force.⁶² Yoon's aid plan does not appear to involve lifting sanctions, as North Korea has demanded, though it would almost certainly require waivers to UNSC sanctions for some elements to be carried out. Kim Jong-un's sister, Kim Yo-jong, who appears to have assumed a prominent role in his regime, has dismissed Yoon's plan as "an absurd dream," saying that that any assumption that North Korea might take steps toward denuclearization is a "wrong prerequisite."⁶³

⁵⁸ S. 2129, the Otto Warmbier Countering North Korean Censorship and Surveillance Act of 2021, introduced by Senator Portman with bipartisan cosponsorship on June 17, 2021; reported out of the Committee on Foreign Relations on October 28, 2021; and agreed to by voice vote on June 16, 2022.

⁵⁹ Department of State, Public Notice 11840, "United States Passports Invalid for Travel to, in, or Through the Democratic People's Republic of Korea (DPRK)," 87 *Federal Register* 51728, August 23, 2022.

⁶⁰ U.S. Department of State. Bureau of Consular Affairs, "Passport for Travel to North Korea," accessed June 2022.

⁶¹ Yoon Suk-yeol Transition Team, "Yoon Suk Yeol's Foreign and Security Policy," March 14, 2022, <https://www.nknews.org/wp-content/uploads/2022/03/20220314-YSY-FOPO.docx>; "Incoming Gov't to Seek N. Korea's Complete Denuclearization, Boost Defense Capability," *Yonhap News Agency*, May 3, 2022.

⁶² Office of the President, "Address by President Yoon Suk Yeol on Korea's 77th Liberation Day," August 15, 2022; Jeongmin Kim, "Seoul Can't Provide Security Guarantees to North Korea, Yoon Suk-yeol Says," *NK News*, August 17, 2022.

⁶³ "Press Statement of Vice Department Director of C.C., WPK Kim Yo Jong," *Rodong Sinmun*, as reproduced on NKNews' KCNAwatch.org, August 19, 2022.

Both the U.S. and ROK administrations also have offered to provide humanitarian aid to ordinary North Koreans unconditionally. Such offers include assistance to respond to North Korea's 2022 COVID-19 outbreak. According to a variety of reports, North Korea has refused offers of COVID-19 vaccines from the multilateral COVAX initiative and from China, and reportedly has not responded to U.S. and ROK offers of COVID-19 assistance.⁶⁴ International analysts assess that the absence of vaccines and prior infections, combined with a reportedly severe general shortage of medicine, widespread chronic malnutrition, and an extremely fragile public health infrastructure, make the North Korean population particularly vulnerable to a severe COVID-19 outbreak. By mid-summer 2022, North Korean authorities had declared their battle with COVID a success, officially attributing fewer than 100 deaths to COVID-19 and claiming that cases had declined from over 400,000 in May to zero in late July.⁶⁵ In August, Kim declared that the country had "eradicated" COVID-19, which his sister claimed had been intentionally introduced into North Korea by South Korea, by way of balloons and other materials South Korean activists had launched over the inter-Korean border.⁶⁶ Many experts have expressed skepticism about North Korea's official COVID-19 statistics.⁶⁷ In his September 9, 2022, speech to the DPRK's Supreme People Assembly, Kim said that North Korea would start a vaccine campaign in November 2022, and that it would likely need to import the shots.⁶⁸

Uptick in U.S.-ROK Alliance Activities

Yoon has emphasized a need to expand South Korea's defense and deterrence capabilities in conjunction with the U.S. alliance, including developing offensive strike capabilities and enhanced missile defense.⁶⁹ His government has spoken publicly about plans for massive strikes against North Korea—including against its leadership—in the event of a North Korean provocation.⁷⁰ During the May 2022 Biden-Yoon summit, the two leaders appeared to shift their emphasis from diplomacy to deterrence. The two countries reactivated a high-level consultation group on extended deterrence under the U.S. nuclear umbrella. Biden committed to deploy "strategic U.S. military assets" to South Korea in a "timely and coordinated manner as necessary."⁷¹

⁶⁴ Timothy Martin, "North Korea Rejects Covid-19 Vaccine Doses," *Wall Street Journal*, September 1, 2021; The White House, "Remarks by President Biden and President Yoon Suk Yeol of the Republic of Korea in Joint Press Conference," May 21, 2022; "N. Korea Silent on S. Korea's Offer for COVID-19 Talks for 3rd Day: Official," *Yonhap News*, May 18, 2022.

⁶⁵ Chaewon Chung, "North Korea Reports First-Ever COVID-19 Outbreak," *NKNews*, May 12, 2022; Victor Cha, Katrin Fraser Katz, and J. Stephen Morrison, *North Korea's Covid-19 Lockdown*, Center for Strategic and International Studies, March 2022; "North Korean COVID-19/Fever Data Tracker," *38 North*, July 25, 2022; Heeje Lee and Samuel S. Han, "North Korea Appears to Have Managed Its COVID-19 Outbreak: What Comes Next?," *38North*, August 15, 2022.

⁶⁶ Colin Zwirko, "North Korea Declares COVID-19 'Eradicated,' Implies Kim Jong Un Caught Virus," *NK News*, August 11, 2022.

⁶⁷ See, for example, Martyn Williams, "Examining North Korea's COVID-19 Data: A Two-Month Miracle?" *38North*, July 15, 2022.

⁶⁸ Colin Zwirko, "North Korea to Start COVID Vaccine Campaign in November: Kim Jong Un," *NKNews*, September 9, 2022.

⁶⁹ Jeongmin Kim, "Yoon Hails Peace 'Through Strong Might' on Anniversary of North Korea's Invasion," *NK News*, June 27, 2022; Yoon Suk-yeol Transition Team, "Yoon Suk Yeol's Foreign and Security Policy," March 14, 2022.

⁷⁰ Ankit Panda, "South Korea's 'Decapitation' Strategy Against North Korea Has More Risks Than Benefits," *Carnegie Endowment for International Peace Commentary*, August 15, 2022.

⁷¹ The White House, "United States-Republic of Korea Leaders' Joint Statement," May 21, 2022.

Biden and Yoon also announced their shared intention to “expand the scope and scale of combined military exercises and training on and around the Korean Peninsula.”⁷² Trump and Moon curtailed the exercises from June 2018 through May 2022 in order to facilitate diplomacy with the North; other reasons cited for the decision were Trump’s conviction that the exercises were too costly, and the health risks of conducting large-scale exercises during the COVID-19 pandemic. As mentioned earlier, Yoon and Biden’s announcements at their summit were soon followed by joint exercises, some of which included a U.S. aircraft carrier for the first time in over four years.⁷³ The pace and scale of joint military cooperation continued to increase in the following months, with the dispatch of U.S. F-35 stealth fighters joining ROK F-35s for training in July 2022⁷⁴ and full-scale live-fire exercises in August 2022 including combined air carrier strike group training and amphibious operation drills.⁷⁵

U.S.-South Korea-Japan coordination over North Korea has deepened since Yoon’s inauguration. From 2018 to 2022, U.S.-ROK-Japan coordination ebbed, due in part to a sharp rise in Seoul-Tokyo tensions over historical issues and to the Moon government’s apparent preference to curtail overt trilateral cooperation to avoid jeopardizing engagement initiatives with North Korea. Since mid-May 2022, the United States, South Korea, and Japan have held multiple high-level meetings, including a trilateral presidential summit on the sidelines of the June 2022 Madrid NATO meeting. Yoon has said he would like to lift South Korea-Japan relations out of their current state of distrust and tension. It remains unclear whether and how the two sides will resolve the thorniest issues.⁷⁶

China

Following North Korea’s March 2022 test of an ICBM, China expressed “concern” and urged “restraint on all sides.”⁷⁷ Although China’s chief nuclear envoy has engaged in talks with his South Korean and U.S. counterparts, China subsequently vetoed (along with Russia) a U.S.-led UNSC resolution that would have imposed additional restrictions on the amount of petroleum North Korea is allowed to import and would have designated for sanctions the Lazarus Group, a hacking group linked to the DPRK government that reportedly has stolen hundreds of millions of dollars.⁷⁸ In July 2022, as observers predicted that Kim may attempt to justify a seventh nuclear test as a response to U.S. and South Korean “hostile acts,” some analysts pointed out that China and Russia may use a similar justification for not supporting potential additional UNSC sanctions if and when a test is carried out.⁷⁹

Historically, China is the DPRK’s chief benefactor and has served as a lifeline for the impoverished nation. China’s overriding priority with North Korea is preserving regional stability. DPRK provocations—particularly tests of its nuclear weapons program—have the

⁷² The White House, “United States-Republic of Korea Leaders’ Joint Statement,” May 21, 2022.

⁷³ U.S. Indo-Pacific Command, “U.S., ROK Conduct Combined Live Fire Missile Launch,” June 5, 2022; U.S. Navy, “Republic of Korea, U.S. Navies Conclude Carrier Strike Group Exercise,” June 4, 2022.

⁷⁴ “US and South Korean Stealth Fighters Train Together for the First Time,” *Stars and Stripes*, July 5, 2022.

⁷⁵ “North Korea’s Latest Threat Seen as Pretext for Nuclear Test,” *Voice of America*, July 31, 2022.

⁷⁶ South Korea’s Presidential Office, “Address by President Yoon Suk Yeol on Korea’s 77th Liberation Day,” August 15, 2022.

⁷⁷ “China Urges Restraint by ‘All Sides’ on North Korea’s Missile Tests,” *Reuters*, March 25, 2022.

⁷⁸ United Nations Security Council, “United States of America: Draft Resolution,” May 26, 2022, S/2022/431; U.S. Federal Bureau of Investigation, “FBI Statement on Attribution of Malicious Cyber Activity Posed by the Democratic People’s Republic of Korea,” April 14, 2022.

⁷⁹ “North Korea’s Latest Threat Seen as Pretext for Nuclear Test,” *Voice of America*, July 31, 2022.

potential to upset the status quo.⁸⁰ However, Beijing often has acted to forestall more severe sanctions by the United Nations that seek to punish North Korea for its actions. As U.S.-China relations have deteriorated, analysts expect little help from Beijing in reining in North Korea's provocations.⁸¹ Congress has encouraged and authorized the President to use sanctions on third parties that ignore, overlook, or violate the requirements of U.N. Security Council resolutions in their trade with North Korea.⁸² Congress has also authorized the Department of Homeland Security to use enhanced inspection tools on shipments arriving in the United States from foreign jurisdictions that the President determines are failing to comply with Security Council requirements for limiting trade with North Korea.⁸³

Japan

The DPRK ICBM test launched on March 25, 2022, landed in Japan's 200-nautical-mile Exclusive Economic Zone and prompted a strong reaction from Tokyo. Foreign Minister Yoshimasa Hayashi called the test a "blatant and grave threat to the international community."⁸⁴ Hayashi also explicitly tied the situation in Ukraine to the launch, warning that the DPRK may be taking advantage of the international community's focus on Europe to engage in provocative actions. A month later, Hayashi joined U.S. Ambassador to Japan Rahm Emanuel aboard a U.S. aircraft carrier to observe a display of U.S. and Japanese air power, with both Emanuel and Commander of the Pacific Fleet Karl Thomas emphasizing in their remarks the strength of the alliance's deterrence against DPRK threats.⁸⁵

North Korea's steadily advancing capabilities add to Japan's increasing sense of vulnerability. The Russian invasion of Ukraine unnerved Tokyo for its raw aggression, and Japan's strong response was due in part to Japanese leaders' concern that the crisis could have implications for Japan's security in Asia.⁸⁶ A number of commentators have drawn comparisons between Russia's invasion of Ukraine and a possible Chinese attack on Taiwan.⁸⁷ Japanese leaders have increasingly linked the security of Taiwan with Japan's own security in a reflection of Tokyo's sense of threat from China.⁸⁸ The combination of these threats could influence Japan's new National Security Strategy, which will be released soon amid indications that Japan is ready to invest more heavily in defense, a departure from Tokyo's traditionally incremental and modest increases.⁸⁹ The DPRK tests may give more leverage to those in Tokyo who favor a better-funded

⁸⁰ Bruce Bennett and Diana Myers, "North Korean Nuclear Weapons Pose an Existential Threat to China," RAND blog, July 13, 2021.

⁸¹ "China Draws North Korea Closer Than Ever as Biden Visits Region," *Washington Post*, May 18, 2022.

⁸² See, especially, Section 104, North Korea Sanctions and Policy Enhancement Act of 2016, 22 U.S.C. 9214.

⁸³ See, especially, Section 205, North Korea Sanctions and Policy Enhancement Act of 2016, 22 U.S.C. 9225.

⁸⁴ Extraordinary Press Conference by Foreign Minister HAYASHI Yoshimasa, Japan Ministry of Foreign Affairs, March 24, 2022.

⁸⁵ "USS Abraham Lincoln, with VIPs Aboard, Displays Airpower at Sea to Underline US-Japan Alliance," *Stars and Stripes*, April 23, 2022.

⁸⁶ In a February 25, 2022, statement, Foreign Minister Hayashi said Russia's invasion "shakes the foundation of international order not only in Europe but also in Asia." Japanese Ministry of Foreign Affairs, "Sanction Measures Following the Launch of Military Actions by Russia in Ukraine (Statement by Foreign Minister HAYASHI Yoshimasa)," February 25, 2022.

⁸⁷ "The Ukraine Crisis Is a Wake-up Call for Taiwan and Japan," *The Federalist*, March 15, 2022.

⁸⁸ Isabel Reynolds and Emi Nobuhiro, "Japan Sees China-Taiwan Friction as Threat to its Security," *Japan Times*, June 25, 2021.

⁸⁹ Thisanka Siripala, "Japan Needs a Revamped North Korea Policy," *The Diplomat*, April 2, 2022. "Japan Pushes to Include Defense Budget Hike in Key Policy Guidelines," *Japan Times*, June 4, 2022.

and more muscular security policy. Congress has supported Japan developing a more capable and flexible military force, including the passage of a joint resolution in July 2022 that commemorated former Prime Minister Shinzo Abe and praised his strengthening of U.S.-Japan military cooperation.⁹⁰

For nearly two decades, Japan has imposed unilateral sanctions that bar virtually all trade with North Korea. In addition to the threat posed by missile tests and nuclear weapons development, Japan prioritizes resolving the abduction of Japanese citizens by DPRK agents in the 1970s and 1980s, demanding that Pyongyang account for the abductees' fates. At the UNSC, Japan has supported U.S. and other countries' efforts to issue strong condemnations and uncompromising UNSC resolutions regarding North Korea's missile tests.

Russia

Russia, increasingly isolated from the international community and struggling economically because of the sanctions imposed on Moscow in response to its war against Ukraine, appears unlikely to support a new UNSC statement or resolution criticizing and/or penalizing the DPRK. In response to North Korea's early 2022 shorter-range missile tests, Russian officials commented that they were sympathetic to the DPRK's decision to renew its program, and that U.S. pressure to increase sanctions were the reason denuclearization talks have halted.⁹¹ Similar to China, Russia's hostile relations with the United States make it unlikely to productively engage in negotiating with North Korea, despite its earlier participation in the Six-Party Talks in the early 2000s aimed at brokering a deal that would curtail the DPRK's nuclear weapons program.⁹² In July 2022, North Korea officially recognized the so-called Donetsk People's Republic (DPR) and Lugansk People's Republic (LPR), regions of Ukraine controlled by Russian-backed separatists. North Korea reportedly also plans to dispatch workers—in contravention of UNSC sanctions—to the DPR once the DPRK eases its COVID border restrictions.⁹³ In early September 2022, following reports that North Korea was supplying Russia with "millions" of artillery shells as well as rockets, the U.S. Department of Defense acknowledged that U.S. intelligence indicated that Russia had asked North Korea for ammunition.⁹⁴ The same month, North Korea and Russia reportedly agreed to resume rail traffic, which North Korea halted in early 2020 as part of its COVID-19 border closure.⁹⁵

Issues for Congress

Historically, Members of Congress seeking to influence U.S. policy toward North Korea have utilized a range of tools. Opportunities for Congress to weigh in tend to increase when there is greater U.S.-DPRK interaction and when the executive branch is contemplating large-scale

⁹⁰ S.Res. 706

⁹¹ "Russia Says It Understands N.Korea's Move to Renew Missile Launches –RIA," *Reuters*, March 8, 2022.

⁹² For more, see CRS Report R45033, *Nuclear Negotiations with North Korea*, by Mark E. Manyin, Emma Chanlett-Avery, and Mary Beth D. Nikitin.

⁹³ Ethan Jewell, "North Korea Recognizes Breakaway Republics of Donetsk and Luhansk in Ukraine," *NK News*, July 14, 2022; Colin Zwirko, "North Korea Confirms Plan to Send Workers to Russia-Occupied Ukraine," *NK News*, August 2, 2022.

⁹⁴ Defense Department, "Pentagon Press Secretary Air Force Brig. Gen. Pat Ryder Holds an On-Camera Press Briefing," September 6, 2022; Julian Barnes, "Russia Is Buying North Korean Artillery, According to U.S. Intelligence," *New York Times*, September 5, 2022.

⁹⁵ Dasl Yoon, "North Korean Weapons Supplied to Russia Would Likely Have Limits," *Wall Street Journal*, September 15, 2022.

initiatives toward North Korea. During U.S.-North Korea denuclearization negotiations, for instance, past Congresses sought to influence the talks and in multiple cases affected the implementation of negotiated agreements.⁹⁶ Between 1995 and 2009, when the United States provided over \$1 billion in food and energy aid to North Korea, Congress often sought to influence the development and implementation of these assistance programs.⁹⁷ Congressional activity related to North Korea also was high in 2016 and 2017, when tensions spiked over North Korea's nuclear and missile tests.⁹⁸ Over time, however, deteriorating U.S.-DPRK relations, the lack of success of both U.S. diplomatic efforts and pressure tactics, as well as North Korea's refusal to engage have narrowed congressional options.

In the 117th Congress, some Members have acted on the stasis in U.S.-DPRK relations. Some have sought to push the Biden Administration to offer greater incentives for North Korea to return to the negotiating table.⁹⁹ Others have sought to require the Administration to tighten pressure by enacting additional sanctions legislation or by increasing funds for broadcasting information into North Korea.¹⁰⁰ Some Members have sought to reauthorize the North Korean Human Rights Act of 2004, which seeks to raise the priority of addressing the DPRK's human rights record, including by establishing a special envoy for North Korean human rights issues.¹⁰¹ Authorities in the 2004 Act expire at the end of FY2022, and the special envoy position has been vacant since January 2017. Yet other congressional efforts, such as in the annual National Defense Authorization Act, focus on countering the growing North Korean threat through increased support for missile defense and U.S. nuclear weapons funding and tightening export controls. Recent NDAs have included requiring the Executive Branch to report to Congress on the evolving North Korean threat.

Amid signs that basic human needs inside North Korea are not being met, some Members of Congress have shown interest in offering food and medical aid packages to Pyongyang and/or easing the process for obtaining sanctions waivers and licenses for those delivering humanitarian aid.¹⁰² As mentioned above, both the Biden and Yoon administrations support delinking efforts to provide humanitarian assistance from other issues such as North Korea's weapons of mass destruction programs. Kim Jong-un's September 2022 statement that North Korea will need to

⁹⁶ Congress's role, by way of appropriating funds, has been particularly significant in negotiations over the United States providing energy and humanitarian assistance to North Korea. For more, see CRS Report R45033, *Nuclear Negotiations with North Korea*, by Mark E. Manyin, Emma Chanlett-Avery, and Mary Beth D. Nikitin.

⁹⁷ For more, see CRS Report R40095, *Foreign Assistance to North Korea*, by Mark E. Manyin and Mary Beth D. Nikitin.

⁹⁸ For more on some of the issues Congress considered during this period, see CRS Report R41259, *North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation*, coordinated by Emma Chanlett-Avery, and CRS Report R44994, *The North Korean Nuclear Challenge: Military Options and Issues for Congress*, coordinated by Kathleen J. McInnis.

⁹⁹ In the 117th Congress, for example, some Members supported the United States pre-emptively issuing, with South Korea, a declaration formally stating that the Korean War has ended, as an incentive for North Korea to come to the negotiating table. This initiative, which the Biden Administration resisted and which other Members publicly opposed in the absence of comprehensive negotiations with North Korea, arguably is less feasible since the Yoon Administration came into office. President Yoon has opposed offering an end-of-war declaration before denuclearization advances. Chaewon Chung, "US Lawmakers Urge White House to Reject End-of-War Declaration with North Korea," *NK News*, December 8, 2021; Victor Cha and Dana Kim, "Yoon Seok-youl: What to Expect from South Korea's Next President," *Critical Questions*, Center for Strategic and International Studies, March 9, 2022.

¹⁰⁰ See, for example, S. 2129, the Otto Warmbier Countering North Korean Censorship and Surveillance Act of 2021, which the Senate passed on June 16, 2022.

¹⁰¹ See, for example, H.R. 7332 and S. 4216.

¹⁰² See, for example, H.R. 1504 and S. 690, Enhancing North Korea Humanitarian Assistance Act.

import vaccines to carry out its first COVID-19 vaccination campaign in November could present an opening for a U.S. or U.N. aid offer.

The relative paucity of direct U.S.-DPRK interaction in recent years has led the executive branch to seek to influence North Korea's behavior through enhanced coordination with South Korea and Japan. Congress often has done the same, using oversight hearings and annual authorization and appropriations bills—including the National Defense Authorization Act and State Department, Foreign Operations Appropriations bills—as opportunities to guide and oversee U.S.-ROK coordination over North Korea policy. Congress also has used these tools, as well as separate resolutions, to send messages about U.S.-South Korea deterrence measures and the value it places on the U.S.-ROK alliance as a whole.¹⁰³ In the past Congress has also passed measures calling on enhanced U.S.-ROK-Japan trilateral cooperation to address the threat from North Korea.¹⁰⁴

In the past, some Members and congressional staff sought to engage with the DPRK directly by traveling to North Korea, though such trips do not appear to have occurred for more than a decade. Opportunities for CODELS and STAFFDELS could be explored if North Korea reopens its COVID-19 related border closures. Other options for direct contact could include seeking to meet in New York City with officials at the DPRK mission to the United Nations, meeting in so-called “track 1.5” or “track 2” fora convened in 3rd countries, or encouraging the State Department to grant visas to enter the United States to select North Koreans for meaningful exchange.

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¹⁰³ See, for example, Section 1302 of the FY2023 NDAA (H.R. 7900) and Section 1252 of the Senate-passed FY2023 NDAA (S. 4543).

¹⁰⁴ See, for instance, H.Res. 127 and S.Res. 67, passed by the House and Senate, respectively, in September and April 2019, respectively.

“Bipartisan, Bicameral Group of Lawmakers Offers Legislation on U.S.-Japan-South Korea Trilateral Cooperation,” House Foreign Affairs Committee press release, February 12, 2019.

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