

Congressional Perspectives on U.S. Policy Toward North Korea and Denuclearization of the Korean Peninsula

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Cover Photo

U.S. Secretary of State Michael R. Pompeo arrives in Pyongyang, North Korea on July 5, 2018.
Photo by U.S. Department of State.

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Introduction

Addressing the threat posed by North Korea's nuclear weapons is one of the most significant and complex challenges facing the United States. Developing, implementing, and sustaining a verifiable diplomatic process that reduces risk and rolls back Pyongyang's nuclear weapons program requires a whole of government approach, including constructive contributions from members of the U.S. Congress.

Over the years, diplomacy has succeeded in slowing North Korea's nuclear development; the 1994 Agreed Framework for instance halted plutonium production for more than a decade. But negotiations and agreements have thus far failed to dismantle North Korea's nuclear weapons program and bring peace and stability to the Korean peninsula.

In the absence of credible diplomacy, North Korea continues to expand its nuclear weapons program and diversify its missiles capable of delivering nuclear warheads. Pyongyang appears intent on developing a nuclear arsenal that will deter a U.S. or South Korea attack and, should deterrence fail, repel an invasion.

As of 2021, the country is estimated to possess enough fissile material for about 40–50 warheads and has the capacity to expand its stockpile using its centrifuge facilities to enrich uranium and its 5MWe reactor, which produces plutonium. North Korea's warhead designs include what is likely a two-stage hydrogen bomb with a yield of 200–250 kilotons, which the country tested in September 2017.¹

North Korea has also tested and deployed an array of nuclear capable ballistic missiles. The most powerful intercontinental ballistic missile (ICBM) that Pyongyang has tested to date, the Hwasong-15, is capable of delivering a nuclear payload anywhere in the continental United States, although the reliability and accuracy of the system are questionable after just one test.² U.S. intelligence has long assessed that North Korea could deliver a nuclear warhead more reliably using its short or medium-range ballistic missiles. These systems are capable of targeting U.S. allies South Korea and Japan but would be unable to reach Guam.

North Korea is also developing solid-fueled systems, making its deterrent more mobile and difficult to preempt, and submarine launched missiles (SLBM). Pyongyang tested a new SLBM in October 2019, the Pukguksong-3, which has an estimated range of 1,900 kilometers.³ Satellite imagery also suggests that North Korea is proceeding with construction on its new Sinpo-class ballistic missile submarine. North Korea may be pursuing an SLBM capability to evade U.S. missile defenses deployed in South Korea and throughout the region.

In 2021, Kim Jong Un expressed interest in further diversifying the country's nuclear arsenal and pursuing tactical nuclear weapons. These developments suggest that North Korea will continue to expand and evolve its nuclear arsenal to meet its perceived security threats, which Pyongyang largely views as emanating from the United States.

Continued testing of new and existing systems also raises tensions and increases the risk of conflict through miscalculation or an escalatory action-reaction cycle, similar to what occurred in the second half of 2017. During that period, the United States and North Korea exchanged a series of threats and signaling following an uptick in Pyongyang's missile testing that increased risk of conflict.

In addition to diplomatic efforts to halt and roll back North Korea's nuclear weapons program, the international community has pursued coercive economic measures to stymie North Korea's procurement of the necessary materials and technologies to advance its nuclear and missile activities. United Nations and state-specific sanctions may have slowed Pyongyang progress, but have not



North Korean leader Kim Jong Un inspects a launch drill for the Hwasong-12, an intermediate range ballistic missile, in September 2017. The Hwasong-12 was one of several long-range, nuclear capable ballistic missiles that North Korea first tested in 2017. (Photo by STR/AFP via Getty Images)

succeeded in halting these programs. The extent to which North Korea has indigenized producing materials and technologies for its nuclear and missile program and its increasingly sophisticated sanctions-evasion tactics have prevented restrictions from choking off the country's access to dual use goods and funding for its weapons programs.⁴ These tactics, plus a high tolerance for economic pain, limit the effectiveness of sanctions as a tool for slowing nuclear and missile development and pushing North Korea to the negotiating table. It is unlikely that sanctions pressure will push the country to the breaking point where negotiations are the only course open for Kim to preserve his regime.

While designing and implementing an effective negotiating process that reduces risk, rolls back North Korea's nuclear weapons program, and contributes to peace and stability in the region will be a complex, time-consuming process, it remains the only viable option to address the North Korean nuclear threat. North Korea's ability to target U.S. assets and allies in the region with nuclear weapons, its ability to bombard Seoul with conventional munitions, and the opacity surrounding the location and storage of its nuclear warheads, ensures that any attempt to disarm North Korea by force would likely result in a horrific number of casualties.

North Korea's interest and willingness to engage in talks with the United States and in multilateral forums has fluctuated over time, but Pyongyang has long maintained that it will give up its nuclear weapons once the United States ends its "hostile

policy." Most recently, Kim Jong Un committed to "denuclearization of the Korean peninsula" as part of a transformed U.S.-North Korean relationship during the historic summit with U.S. President Donald Trump in Singapore in June 2018.

While the following meetings and subsequent summit in Hanoi in February 2019 did not jumpstart an effective negotiating process or lead to any subsequent agreements that reduced the risk posed by North Korea's nuclear weapons program, Kim did demonstrate a willingness to engage in a step-by-step process toward denuclearization. He put significant elements of the nuclear program on the table in exchange for certain UN sanctions relief during a second meeting with Trump in Hanoi.⁵ North Korea also abided by a voluntary nuclear and long-range missile testing moratorium during the negotiating process.

Pyongyang's approach to diplomacy with Washington during engagement with the Trump administration suggests that a properly calibrated, incremental approach to diplomacy could lead to concrete steps that roll back the country's nuclear weapons program and, in return, address North Korea's security and economic concerns. While crafting and implementing such an approach will be the prerogative of the Executive Branch, the role that Congress can play in supporting or hindering such a process should not be overlooked. This report examines the role that Congress has played in the past to shape North Korea policy and current congressional attitudes toward engagement with Pyongyang.

Why Examine the Role of Congress In U.S. Policy on North Korea?

North Korea's nuclear activities have posed a significant foreign policy challenge to the United States for decades. Generally, each president has reviewed U.S. policy toward North Korea and set their own conditions for negotiations and engagement with Pyongyang. While every administration presented their policies as distinct from their predecessors, the strategies and goals over the past 30 years shared similar features: a reliance on sanctions to punish North Korean violations of international law and push the country to return to negotiations, maintaining a strong deterrent to protect the United States and its allies from the North Korean threat, and a willingness to engage in diplomacy under certain conditions.

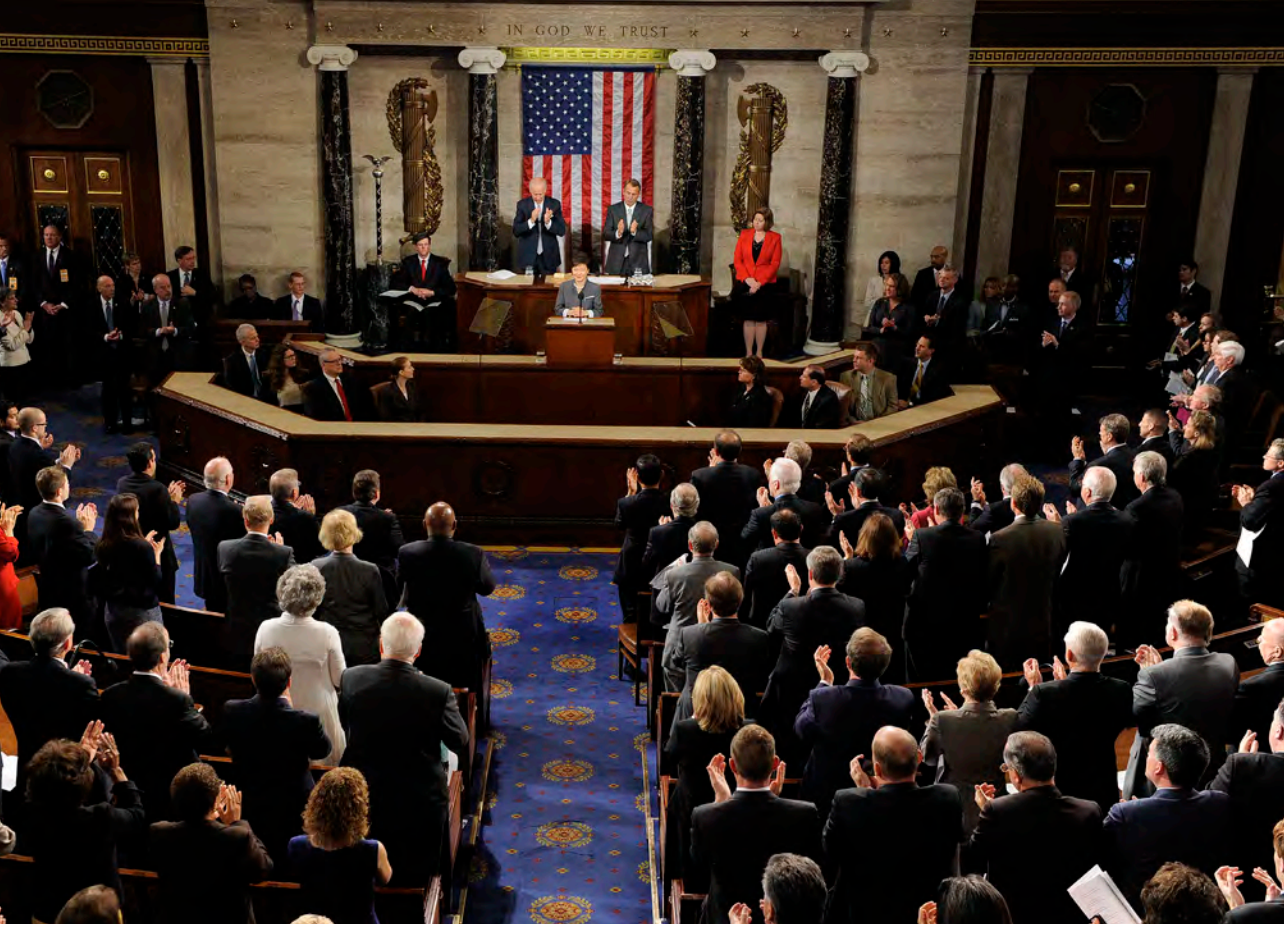
The preconditions for negotiations have varied. When the Trump administration conducted its policy review in 2017, former Secretary of State Rex Tillerson said North Korea must take “concrete steps to reduce the threat that its illegal nuclear weapons pose” before negotiations could begin.⁶ He later emphasized a cessation in nuclear and missile testing as necessary conditions for talks. The Obama administration's approach, referred to as strategic patience, emphasized increasing sanctions and engaging in negotiations if North Korea took steps toward denuclearization without specifying what those steps would entail.

The Biden administration, by contrast, does not appear to be attaching any conditions to negotiations with North Korea. Sung Kim, U.S. special envoy for North Korea, said in June 2021 that the Biden administration is willing to talk to North Korea “anytime, anywhere.”⁷ Biden's policy reaffirms that the U.S. goal is denuclearization of the Korean peninsula and building peace and stability in the region through incremental negotiations, but it has

not indicated what Washington might be willing to put on the table early in the process to demonstrate to North Korea the benefits of engagement or what steps it may be looking for Pyongyang in return.

Less well-understood, however, is the role that Congress plays in influencing how presidents conduct U.S. policy toward North Korea and supporting or spoiling efforts to engage Pyongyang diplomatically. There are a number of factors that shape congressional attitudes toward North Korea including:

- perceptions of the threat North Korea poses to U.S. allies and the U.S. homeland,
- perceptions of what is necessary to deter North Korea from coercive and provocative policies,
- perceptions of what steps the United States should take to slow the advancement of North Korea's nuclear weapons and missile programs or respond to North Korean testing,



South Korean President Park Geun-Hye addresses a joint meeting of the U.S. House of Representatives and Senate at the U.S. Capitol in Washington, DC, on May 8, 2013. Park proposed steps to ease tensions with North Korea as part of a peace initiative.

(Photo by Jewel Samad/AFP via Getty Images)

- concerns about human rights and humanitarian assistance for North Korea,
- perceptions of what is or is not an effective negotiating strategy, and
- the extent to which support or criticism of North Korea policy may influence electoral politics.

In regard to the last point, the party affiliation of members of Congress, and whether the president in office is from the same party, can significantly influence how critical or supportive they are of the president's approach.

Another significant factor regarding individual members' views may be whether they are on a committee with jurisdiction on some aspect of North Korea policy, such as the foreign affairs, armed services, or banking committees. These committees are more likely to hold hearings on the North Korea threat, U.S. policy toward North Korea, U.S. sanctions and nonproliferation strategy, as well as marking-up relevant legislation. As a result, members and staffers may develop more significant expertise and familiarity with North Korea through these assignments.

State and district demographics can also play a role in driving congressional interest in North Korea. For example, communities of Korean-Americans may

motivate certain members of Congress to be more active on and responsive to issues pertaining the Korean peninsula.

As the Biden administration pursues its own approach to address the challenges posed by North Korea, Congress will again be a factor in the development and execution of U.S. policies.

This report reviews how Congress' past actions have affected U.S. policy on North Korea. The review is not exhaustive. It is intended to illustrate some of the tools and methods employed in the past to shape, support, or oppose the administration's approach to North Korea. The report also explores current attitudes of congressional staff members on some of the pivotal questions pertaining to U.S. policy toward North Korea that members of Congress are often asked to consider or seek to influence using an array of tools designed to check executive foreign policymaking power.

Using survey data and in-depth interviews from the late months of 2020, this report seeks to provide some insights into how Congress views the North Korean nuclear threat and U.S. approaches for addressing it. More clarity into congressional views and attitudes may lead to more effective policymaking and provide some insights into how Congress may respond to certain strategies.

Notable Examples of Congressional Engagement on North Korea

The role that the U.S. Congress plays in shaping U.S. foreign policy toward North Korea has frequently been overlooked. While Congress is not the primary driver of U.S. policy and strategy, it has, over the years, used an array of tools to put in place conditions for negotiations, express its support or opposition to administration policy, and implement coercive measures toward North Korea designed to punish Pyongyang for its violations of international law and stymie its weapons development efforts. These efforts are largely responsive rather than systemic congressional efforts to engage on North Korea policy.

Historically, the greatest periods of congressional engagement surrounding North Korea occurred in response to U.S. negotiations with Pyongyang and significant advancements in the country's nuclear and missile capabilities. Since 1990, there has generally been an uptick in North Korea-related hearings and legislation during periods of negotiations and in response to intensified North Korean missile and nuclear testing.

For example, during the 115th Congress (2017–2018) North Korea was accelerating its long-range missile testing program and an exchange of threats between Kim Jong Un and former President Donald Trump in late 2017 increased the risk of conflict. That period also included the first meeting between Kim and Trump in Singapore in June 2018.

During that two-year period, Congress held 14 hearings focused on North Korea. This contrasts to the six hearings held during the 2013–2014 period where testing was more sporadic and there was no ongoing diplomatic engagement or sustained U.S. diplomatic outreach. Similarly, Congress introduced 63 resolutions, legislation, or amendments primarily focused on North Korea during the 2017–2018 Congress, as opposed to 43 in the 2013–2014 period.

The lack of sustained, congressional effort to develop and pursue an approach independent of the

administration on North Korea is unsurprising. In addition to the Constitution vesting foreign policy making authority with the President, North Korea is rarely a significant campaign issue in congressional races and its coverage in the media is episodic.

Furthermore, few congressional members and staff have a deep knowledge of North Korea and related nuclear nonproliferation issues. This stems from several factors, including the fact that for the past decade there has been very limited U.S.-North Korea diplomatic engagement, which is a key barometer of how much time members of Congress and committees with jurisdiction on foreign affairs and defense issues focus on North Korea. Members of Congress have also had far fewer opportunities to directly engage with North Korean officials for the past 20 years than in the 1990s and early 2000s.

For instance, when the Agreed Framework was being negotiated and implemented, a number of Congressional delegations (CODELs) traveled to North Korea. These trips helped members build up expertise and familiarity on the country's nuclear program, its foreign policy, and its culture. In a report to Congress on a CODEL to North Korea and South Korea that took place May 30–June 2, 2003, Representative Curt Weldon (R-Pa.), who led the six member delegation, said that trip provided an “opportunity to engage

senior [North Korea] officials in informal discussions, free of the formality of traditional posturing and imposed pressures of negotiation objectives, to share mutual perspectives on the major political, military and economic issues.” He noted that there was “unanimous agreement” amongst the CODEL participants that “a way must be found to initiate discussions” at the “earliest possible convenience” and that failure to do so may result in “the proliferation of nuclear weapons and/or technology to terrorist organizations and states.” He also noted that North Korean officials “cited the importance of the visit” to “enhance mutual understanding between the two nations.”⁸

A second CODEL planned for the fall of 2003 was blocked by the George W. Bush administration. A bipartisan group of House members chastised Bush for the decision in a five-page letter sent to the president in October 2003. The letter, led by Weldon, a Republican, noted that Congress has “a right and duty of oversight and factfinding” and criticized the National Security Council for acting with “malicious intent” in blocking the trip.⁹

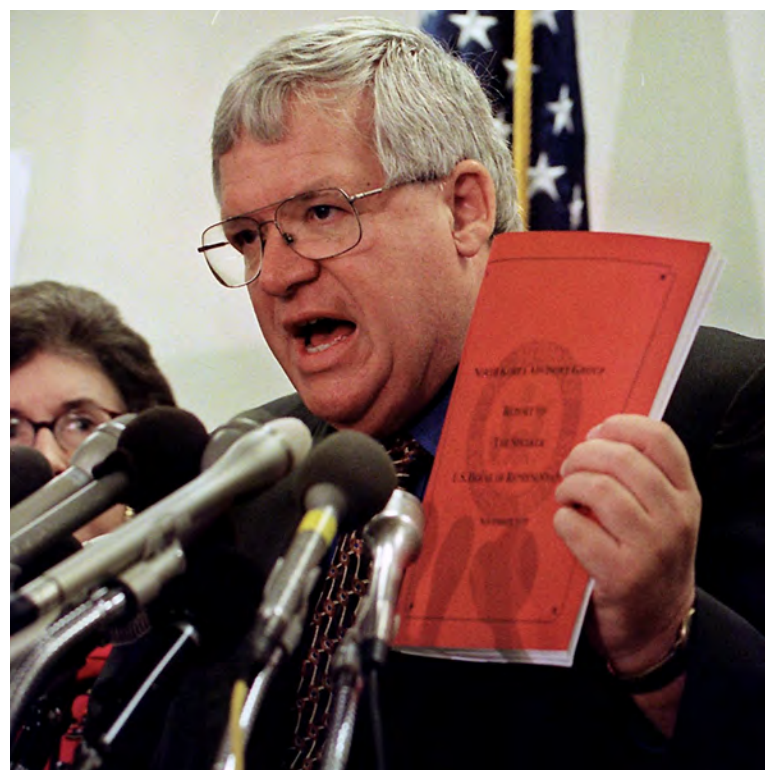
Much of that institutional knowledge and the understandings of North Korea gained from these trips now seems to have lapsed, or is less relevant given the change in leadership in Pyongyang and the evolution of the country’s nuclear weapons strategy. For instance, the last sitting member of Congress to visit North Korea did so in 2003 on the aforementioned CODEL, which was more than eight years prior to Kim Jong Il’s death in December 2011 and Kim Jong Un coming into power. The trip also took place before North Korea’s first nuclear weapons test in 2006 and the expansion of the country’s nuclear-capable missile program.

Additionally, few members that participated in the pre-2003 CODELs to North Korea still hold seats in Congress. In the 116th Congress (2019–2020), only four members of Congress had personal experience visiting North Korea and in the 117th Congress (2021–2022), that dropped to two members: Representatives Nancy Pelosi (D-Cal.) and Joe Wilson (R-S.C.).¹⁰

This diminishing firsthand experience contributes to misunderstandings about North Korea and a deficit of knowledge about the country’s policies, approaches to negotiations, and intentions, which can hamper effective congressional engagement with U.S. policy toward Pyongyang.

Typically, when Congress does weigh in on North Korea policy, it tends to be more reactive than proactive. Rather than recommend new policy approaches, Congress typically supports, opposes, or in some cases, seeks to refine the President’s approach.

For instance, in 1999, the Republican Speaker of the House, Dennis Hastert, set up the North Korea



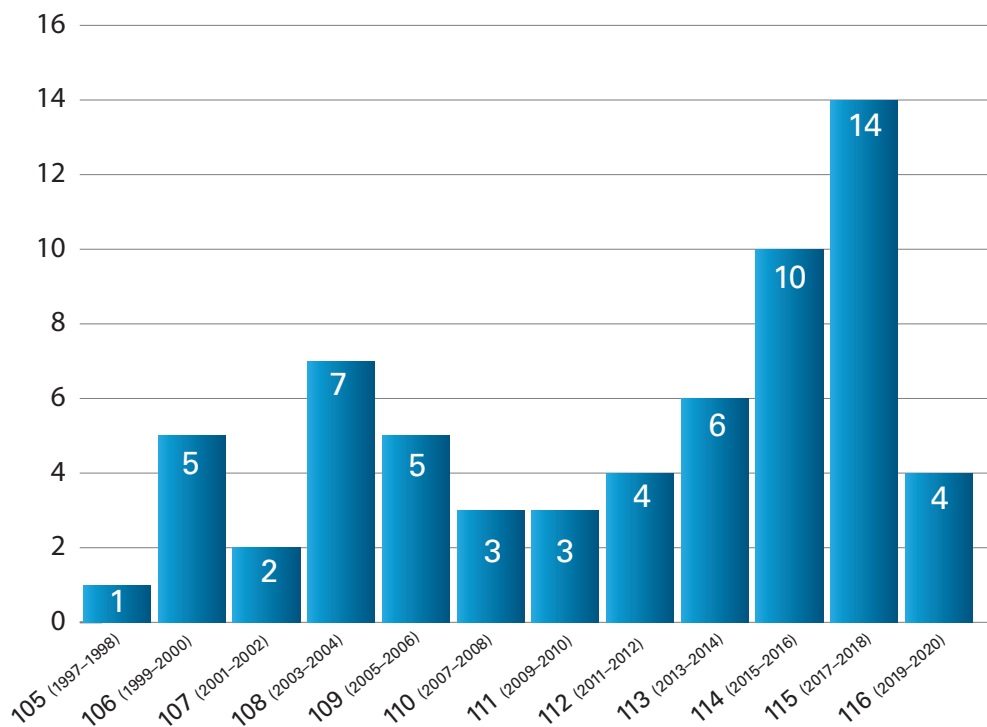
Speaker of the U.S. House of Representatives Dennis Hastert (R-III) speaks to reporters about the findings of the North Korea Advisory Group during a Nov. 3, 1999 press conference. The advisory group’s report detailed the threat North Korea posed to the United States.

(Photo by Mario Tama/AFP via Getty Images)

Advisory Group, citing dissatisfaction with the policies of President Bill Clinton—a Democrat—toward North Korea and insufficiencies with the 1994 Agreed Framework. The final report released by the group detailed the nuclear and missile threat posed by North Korea and affirmed Hastert’s view that the threat from Pyongyang had increased, despite the Agreed Framework. However, the report offered no policy recommendations for addressing these issues.¹¹

In a cover letter to Hastert, the members of the advisory group, which was comprised of nine members of Congress, unanimously concluded that relevant congressional committees should review “seriously weaknesses concerning U.S. policy toward North Korea” and “report back with their specific legislation for congressional action.”¹² However, over the remaining course of the 106th Congress (1999–2000), only three bills were introduced that targeted North Korea, all sponsored by the chairman of the North Korea Advisory Group, Representative Benjamin Gilman. Two of the three dealt with U.S. nuclear transfers to North Korea as required by the Agreed Framework to facilitate the U.S. commitment to provide proliferation-resistant reactors, an issue of concern to Congress prior to the advisory group’s

Hearings on North Korea by Congress



report release in October 1999. None of these pieces of legislation were signed into law.

Generally, members of Congress have relied on three tools to react to or try to refine administration policy: letters, hearings and reports, budgetary authority, and sanctions.

Letters, Hearings, and Reports

Letters, hearings, and reports give members of Congress an opportunity to question administration officials about U.S. policy, raise concerns, gather additional information, and to offer support for the president's approach. Whereas Congress can legislate and directly influence policy and strategy using the budget and sanctions, the use of hearings, reports, and letters are more about signaling and rhetoric. These tools can also give North Korea insight as to what support or opposition a particular approach may receive from Congress.

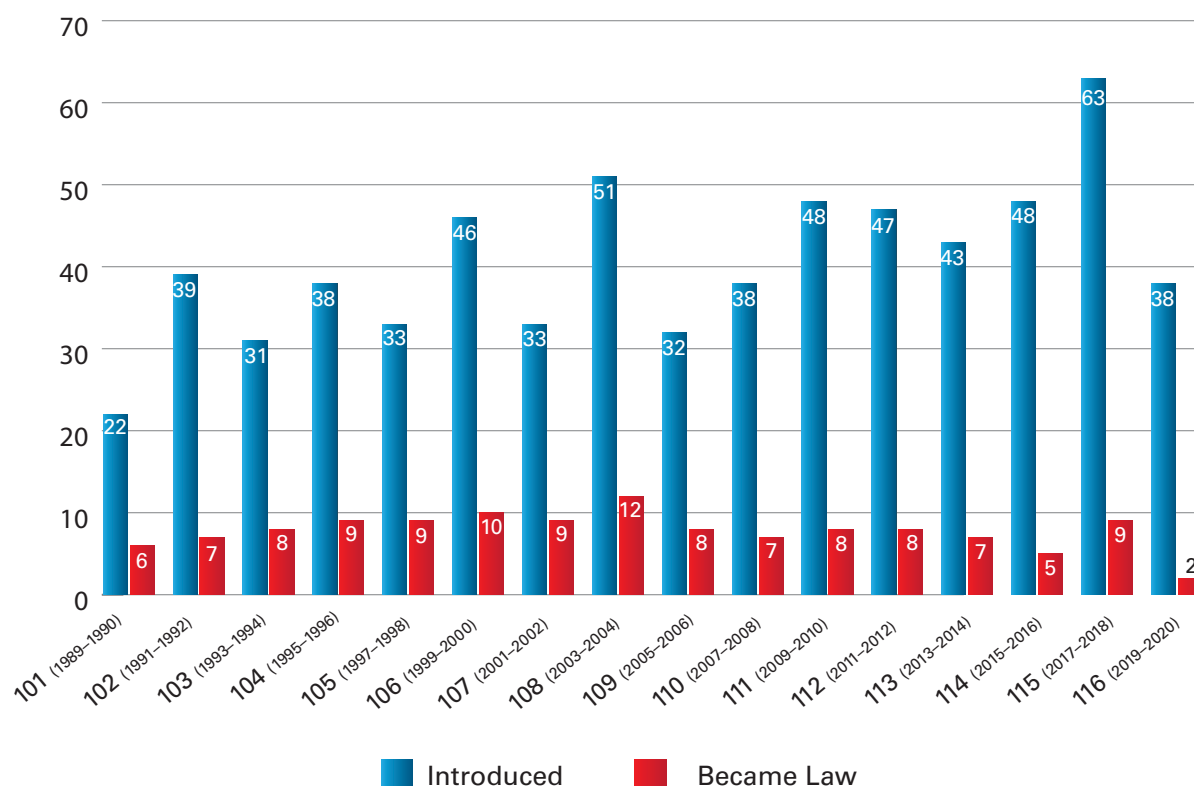
During negotiations on the Agreed Framework, several prominent congressional Republicans denounced Clinton's approach to negotiations with North Korea. The Senate Minority Leader Bob Dole, for instance, chastised the Clinton administration

in June 1994 for still believing that "North Korea is willing to negotiate away its nuclear capability." He said that the best way to stop aggression is through "firmness and strength."¹³

After the Agreed Framework was concluded in 1994, Senator Arlen Specter (R-Pa.) organized a letter from several committee chairs requesting that the agreement be submitted to the Senate as a treaty for advice and consent. The letter argued that the Agreed Framework "constitutes a substantial commitment of funds extending beyond a fiscal year and is of substantial political significance" and that submitting the agreement as a treaty would enable the Senate to "undertake a detailed factual analysis to determine whether this agreement is in the national interest."¹⁴

The aforementioned North Korea Advisory Group, set up by Hastert, also sharply criticized the Clinton administration's policy toward North Korea. In addition to documenting the growing threat posed by the country's nuclear and missile programs, the November 1999 report accused the Clinton administration of providing assistance to North Korea and of propping up the Kim regime.¹⁵ The chairman of the advisory group, said the Clinton

Legislation on North Korea by Congress



administration’s approach was “inexplicable and inexcusable.” The report did not, however, include any recommendations on a new approach.

While congressional views on U.S. policy and rhetoric toward North Korea can be influenced by partisan politics, there are a few instances where members’ divergence from the administration did not play out along party lines.

During the Trump presidency prominent Democrats and Republicans, for instance, were critical of Trump’s vague military threats issued in response to Pyongyang’s long-range missile testing in 2017 and, while expressing support for diplomacy, raised concern about Trump’s shift to leader-level engagement with Kim in 2018.

Then ranking member of the Senate Foreign Relations Committee, Bob Menendez (D-N.J.), said in March 2018 prior to the first Trump-Kim meeting that he welcomed “any opportunity to forge a diplomatic pathway and prevent possible military misadventure with North Korea” but expressed “deep concerns about President Trump’s ability to engage in the clear-eyed diplomacy necessary” to denuclearize North Korea. Later, in a December 2019 letter to

Trump, eight senior Democrats in the Senate said, “we are disturbed that almost two years after the Singapore Summit your administration has yet to develop a workable diplomatic process to structure real, serious and sustainable negotiations with North Korea.”¹⁶ They called for Trump to develop a “serious diplomatic plan” to verifiably freeze and roll back the country’s nuclear weapons program.

Other Democrats were more supportive. Representative Adam Schiff (D-Calif.) expressed hope for “true breakthrough” at the Singapore summit and called on Trump to rely on State Department expertise to take negotiations forward. Former New Mexico governor, Democrat Bill Richardson, who has traveled to North Korea several times, said he believed the shift to diplomacy was “the right thing to do” and called on Democrats to “get behind the president.”¹⁷

On the Republican side, members of Congress were generally supportive of the Trump’s decision to meet with Kim, but cautious about the chances of success and reluctant to back a political agreement. Then Senate Majority Leader Mitch McConnell (R-Ky.), for instance, said in June 2018 after the Trump-Kim meeting that he hoped any agreement with North

Korea will “take the form of a treaty.” Senator Ron Johnson (R-Wis.) similarly said that if a deal “can’t be ratified, there is probably something wrong with the deal.”¹⁸ Senator Chuck Schumer (D-N.Y.), however, said it was too early to decide if the any agreement should be submitted to the Senate.

Both Republicans and Democrats criticized Trump for his praise of Kim over the course of the negotiating process and the decision to alter joint military exercises with South Korea. At the Singapore Summit, for instance, Trump referred to Kim as a “talented guy.” Senator Marco Rubio (R-Fla.) tweeted in response that Kim is a “total weirdo” and pointed out that he “inherited the family business” and Senator Jerry Moran (R-Kan.) said that Trump’s praise of Kim is no way to describe a “dictator, despot, tyrant.”

Trump also announced at the Singapore summit that it is “inappropriate to have war games” during negotiations and that North Korea “very much appreciated” the cancellation. He expressed interest in withdrawing U.S. troops from South Korea down the road—an announcement sharply criticized by both parties. Then Senator David Perdue (R-Ga.) said he was “very troubled” by Trump’s announcement and Senator Dianne Feinstein (D-Calif.) expressed concern that Trump was “making concessions...with nothing to show in return” and noted the “important signal” of support that these exercises send to U.S. allies in the region.

Members of Congress have also used hearings to raise concerns about policy approaches. In 2003, former Senator Richard Lugar (R-Ind.), then chair of the Senate Foreign Relations Committee (SFRC), held four hearings on North Korea in a two-month period in which he urged then President George W. Bush to engage in direct talks with North Korea.¹⁹ In a March 2003 hearing, Lugar criticized the Bush administration for being “reluctant to agree to a bilateral dialogue with North Korea until the North Korean regime satisfies the U.S. concerns over its nuclear program.” He said it was vital that the United States “not dismiss bilateral diplomatic opportunities that could be useful in reversing North Korea’s nuclear weapons program and promoting stability” and that “the mere initiation of bilateral dialogue... does not compromise our national security interests.”²⁰

Similarly, nearly two decades later, Menendez used a July 2018 hearing with former Secretary of State Michael Pompeo to express concern over Trump’s decision to meet with Kim in Singapore and then declare that North Korea’s nuclear program “no longer poses a threat to the United States.” Menendez said the approach looked more like “the art of concessions than the art of the deal.”²¹ Other members of the SFRC used the hearing as an opportunity to push Pompeo to provide more details on what the Singapore



Senator Robert Menendez (D-NJ) speaks during a Senate Foreign Relations Committee hearing on July 25, 2018. Menendez questioned Secretary of State Mike Pompeo on the Trump administration’s strategy toward North Korea during the hearing. (Photo by Alex Wong/Getty Images)

summit declaration’s “denuclearization of the Korean peninsula” would look like in practical terms.

The extent to which congressional criticism and rhetoric has hindered administration policy and negotiating strategy or undermined North Korean confidence in the ability of the United States to deliver on any commitments in a negotiated agreement is difficult to determine. Clinton, for instance, was able to conclude and implement the Agreed Framework, albeit with difficulty, despite Republican opposition. Even after Republicans took control of the House and Senate in 1995, they did not succeed in blocking implementation of U.S. commitments under that accord.

However, it is likely that the North Korean leadership takes note of disunity between the Congress and the president, particularly given congressional challenges to past negotiations and Congress’s ability to impede presidential flexibility by putting conditions on sanctions and funding for the implementation of any agreement. Republican opposition to Clinton’s approach, for instance, foreshadowed unsuccessful efforts to cut funding for implementation of the Agreed Framework, which is discussed in further detail below. It also indicated that a future Republican administration would be unlikely to put the same focus on implementation and support

of deal, which is what occurred after George W. Bush took office in 2001.

North Korea has very likely also taken note of congressional demands that any agreement with a foreign power should be submitted as a treaty. Ratification of the treaty requires the advice and consent of the Senate, which is a two-thirds majority vote. Given the uptick in partisanship and the challenge of garnering the necessary 67 votes in the Senate, North Korea may perceive a treaty-based negotiation as less likely to succeed. The argument that a treaty would be more likely to endure between administrations, and therefore perhaps preferable, is less persuasive given the recent U.S. withdrawals from the Intermediate Range Nuclear Forces Treaty in 2019 and the Open Skies Treaty in 2020.

Budgetary Authority

Funding is the second major area where Congress has sought to shape and influence U.S. policy for North Korea. Congress has also long used its budgetary authority to influence policies and processes by setting certain requirements for funding or cutting projects

from the budget all together. There are examples of Congress using this power to extract certain conditions from both Clinton over the Agreed Framework and George W. Bush during the Six-Party Talks.

During implementation of the Agreed Framework, Republicans in particular were concerned that the U.S. supply of fuel oil to North Korea, which included annual shipments of 500,000 metric tons from 1996 until the light water reactors were completed, would be used for military purposes.²² The Agreed Framework stipulated that the oil be used for heating and electricity.

On several occasions between 1996 and 2002, congressional committees stripped funding for the 1994 Agreed Framework from the National Defense Authorization Act, only to put it back in the final bill.²³ The funding went toward the purchase of fuel oil and to Korean Peninsula Energy Development Organization (KEDO), the consortium created by the Agreed Framework to provide light-water reactors for North Korea. The fuel oil, for instance, cost \$100 million by fiscal year (FY) 2001. That same year the administration also requested \$55 million for KEDO.



Officials of the Korean Peninsula Energy Development Organization (KEDO) place the first concrete for the foundation of a light water reactor in Kumho, North Korea in August 2002. The provision of light water reactors to North Korea was part of the 1994 Agreed Framework. (Photo by AFP via Getty Images)



Delegates to the Six-Party Talks met February 8, 2007 to continue negotiations on North Korea's nuclear program. The Six-Party Talks achieved some limited successes in rolling back North Korea's nuclear program before collapsing in 2009.

(Photo by Andrew Wong/AFP via Getty Images)

Congress generally met the requested appropriation for implementing the Agreed Framework, with the exception of FY 2000, when Congress allocated only \$35 million of the \$55 million requested.²⁴

Congress did, however, use its appropriation power to leverage further conditions from the Clinton administration on U.S. engagement with North Korea. For instance, after North Korea test launched a Taepodong missile that overflowed Japan in 1998, Congress zeroed out the Clinton administration's \$35 million request for KEDO and prevented the president from using a waiver to find funding from other sources, which Clinton had done in the past. The legislation was later modified and included the funding after Clinton threatened to veto the bill, but it did include prohibitions on using waivers to use funds from other sources.²⁵

Furthermore, in the FY 1999 Omnibus Appropriations bill, Congress required that the president certify that there was progress in negotiations with North Korea on a range of issues beyond the Agreed Framework, before any funds could be used for KEDO. The legislation also required the appointment of a senior North Korea Policy Coordinator. Clinton

met these requirements, appointing former Secretary of Defense William Perry to the role of North Korea envoy and issuing the necessary certifications of progress in talks with North Korea in 1999.

Congress used a similar set of tactics during the Six-Party Talks. The Supplemental Appropriations Act of 2008 required the Secretary of State to report measures to verify North Korea's nuclear activities under the Six-Party Talks February 2007 agreement. The law required the administration to explain how it would confirm that North Korea submitted a "complete and correct declaration of all of its nuclear programs," and describe how the United States will "maintain a high and ongoing level of confidence that North Korea has fully met the terms of the Six Party Talks agreement."²⁶

Congress also used its budgetary authority to respond to Trump's decision at the Singapore summit to modify joint military exercises with South Korea and his expressed interest in troop reductions. This announcement spurred congressional action designed to impede any unilateral moves by the president to draw down U.S. forces in the region. In the 2019 National Defense Appropriations Act, for instance, Congress included language stipulating that funds

for the Department of Defense could not be used to reduce the number of U.S. armed forces deployed in South Korea unless certain conditions were met, including appropriate consultations with allies and that a reduction would not undermine U.S. security.²⁷

Similarly, Congress has used provocative North Korean rhetoric and nuclear weapons advances to argue in favor of certain defense priorities and justify certain spending decisions that influence and effect U.S. policy toward Pyongyang. In 1998, following the failed test of a multi-stage ballistic missile in August, Republican members of Congress argued that the expanding missile threat from Pyongyang justified developing a national missile defense.²⁸ North Korea's expanding missile force is still cited frequently in justifications for funding and expanding missile defenses.

Sanctions

In recent years, Congress has increasingly used a third tool—sanctions—to try to shape U.S. policy by putting in place conditions that must be met for sanctions to be waived or terminated and requiring the president to impose certain sanctions. Mandatory sanctions and specific waiver criteria impede presidential flexibility, which can be critical during negotiations.

Several North Korea sanctions bills are demonstrative of this trend, particularly the North Korean Sanctions Policy Enhancement Act of 2016. This bipartisan legislation requires the Secretary of State to report to Congress on U.S. policy toward North Korea and mandates additional sanctions targeting the country's weapons of mass destruction (WMD) programs and human rights abuses. The legislation enjoyed overwhelming support: it passed the Senate by a vote of 96–0 and the House by a vote of 418–2.

In addition to mandating that the president impose sanctions for a range of activities (as opposed to giving the president the authority) that were already subject to sanctions, such as designating individuals that export technology controlled by the United States to North Korea that could be used for the country's nuclear weapons program, this legislation also stipulates that certain sanctions cannot be terminated until the president issues a certification to Congress. The certification requires North Korea to be making progress toward dismantling its WMD programs, releasing political prisoners, reducing political censorship, establishing an open society, and repatriating the remains of U.S. citizens. Given the breadth of these requirements, it is unlikely that the president would be able to provide such a certification absent a significant transformation in U.S.-North Korea relations and North Korean governance. This limits how the United States can offer sanctions relief as an inducement during negotiations.

Former Senator Bob Corker (R.-Tenn.), then chairman of the Senate Foreign Relations Committee said on February 18, 2016 after the bill became law that “[t]his legislation provides a robust set of tools for the U.S. to deter North Korea’s illicit behavior in a more effective manner and promote human rights for the North Korean people. I hope the administration will use this opportunity to take a more proactive approach against the North Korean nuclear threat.”²⁹

Former President Barack Obama, however, did not voice any concern about the limitations imposed by the North Korea Sanctions Policy Enhancement Act. After Obama signed the legislation into law, White House spokesperson Eric Schultz said that the Obama administration was “philosophically and intellectually in the same place as the Congress” and was deeply concerned about recent North Korean actions.³⁰ (North Korea had tested a nuclear weapon in January 2016).

For many members of Congress, their support of sanctions legislation is clearly a genuine effort to support a tool that they think is an essential part of a U.S. strategy toward North Korea without assessing the effectiveness of these measures.

As former U.S. Deputy Secretary of State and U.S. Special Envoy for North Korea Steve Beigun noted in a recent interview: “Sanctions rarely if ever produce, in and of themselves, a policy shift. The sanctions are a necessary component of diplomacy that affects the choices or the timetable that the other party may have in terms of whatever it is you’re seeking to address. So, sanctions are a tool, not the policy itself.”³¹

Congress can pass other resolutions or legislation relating to North Korea but given the foreign policy primacy of the Executive Branch, these actions tend to be more symbolic than substantive. For instance, in the 1994 Foreign Relations Authorization Act included 18 objectives for U.S. policy toward North Korea, including the role of sanctions as a punitive measure and emphasizing the role that China should play in pressuring North Korea to give up its nuclear weapons program.³² While these recommendations were nonbinding, they indicated Congress’s priorities for North Korea. Similarly, during negotiations on the Agreed Framework in 1994, the Senate passed a nonbinding resolution 93–3 which urged the president to deter and repel a potential North Korean attack. These resolutions send a message about congressional priorities, but do not necessarily influence U.S. policy positions.

Given the myriad of ways that Congress can influence North Korea policy, it is important to understand congressional views and misperceptions about U.S. negotiating tools, the U.S.-South Korean alliance, and the end goals of diplomacy and future negotiations with the North Korean regime on denuclearization and peacebuilding.

Survey of Congressional Attitudes, Findings, and Methodology

As discussed in the prior section, Congress has and will continue to help shape overall U.S. foreign policy on issues relating to denuclearization, peace, and stability on the Korean peninsula. It is important to better understand the current attitudes of congressional staff members on some of the most important questions pertaining to U.S. policy toward North Korea. To do so, we surveyed more than 100 Democratic and Republican congressional staff members whose portfolio's include North Korea, as well as more in-depth interviews with a select group of respondents.

In the survey, respondents were asked to indicate if they had focused on North Korea-related policy issues or had a specialized knowledge about North Korea through their current positions, past work experience, or academic background. The survey included multiple choice and short answer questions about U.S. policy priorities toward North Korea, sanctions, missile defense, the U.S.-South Korea alliance, the process of negotiations, and the role of Congress in North Korea policy.

A former congressional staffer and a polling expert reviewed and provided feedback on the questions.

The survey was successfully sent to nearly 450 staffers (attempts were made to reach all congressional offices but with staff turnover and open positions not all offices were reached) from mid-October to mid-November 2020. More than a quarter—124 congressional staff members—responded, of which about 60 percent identified as working for a member of Congress that caucuses with the Democrats and about 40 percent identified as working for a member of Congress that caucuses with the Republicans.

Of the staffers that responded, we conducted more in-depth interviews with 20 staffers who said they specialized in North Korea, ten Democrats and ten Republicans, which are referred to as Group A for the purpose of this report

The participants for the more in-depth interviews were chosen at random from the 26 staffers who indicated they had a more-specialized knowledge and were willing to take part in a more in-depth, open-ended interview. These interviews were conducted in late-November and early-December 2020, with some follow-up in March and April 2021.

The rationale for conducting more in-depth interviews with a group of staffers with specialized expertise was that these individuals would likely have outsized influence on North Korea-related issues facing Congress.

The recommendations in the report were generated in part from research into past congressional engagement and from data collected during the interviews.

Congressional Views on U.S. Goals for North Korea Diplomacy

In the survey, staffers were asked if they favored retaining denuclearization as the goal for U.S. negotiations with North Korea over its nuclear weapons program or if they believed that the United States should move to an arms control approach.

There was near-unanimous support for retaining denuclearization as a goal for U.S. policy toward North Korea's nuclear weapons program, but respondents

were more split on the specific characterization and the process for achieving it.

About 65 percent of the survey respondents said that the United States should pursue smaller incremental deals with North Korea that lead to denuclearization, whereas 35 percent expressed preference for the United States to pursue a larger, comprehensive agreement that addressed the country's entire nuclear weapons program. There did not appear to be any correlation between political party and the preferred approach.

A larger majority, nearly 70 percent, also favored continuing to describe denuclearization using the CVID formula, or "complete, verifiable, irreversible, dismantlement." When asked if North Korea could retain a civil nuclear program, about 55 percent opposed, 35 percent said a civil program with restrictions and monitoring should be an option after the country denuclearizes, and the remaining 10 percent said they were not sure.

The split in opinions over what constitutes CVID is unsurprising, given how the term has been defined differently over the years.

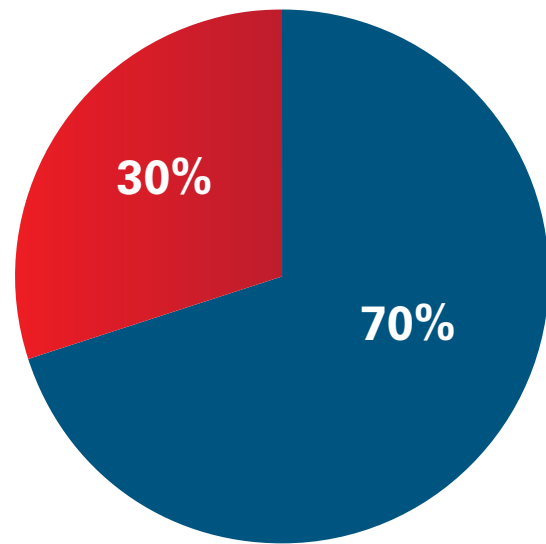
A majority of respondents, about 60 percent, also favored the United States reaffirming the 2018 Singapore Declaration by President Donald Trump and Chairman Kim Jong-un, including language calling for "denuclearization of the Korean peninsula." However, only about 35 percent thought that the United States should actively pursue broader negotiations based on changing the U.S.-North Korean relationship, which would be consistent with the goals agreed to in Singapore. The other 60 percent favored a transactional approach aimed at achieving progress toward denuclearization. The remaining five percent said that the United States should remain flexible based on North Korea's approach to talks.

In the more in-depth interviews, staffers from Group A were also nearly unanimous in expressing support for denuclearization as the goal of U.S. policy. However, they were more likely than staffers in the general survey group to favor moving away from the CVID formula. About 50 percent, evenly spread across party lines, found using CVID to be problematic or unnecessary, viewing it as either outdated, unrealistic, and/or unlikely to be acceptable to the North Koreans.

The Group A respondents generally offered more detailed definitions of what denuclearization should constitute and were more likely to prefer an incremental or step-by-step approach to negotiations.

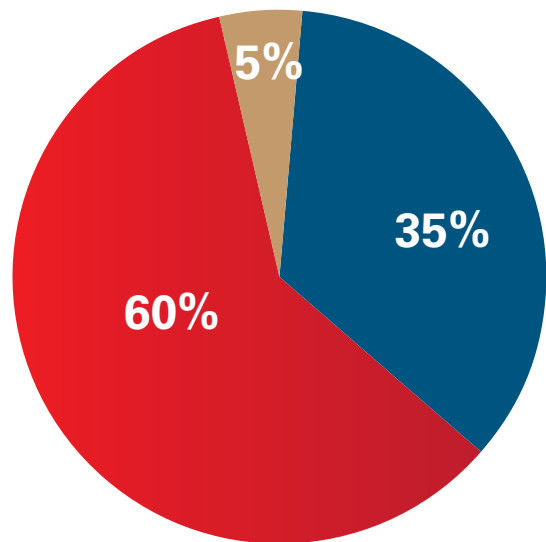
Staffers from Group A unanimously included in their definition of denuclearization of the Korean peninsula the dismantlement of North Korea's nuclear weapons, means of producing nuclear weapons and weapons-grade fissile material, and certain nuclear-capable ballistic missiles. When these staffers were

Support for CVID



Support CVID Oppose CVID

U.S. Approach to Negotiations



Pursue Broader Negotiations
Focus on Denuclearization
Remain Flexible

asked about North Korea retaining any civil nuclear program, nearly all staffers said the country should not be allowed fissile material production but staffers in Group A were split almost in half on whether or not the country could be permitted some peaceful nuclear activities under appropriate international monitoring. Several staffers in the group who said peaceful nuclear activities should be an option mentioned the provision of/or cooperation on proliferation-resistant nuclear technology as a possible inducement that the United States could put on the table in future talks.

When specifically asked about future U.S. policy toward North Korea reaffirming the Singapore summit declaration, about three quarters of the Group A respondents favored acknowledging it. That group comprised of nearly all of the staffers who identified as Republicans and about half of the staffers who identified as Democrats. The reasons for retaining the Singapore Summit declaration varied somewhat between the two parties. Republicans were more

likely to cite the historic nature of the meeting and its emphasis on denuclearization. While Democrats also acknowledged the importance of honoring political agreements, they were more likely to say that the declaration's emphasis on a changed relationship would make steps toward denuclearization more likely. Nearly all of the respondents acknowledged that the declaration did not yield concrete steps toward denuclearization.

About half of the staffers in Group A also mentioned that denuclearization of the Korean peninsula will need to consider U.S. and South Korean military capabilities on and around the peninsula. About 75 percent of the Group A participants also thought that there would be limitations to what the United States could accomplish if it focused solely on denuclearization and supported a broader agreement. Staffers offered significantly different ideas, however, when asked what might be included in that broader approach. Several mentioned U.S. security assurances to North Korea and a reduction in U.S.-South Korean



North Korean leader Kim Jong Un shakes hands with U.S. President Donald Trump at the start of the historic US-North Korea summit in Singapore on June 12, 2018. The summit produced a declaration calling for a new relationship between the United States and North Korea. (Photo by Saul Loeb/AFP via Getty Images)

exercises. Restoring diplomatic ties and supporting inter-Korean projects were also raised.

The Role of Sanctions

Although there is general agreement between congressional staffers specializing in North Korea and the staffers with broad foreign policy responsibilities that sanctions have a place in U.S. policy, the role that should sanctions should play and the perceived efficacy of sanctions as a means to pressure Pyongyang differed significantly between the two groups.

In the survey there was unanimous support for using U.S. sanctions as part of the U.S. strategy toward North Korea and near unanimous support for Congress pursuing additional sanctions absent a negotiating process (specific sanctions measures were not suggested in the question). Just over 60 percent of the survey respondents agreed, or strongly agreed, with the statement that if the United States increased sanctions pressure on North Korea, the country would be more likely to engage in negotiations.

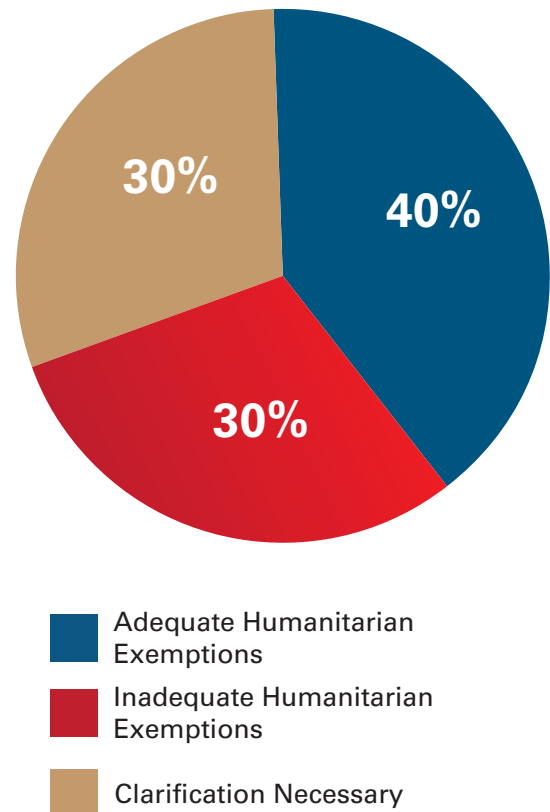
A similar percentage, 65 percent, said they opposed offering any sanctions relief to North Korea in exchange for early actions from Pyongyang to roll back its nuclear program (the specific sanctions relief and steps North Korea would take were not specified in the question). About 10 percent said they would support such sanctions lifting and the remaining 25 percent said it would depend on what steps North Korea was willing to take in return.

Respondents were split on whether or not there were adequate humanitarian exemptions included in U.S. sanctions. About 40 percent said existing measures were adequate, 30 percent thought they should be strengthened, and another 30 percent thought the existing measures were adequate but need to be clarified and more outreach needs to be done to explain and help entities navigate the exemptions.

Staffers with a specialized focus on North Korea were also nearly unanimous in their support for sanctions in general as part of U.S. policy, but they were more likely to identify limits on sanctions as a tool of statecraft and do not expect any combination of U.S./UN sanctions to collapse the regime, successfully cut off North Korea's procurement of items for its nuclear and missile programs or compel the country to give up its nuclear weapons program. Nearly all of the Group A participants thought that sanctions likely slowed or hindered North Korea's nuclear weapons and missile development at times, but, even if strengthened, would unlikely succeed in halting those programs or forcing the Kim regime to negotiate because of regime collapse.

The reasons behind the assessment that sanctions are not a sufficient strategy for pushing Pyongyang to the negotiating table varied. Respondents mentioned

Humanitarian Exemptions



North Korea's sanctions evasion tactics, the regime's tolerance for economic pain, and the perception that the United States cannot garner sufficient political will internationally to fully implement U.S. and UN measures. Under the last category, China was frequently named as an impediment to creating sufficient international support for U.S. and UN sanctions.

This group also tended to think that the U.S. focus should be on enhancing and bolstering enforcement of existing measures in addition to, or instead of, new sanctions.

North Korea's use of cyber activities to generate revenue was frequently mentioned. Several staffers from both parties identified cutting off access to foreign funds as a key priority, if Congress were to pursue future sanctions or sanctions implementation legislation. Several also drew connections to North Korea's increasing indigenization of WMD-related production as an indication that sanctions enforcement efforts and new sanctions efforts would be better spent on denying access to funds, given that choke point items are fewer and farther between.

One staffer specifically recommended looking at the Financial Action Task Force as means of instituting better practices globally that might inhibit North Korea's access to certain funding and currency. Another suggested the need to work more collaboratively with U.S. allies and partners on addressing and responding to North Korea's increasingly sophisticated cyber-crimes.

U.S. Missile Defenses and Alliance Management

One set of questions in the survey addressed congressional perspectives on the role of the U.S.-South Korean alliance and the role of the U.S. extended deterrence and missile defense program to counter North Korea's nuclear and missile programs.

Unsurprisingly, there was near unanimous support for the U.S.-South Korean alliance. Nearly all staffers from both groups said that the U.S.-South Korean alliance was very important and that the United States should take steps to strengthen and sustain the alliance. This finding is supported by the regular resolutions and statements expressing support for the alliance that enjoy broad congressional support.

Results were more mixed, however, when asked about the status of the alliance. Almost all of the Democrats that participated in the survey thought that the U.S.-South Korean alliance had been weakened over the past four years, whereas only half of the Republican respondents agreed with that statement.

Amongst the Group A respondents, 90 percent of the staffers agreed that the U.S.-South Korean alliance had been weakened over the past four years and offered several different rationales for why the alliance had suffered, including disputes over cost-sharing, poor coordination over U.S.-North Korean negotiations, and rhetoric from Trump that cast doubt on the importance of the alliance.

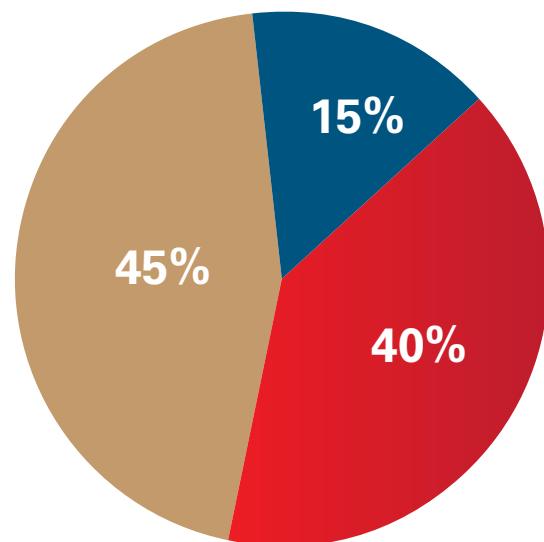
When Group A participants were asked what steps the United States could take to strengthen the alliance, answers varied. Respondents referenced finalizing the cost-sharing agreement between the United States and South Korea for U.S. forces based in South Korea (this agreement was reached in March 2021), sending rhetorical and political signals of support for the alliance, expanding missile defenses, and intensive U.S.-South Korean discussions on extended deterrence. One staffer also mentioned raising the option of a NATO-like structure with South Korea for nuclear planning, presumably referring to NATO's Nuclear Planning Group. The Nuclear Planning Group discusses specific policies relating to nuclear forces, including nuclear doctrine within NATO.

Survey respondents and Group A participants responded differently to questions about whether certain U.S.-South Korea military exercises could be modified to create an environment more conducive to negotiations.

Of the survey respondents, nearly 70 percent opposed the United States and South Korea modifying exercises prior to the commencement of any negotiations between the United States and South Korea (with the exception of modifications required by the ongoing COVID-19 pandemic). If negotiations were underway, that number dropped to about 40 percent in opposition of altering exercises. A similar percentage favored modification to the joint exercises, in consultation with South Korea, during any negotiations with North Korea, while 20 percent said it would depend on whether North Korea was taking any reciprocal steps.

A greater percentage, 65 percent, of the Group A respondents said that U.S.-South Korean military exercises could be modified ahead of negotiations in coordination with Seoul, although several noted that this was only sustainable for a short period of time if negotiations did not commence. Reasons cited for only short-term sustainability varied. Some respondents expressed concern about impact on military readiness, others said it would send the wrong signal to North

U.S. Extended Deterrence



- U.S. Extended Deterrence is Adequate
- U.S. Extended Deterrence is Inadequate
- Unsure

Korea to continue modifying exercises if Pyongyang was not willing to engage in negotiations. Three respondents also noted that the modifications made to U.S.-South Korean exercises necessitated by the Covid-19 pandemic could be a model for rolling back elements viewed by Pyongyang as provocative, in order to create space for negotiations, while still maintaining readiness. There was no discernable difference between parties on this question.

The survey also asked if respondents viewed U.S. extended deterrence as adequate for deterring North Korea from attacking South Korea and/or U.S. assets in the region or inadequate for those purposes.

The plurality of survey respondents, about 45 percent, said they were unsure if current U.S. extended deterrence arrangements were adequate, whereas 40 percent said the existing arrangements were adequate and 15 percent said they were inadequate.

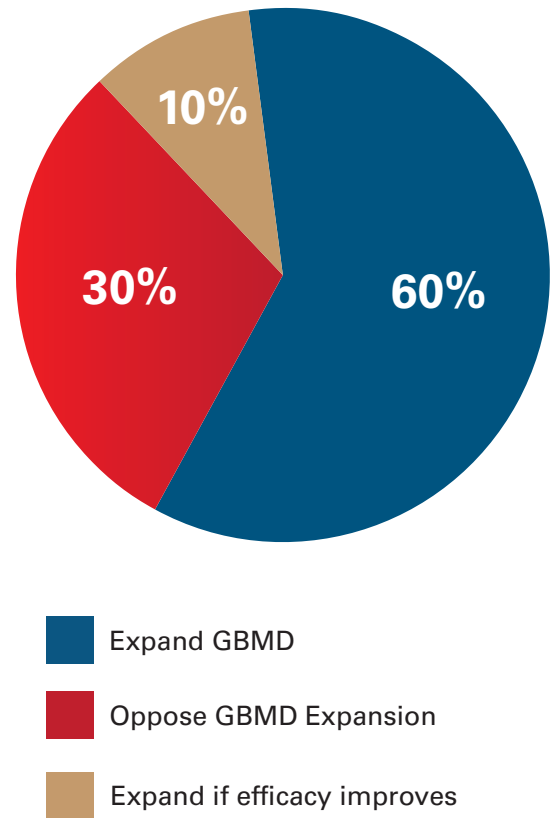
A sizable majority, 75 percent, of the Group A respondents said that current U.S. extended deterrence arrangements were adequate, whereas 25 percent said they were not.

Several of the respondents qualified their remarks, however, by saying that the U.S. nuclear umbrella was adequate for deterring a North Korean nuclear strike, but that the United States needed to reexamine its conventional deterrence to take into account recent changes to North Korea's conventional weaponry. Another respondent, who said that current deterrence measures are adequate, said that their answer was focused on the physical military hardware but noted that the United States could do better in communicating with South Korea over U.S. extended deterrence posture to provide assurance to Seoul. A respondent who said that U.S. extended deterrence was inadequate voiced similar opinions: namely that the United States had sufficient military assets in the region to deter North Korea, but that it did not communicate well enough about U.S. extended deterrence posture to deter North Korea and assure South Korea. None of the respondents raised the idea of redeploying U.S. nuclear weapons in South Korea as an option to strengthen U.S. extended deterrence.

There was near universal opposition in both groups to South Korea pursuing its own nuclear deterrent. In the survey group, 95 percent opposed South Korea developing nuclear weapons at this time and all the participants in Group A expressed opposition to an indigenous South Korean nuclear deterrent. One respondent in Group A said that they would be open to reconsidering that question depending on the evolution of the North Korean nuclear threat and the status of U.S. extended deterrence.

The rationales given by Group A participants for rejecting a South Korean nuclear weapons program generally focused on it destabilizing the region and

Missile Defense Expansion



being unnecessary for South Korean security, given the U.S.-South Korean alliance and U.S. extended deterrence. Four Democrats and three Republican participants in Group A also expressed concern about the precedent it would set for the global nonproliferation norm if South Korea were to pursue nuclear weapons.

The role and efficacy of U.S. missile defenses also differed between the two groups and there was more discernable difference between Republican and Democratic respondents when asked about expanding missile defenses.

While theater missile defenses deployed in region, such as the terminal high-altitude area defense system (THAAD), were generally strongly supported on a bipartisan basis by both groups, more significant differences exist over the role that the ground-based midcourse defense system (GBMD) should play in U.S. policy toward North Korea.

About 85 percent of the staffers surveyed agreed that North Korea's long-range ballistic missile program was a primary driver of U.S. homeland missile defense. About 60 percent, including most Republicans, favored

expansion of the U.S. GBMD system, while 30 percent opposed it and 10 percent said expansion should only occur if the efficacy of the system improves (statistics for the GBMD program were not included in the question). Interestingly, only one staffer said that expansion should be dependent upon steps by North Korea to further advance its ICBM program.

Staffers in Group A also expressed strong support for theater missile defenses, citing their efficacy and importance in protecting U.S. assets and troops in South Korea. There was also near universal support for expanding these missile defenses, in coordination and consultation with South Korea if such a request were made from Seoul or the Department of Defense.

Staffers in this group were less likely to support expanding the GBMD system. About 50 percent, of which most were Republicans, favored expansion, although some did raise concerns about the costs of the expansion. Democrats from Group A were less inclined to register support for expanding the system, citing its mixed track record and the expense. This group generally viewed existing capabilities as adequate, given North Korea's small ICBM force and its very limited testing. Several staffers in this group also raised concerns about how China would perceive an expansion of missile defenses on the West Coast, even if the stated rationale was to address the threat posed by North Korea.

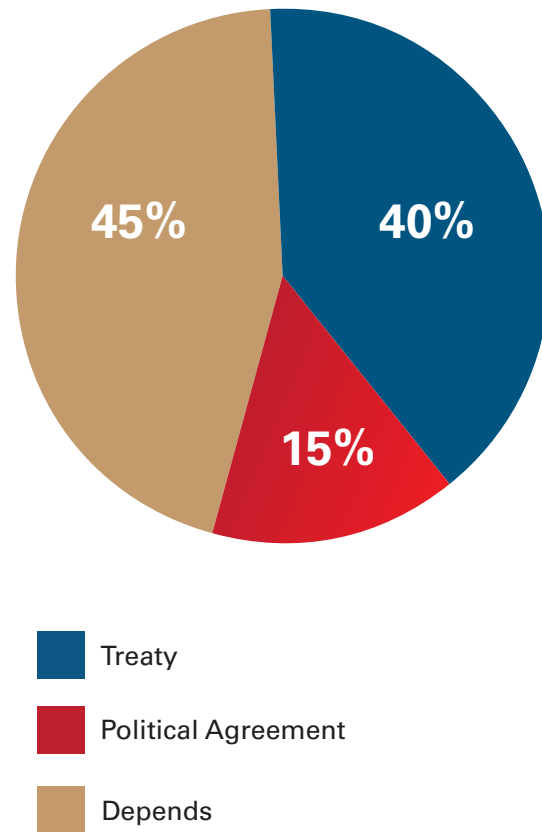
The Role of Congress in Negotiations

Staffers from both parties strongly supported the president regularly briefing Congress on North Korea policy and creating opportunities for congressional input. There was near unanimous support for the administration to reach out to Congress before, during, and after any negotiations with North Korea and on matters relating to the U.S.-South Korean alliance in both the survey group and the in-depth interviews. Similarly, there was near unanimous support for providing Congress opportunities to weigh in during the negotiations on the contours of an agreement.

Respondents were more split, however, on the role of congressional oversight of any agreement. About 40 percent said that any negotiated agreement with North Korea over its nuclear program should be a treaty and submitted to the Senate for advice and consent. Another 45 percent said the type of agreement (either treaty or political agreement) should depend on the negotiations and the nature of the agreement, whereas 15 percent said they favored a political agreement.

Among the Group A respondents, a significant majority, 85 percent, said the type of agreement should be determined by the nature of the negotiations and only 15 percent said an agreement should be submitted as a treaty.

Type of Agreement



Two respondents who preferred the treaty option said that Senate advice and consent would help ensure the durability and sustainability of any agreement and that this option did not preclude the United States and North Korea from each taking confidence building measures prior to a treaty being negotiated.

For those favoring the “wait and see” approach, the scope of the negotiations was frequently mentioned as a factor that would influence their opinion on the question of treaty versus agreement. Several staffers said they would favor a treaty if the negotiations were to significantly change the nature of the U.S.-North Korean relationship, but that political agreements were better suited to an incremental approach.

Analysis of Survey Results

The survey data and examination of past congressional engagement with North Korea policy suggests that the legislative branch will continue to shape and refine the president’s approach to addressing the threat posed by Pyongyang. While there is significant bipartisan support for diplomacy

with North Korea to reduce risk and dismantle the country's nuclear weapons program, competing priorities, the perceptions that certain tools are effective in countering North Korea's expanding nuclear weapons program, and disagreements over the goals of negotiations could complicate future administration efforts to seek out and pursue effective diplomacy with Pyongyang. The survey suggests several points of possible tension.

- 1. Congress will continue to use sanctions to attempt to push North Korea into negotiations and deny Pyongyang access to the funding and materials it needs to advance its nuclear program, irrespective of the efficacy and possible repercussions of these measures.**

Survey data and past actions suggest that Congress will continue to pursue additional sanctions against North Korea. There was near unanimous support for ratcheting up sanctions pressure in the absence of negotiations and there has been significant bipartisan support for past sanctions bills, particularly those introduced in response to North Korean nuclear and missile advances. More telling is that over 60 percent of the survey respondents agreed, or strongly agreed, with the statement that if the United States increased sanctions pressure on North Korea, the country would be more likely to engage in negotiations.

Analysis of sanctions efficacy, however, does not support that supposition. While sanctions can be an important tool of U.S. statecraft and efforts to prevent proliferation, sanctions are highly unlikely to push Kim to the point where he must negotiate to save the regime, in part because of the longevity of the sanctions regime targeting North Korea and the infrequent diplomatic engagement between Pyongyang and Washington. George Lopez, a sanctions expert at the University of Notre Dame, concluded that "at best, sanctions achieve compliance from their targets in about one-third of cases, with that compliance occurring within two and a half years. Short of full success, the greater the active diplomacy accompanying sanctions, the stronger the constraints stifling the target's goals."³³

Furthermore, evidence suggests that sanctions can, in some instances, be counter-productive and incentivize further evasion. North Korea experts John Park, a professor at Harvard University and James Walsh, a professor at the Massachusetts Institute of Technology, wrote in an August 2016 paper assessing sanctions on North Korea that "sanctions intended to deny North Korea access to WMD-related materials have not worked, and that in some ways, the sanctions have had the net effect of actually improving DPRK procurement capabilities."³⁴ The

authors contend that sanctions have raised the cost of doing business and North Korea "has responded by simply monetizing the risk and paying higher commission fees to Chinese brokers. This, in turn, has drawn larger, more sophisticated partners."

The authors are not arguing that the United States abandon sanctions; they say that sanctions can be improved and a worthy policy objective "if integrated into the broader political strategy."

The survey data and the analysis of past congressional action on North Korea, however, suggest that Congress pursues sanctions on North Korea reflexively, in response to actions taken by Pyongyang, rather than as a part of an integrated and cohesive strategy coordinated with the administration's policy. This high level of support for sanctions, unfounded expectations for what sanctions can accomplish and reluctance to offer relief early in the process could inhibit presidential flexibility at the negotiating table.

- 2. Support for expanding missile defenses and strengthening the U.S.-South Korean alliance could undermine support for effective, verifiable diplomacy.**

The survey demonstrated strong bipartisan support for diplomacy with North Korea, particularly on the question of effective negotiations to denuclearize the country. Yet the majority of Congress also supports expanding U.S. missile defenses in the region and in the continental United States and opposes modifying U.S.-South Korean joint military exercises. These positions could undermine an effective negotiating strategy with Pyongyang by impeding presidential flexibility in the negotiations and sending the wrong signal about U.S. intentions.

North Korea views "U.S. hostile policy" as the justification for continuing to expand its nuclear weapons program in order to deter, and if that fails, repel a U.S. attack. It also includes the eliminating of the presence of U.S. troops trained on nuclear weapons as part of its understanding of what denuclearization of the Korean peninsula constitutes. In the past, the United States has modified exercises to create a more favorable environment for negotiations and signal good faith to Pyongyang. Congressional rhetoric or action that impedes the president's ability to modify exercises and troop levels would likely be perceived in Pyongyang as further evidence that Washington is not serious about a transformed relationship with North Korea and unwilling to consider the country's security concerns.

For instance, in March 2021, Kim Yo Jong, the sister of Kim Jong Un, criticized the U.S.-South Korea joint military exercises, noting that "war exercises and dialogue, hostility and cooperation can never exist



The first of two Terminal High Altitude Area Defense (THAAD) interceptors is launched during an intercept test. THAAD is deployed in South Korea to protect against North Korean ballistic missiles. (Photo by Missile Defense Agency)

together.”³⁵ North Korea also recently responded to the decision by Biden and Moon to terminate bilateral restrictions on South Korea’s missile program by saying the decision was antagonizing and a “stark reminder of the U.S. hostile policy.”³⁶ South Korea and the United States will be “left with no reasons whatsoever to fault the DPRK bolstering its capabilities for self-defence.” When discussing planned advancements to the country’s nuclear weapons program in a report to the party Congress in January 2021, Kim justified the investment in the new systems by saying that that the “real intention” of U.S. policy toward Pyongyang “would never change.”³⁷

There is also evidence to suggest that certain advancements in North Korea’s nuclear-capable ballistic missiles, such as its SLBM capability and its interest in ICBMs with multiple warheads, may be driven, in part, by U.S. missile defenses. Further expansion of THAAD and the GBMD could further incentivize North Korea to continuing investing in systems designed to evade or overwhelm missile defenses, increasing the scope of systems that must be addressed in any negotiation. Given the limited efficacy of the GBMD system in particular, the costs of spurring further nuclear weapons development

in North Korea likely outweighs the benefits of expansion at this time.

U.S. policy toward North Korea is also not made in a vacuum. Significant support for maintaining and strengthening missile defenses to counter the North Korean threat will have implications for other areas of U.S. policy, namely arms control prospects with China and Russia. Beijing and Moscow will likely use any expansion of U.S. missile defenses as justification for continuing to advance their own nuclear weapons programs.

Careful calibration of rhetoric and funding from Congress will be critical to ensure that necessary actions to support and strengthen U.S. security and the U.S.-South Korean alliance does not inadvertently undermine a diplomatic strategy.

3. Congressional rhetoric pushing for the president to pursue a treaty-based negotiation with North Korea could complicate or disrupt talks.

Following the Trump-Kim summit in Singapore in June 2018, several Senators, including prominent Republicans, stated that any agreement negotiated with North Korea should be submitted as a treaty.

While the survey results suggest that a plurality of congressional offices—45 percent— have an open mind about the type of the agreement that an administration pursues, 40 percent said that any agreement should be submitted as a treaty, whereas only 15 percent supported a political agreement outright.

Strong congressional rhetoric in the early phases of any negotiation calling for a treaty, similar to what occurred in 2018, may jeopardize the prospects for success by sending a message to North Korea that Congressional priorities will need to be addressed during any talks for an agreement to be reached and supported by the legislative branch. However, it appears more likely that an incremental approach that trades concrete steps by North Korea to roll back its nuclear weapons program in exchange for actions from the United States in areas like sanctions relief and addressing security issues on the Korean peninsula is more likely to succeed. Such an approach will build confidence in the process over time and can reduce risk in the short term as the parties pursue denuclearization and peacebuilding on the peninsula. Negotiating a more comprehensive treaty would likely be a longer-term complex process that risks disruption by U.S. elections and spoilers.

Furthermore, North Korea has stated a preference for the incremental approach. During the second summit between Trump and Kim in Hanoi, North Korea offered a package that appeared to include

dismantlement of the Yongbyon nuclear complex in exchange for relief from UN sanctions.³⁸ Additionally, North Korean statements have specifically called for a step-by-step approach to talks. Kim criticized Trump’s “methodology” in pursuing a more comprehensive deal after the Hanoi summit and said future talks would depend on the United States changing its stance.³⁹ The Biden administration also appeared to recognize in its 2021 North Korea policy review that an incremental process would be more effective.⁴⁰

A common argument that members of Congress have used to justify pursuing a treaty-based approach focuses on sustainability of an agreement: it can better ensure that an agreement survives when the president’s office changes parties. However, recent actions demonstrate that while treaties can be more time consuming to withdraw from, they are not necessarily more insulated from partisan politics. The Trump administration, for instance, withdrew the United States from the Intermediate Range Forces Treaty and the Open Skies Treaty and did not pursue an extension of the New START treaty, despite support from Republicans in Congress to do so.

Prior to and during any negotiations with North Korea, coordination with Congress by the executive branch to garner bipartisan support for the president’s approach could be useful to demonstrate to Pyongyang that the United States will be able to deliver on an agreement.

Recommendations for Productively Engaging Congress on North Korea

1. Increase interactions between members of Congress and South Korea Parliamentarians

Congressional staffers in the survey group and Group A put significant emphasis on the U.S.-South Korean relationship and the importance of close coordination between the two governments on North Korea policy. More frequent CODELs and staff delegations to South Korea, and hosting South Korean lawmakers in Washington, D.C. would give members of Congress and staff more insight into South Korea's views on U.S. policy and strategy. This would be particularly helpful in informing congressional views on issues related to alliance relations and sanctions policy, which have an impact on South Korea's security and inter-Korean policy. For instance, in June 2018 when Trump announced the suspension of certain U.S.-South Korean military exercises, a number of congressional members condemned the move, citing concerns over the alliance, despite South Korea's support for modifying the exercises. Increasing contacts and building relationships could mitigate these types of misunderstandings down the road.

Increased engagements with South Korean lawmakers would also provide members of Congress with a second source of information about North Korea. In the past, CODELs have visited North Korea, giving members of Congress more insight into the country, its policies, and decision-making processes. Currently, Congress relies largely on the administration, intelligence community, and experts to receive information about North Korea. Facilitating greater access for lawmakers to the area would help better understand the views of South Korea and increase knowledge about the specifics of the North Korea policy challenge.

Ideally, CODELs to North Korea could recommence in the future, particularly if a negotiating process is established. Reestablishing those opportunities



A congressional staff delegation visits Camp Humphreys, a U.S. military base in South Korea, during an August 2015 trip. (Photo by U.S. Army)

and building up knowledge about North Korea's decision-making process and the security situation that influences the trajectory of its nuclear weapons would be beneficial for informing Congressional debate. As Representative Curt Weldon noted in 2003, such opportunities provide opportunities to build relationships and understanding between the two countries.⁴¹

2. Better acquaint members of Congress with the lessons from "Track 1.5" discussions

Due to the very limited opportunities for diplomatic engagement with North Korea, much has been and can be learned from unofficial exchanges between nonproliferation and regional experts and officials

from North Korea. While some members of Congress do receive briefings on these meetings, expanding outreach to more offices regularly engaged with North Korea policy could provide beneficial insights into Pyongyang's approach to diplomacy with the United States and its regional security concerns.

Similarly, if experts engaging with North Korean officials in Track 1.5 and Track 2 dialogues are better acquainted congressional views and concerns regarding North Korea policy, Pyongyang may have a better understanding of the role that Congress may play influencing and shaping U.S. policy.

3. Reassess the effectiveness of sanctions and focus on the challenges of sanctions implementation and enforcement

Congressional support for tough U.S. national sanctions in response to North Korea's illegal nuclear weapons program and its abysmal human rights is strong and generally bipartisan in nature. A significant majority of congressional staff members, and presumably congressional members, believe that sanctions are an important element of a U.S. strategy to push Pyongyang to negotiate limits over its nuclear weapons program and ultimately move toward denuclearization. Typically, Congress has responded to advances in North Korea's nuclear and missile programs by proposing additional sanctions. Our review of North Korea-related legislation introduced over the past two decades shows an uptick in sanctions bills targeting North Korea after nuclear and long-range missile tests, even if these bills do not often pass.

While sanctions can play a role in hindering Pyongyang's efforts to obtain certain materials and technologies and cutting off funding for the regime, the effectiveness of technology-denial strategies have diminished over time as North Korea has developed indigenous missile and nuclear production capabilities for critical materials and technologies, and it has developed a sophisticated and adaptable strategy designed to evade sanctions. Years of tough U.S. and international sanctions have also had a significant and adverse impact on the North Korean people and hindered aid organizations working in the country to deliver much-needed assistance to the beleaguered population.

As former Deputy Secretary of State Steve Beigun has observed: "I'm not sure at this point that more could be accomplished by more sanctions. I think it's kind of a reflexive statement that policymakers make when put on the spot."⁴²

Congress could commission a study to examine the impact of sanctions on efforts to stymie nuclear and missile production in North Korea and if or how those sanctions could be made more effective. Such a study could help Congress focus future sanctions-



U.S. Special Representative for North Korea Stephen Biegun and South Korea's special representative for Korean Peninsula Peace and Security Affairs Lee Do-hoon brief press after a meeting on December 16, 2019 in Seoul, South Korea. (Photo by Song Kyung-Seok-Pool/Getty Images)

related efforts on implementation and enforcement assistance. For instance, the United States could look at building capacity for states in the region that are likely transshipment sites or hubs for illicit trafficking but do not have the capacity or training to better enforce existing measures. Similarly, Congress could look into options to strengthen interdiction capabilities and information sharing with states to better combat North Korea's efforts to evade sanctions. That could include expanding Proliferation Security Initiative exercises and intelligence sharing to better equip states seeking to detect and disrupt transfers of dual-use technologies and materials.

Focusing on strengthening enforcement and implementation of existing measures that have a demonstrable impact on slowing North Korea's nuclear and missile programs could be more effective than passing additional measures. If such a study exposes gaps in the sanctions architecture and Congress does pursue new measures, legislation should preserve presidential flexibility by including broad waivers. Specifying certain conditions for sanctions lifting or waivers could impede progress during negotiations, particularly if the United States is pursuing an incremental approach.

4. Hold more frequent and more in-depth hearings and briefings

A plurality of survey respondents ranked their knowledge of North Korea's nuclear and missile programs and U.S. history of negotiating with North Korea as low. Regular briefings about North Korea's

weapons programs, regional dynamics and U.S. policy toward North Korea would build knowledge and expertise on the subject. This could translate into more effective congressional engagement with the administration on North Korea policy.

Relatedly, the administration should ensure that it reaches out often to update members of Congress on its policy toward North Korea and any relevant developments related to the country's weapons programs and/or diplomatic activity. Regular opportunities for Congress to consult on the process and strategies will help garner ownership and buy in on the Hill, which will be important to sustain any agreement or process. Congress could consider creating a North Korea working group to particularly engage on this issue.

Key congressional committees with jurisdiction could help better inform their own members and improve the dialogue between the executive branch and Congress through a much more regular pace of hearing about the nature of the North Korean nuclear and missile threat, the views of allies and key international partners on the denuclearization and peace issue, the humanitarian and human rights situation in North Korea, and the administration's policy approach to diplomatic engagement on denuclearization and peace on the Korean peninsula.

5. Ensure full funding for U.S. programs that support denuclearization

Verifiable steps toward denuclearization will require significant financial and technical support. Verification and threat reduction tools will be required

to ensure that any agreement can be implemented. Robust funding for programs researching and developing verification related technologies and processes will be important to ensure that, in the event of an agreement, the United States will be well prepared to move forward. One such program is the Office of Cooperative Threat Reduction (CTR), which is funded by the nonproliferation, anti-terrorism, demining and related programs (NADR) account, and manages the Global Threat Reduction program. CTR efforts include disrupting the funding, transport, and acquisition of WMD material, technology, and expertise by proliferator states such as China, North Korea, Iran, Russia, and Syria, as well as preventing WMD attacks by terrorist actors.

Similarly, Congress should consider tasking a qualified body, such as the U.S. National Academies of Science, to conduct an in-depth examination of how the U.S. government might organize a Cooperative Threat Reduction Program for North Korea that would be modeled off of the U.S. assistance program in the former Soviet states to secure and dispose of weapons-usable materials and engage scientists following the end of the Cold War.

In the aftermath of the 2018 Singapore Summit, former Senators Sam Nunn and Richard Lugar, the architects of the original CTR program, suggested that this idea could be applied to the North Korean case in an essay published by *The Washington Post*. In addition to contributing to denuclearization, they wrote that employing scientists for other work would "diminish the risk of proliferation of their deadly knowledge to other states."⁴³



Missile launch tubes removed from a Soviet ballistic missile submarine are eliminated as part of the Department of Defense's Cooperative Threat Reduction program in January 2010. This program could serve as a model for dismantling North Korea's nuclear weapons program. (Photo by Defense Threat Reduction Agency)

Appendix A

Key Congressional Committees with Jurisdiction on U.S. Policy on North Korea

Senate Foreign Relations Committee

Majority Members

Menendez, Robert (NJ), *Chairman*
Cardin, Benjamin L. (MD)
Shaheen, Jeanne (NH)
Coons, Christopher A. (DE)*
Murphy, Christopher (CT)*
Kaine, Tim (VA)
Markey, Edward J. (MA)*
Merkley, Jeff (OR)*
Booker, Cory A. (NJ)
Schatz, Brian (HI)*
Van Hollen, Chris (MD)

Minority Members

Risch, James E. (ID), Ranking Member
Rubio, Marco (FL)
Johnson, Ron (WI)*
Romney, Mitt (UT)*
Portman, Rob (OH)
Paul, Rand (KY)
Young, Todd (IN)
Barrasso, John (WY)
Cruz, Ted (TX)*
Rounds, Mike (SD)*
Hagerty, Bill (TN)*

*Members of the Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy

Senate Armed Services Committee

Majority Members

Reed, Jack (RI), *Chairman*
Shaheen, Jeanne (NH)
Gillibrand, Kirsten E. (NY)
Blumenthal, Richard (CT)
Hirono, Mazie K. (HI)
Kaine, Tim (VA)
King, Angus S. (ME)*
Warren, Elizabeth (MA)*
Peters, Gary C. (MI)
Manchin, Joe (WV)*
Duckworth, Tammy (IL)*
Rosen, Jacky (NV)*
Kelly, Mark (AZ)*

Minority Members

Inhofe, James M. (OK), Ranking Member
Wicker, Roger F. (MS)
Fischer, Deb (NE)*
Cotton, Tom (AR)*
Rounds, Mike (SD)*
Ernst, Joni (IA)
Tillis, Thom (NC)
Sullivan, Dan (AK)*
Cramer, Kevin (ND)*
Scott, Rick (FL)
Blackburn, Marsha (TN)
Hawley, Josh (MO)
Tuberville, Tommy (AL)*

*Members of the Subcommittee on Strategic Forces

House Foreign Affairs Committee

Majority Members

Meeks, Gregory W. (NY)
Sherman, Brad (CA)*
Sires, Albio (NJ)
Connolly, Gerald E. (VA)*
Deutch Theodore E. (FL)
Bass, Karen (CA)
Keating, William R. (MA)
Cicilline, David N. (RI)
Bera, Ami (CA)*
Castro, Joaquin, (TX)
Titus, Dina (NV)*
Lieu, Ted (CA)*
Wild, Susan (PA)
Phillips, Dean (MN)
Omar, Ilhan (MN)
Alfred, Colin Z. (TX)
Levin, Andy (MI)*
Spanberger, Abigail Davis (VA)*
Houlahan, Chrissy (PA)*
Malinowski, Tom (NJ)
Kim, Andy (NJ)*
Jacobs, Sara (CA)
Manning, Kathy E. (NC)*
Costa, Jim (CA)
Vargas, Juan (CA)
Gonzalez, Vicente (TX)
Schneider, Bradley Scott (IL)

Minority Members

McCaul, Michael T. (TX)
Smith, Christopher H. Smith (NJ)
Chabot, Steve (OH)*
Wilson, Joe (SC)
Perry, Scott (PA)*
Issa, Darrell (CA)
Kinzinger, Adam (IL)
Zeldin, Lee M. (NY)
Wagner, Ann (MO)*
Mast, Brian J. (FL)
Fitzpatrick, Brian K. (PA)
Buck, Ken (CO)*
Burchett, Tim (TN)*
Green, Mark E. (TN)*
Barr, Andy (KY)*
Steube, W. Gregory (FL)
Meuser, Daniel (PA)
Tenney, Claudia (NY)
Pfluger, August (TX)
Malliotakis, Nicole (NY)
Meijer, Peter (MI)
Jackson, Ronny (TX)
Kim, Young (CA)*
Salazar, Maria Elvira (FL)

*Members of the Asia, Pacific, Central Asia, and Nonproliferation

House Armed Services Committee

Majority Members

Smith, Adam (WA) Chair
Langevin, James R. (RI)*
Larsen, Rick (WA)
Cooper, Jim (TN)*
Courtney, Joe (CT)
Garamendi, John (CA)*
Speier, Jackie (CA)
Norcross, Donald (NJ)
Gallego, Ruben (AZ)
Moulton, Seth (MA)*
Carbajal, Salud O. (CA)*
Brown, Anthony (MD)
Khanna, Ro (CA)*
Keating, William R. (MA)
Vela, Filemon (TX)
Kim, Andy (NJ)
Houlahan, Chrissy (PA)
Crow, Jason (CO)
Slotkin, Elissa (MI)
Sherrill, Mikie (NJ)
Escobar, Veronica (TX)
Golden, Jared F. (ME)
Luria, Elaine G. (VA)
Morelle, Joseph D. (NY)*
Jacobs, Sara (CA)
Kahele, Kaiali'i (HI)
Strickland, Marilyn (WA)
Veasey, Marc A. (TX)
Panetta, Jimmy (CA)*
Murphy, Stephanie N. (FL)
Horsford, Steven (NV)*

Minority Members

Rogers, Mike (AL)
Wilson, Joe (SC)*
Turner, Michael R. (OH)*
Lamborn, Doug (CO)*
Wittman, Robert J. (VA)
Hartzler, Vicky (MO)
Scott, Austin (GA)
Brooks, Mo (AL)*
Graves, Sam (MO)
Stefanik, Elise M. (NY)*
DesJarlais, Scott (TN)*
Kelly, Trent (MS)
Gallagher, Mike (WI)
Gaetz, Matt (FL)
Bacon, Don (NE)
Banks, Jim (IN)
Cheney, Liz (WY)*
Bergman, Jack (MI)
Waltz, Michael (FL)*
Johnson, Mike (LA)
Green, Mark E. (TN)
Bice, Stephanie I. (OK)
Franklin, C. Scott (FL)
McClain, Lisa C. (MI)
Jackson, Ronny (TX)
Carl, Jerry L. (AL)
Moore, Blake D. (UT)
Fallon, Pat (TX)

*Members of the Subcommittee on Strategic Forces

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The Arms Control Association (ACA), founded in 1971, is a national nonpartisan membership organization dedicated to promoting public understanding of and support for effective arms control policies. Through its public education and media programs and its magazine, *Arms Control Today* (ACT), ACA provides policy-makers, the press and the interested public with authoritative information, analysis and commentary on arms control proposals, negotiations and agreements, and related national security issues. In addition to the regular press briefings ACA holds on major arms control developments, the Association's staff provides commentary and analysis on a broad spectrum of issues for journalists and scholars both in the United States and abroad.

Addressing the threat posed by North Korea's nuclear weapons is one of the most significant and complex challenges facing the United States. Developing, implementing, and sustaining a verifiable diplomatic process that reduces risk and rolls back Pyongyang's nuclear weapons program requires a whole of government approach, including constructive contributions from members of the U.S. Congress.

While crafting and implementing such an approach will be the prerogative of the Executive Branch, the role that Congress can play in supporting or hindering such a process should not be overlooked. Using survey data and in-depth interviews from the late months of 2020, this report seeks to provide some insights into how Congress views the North Korean nuclear threat and U.S. approaches for addressing it. Ideally, more clarity into congressional perspectives and attitudes will lead to more effective policymaking.

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