


# **Policy Forum 08-050: North Korea: Presidential Action on State Sponsor of Terrorism (SST) and the Trading with the Enemy Act (TWEA)**

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# **North Korea: Presidential Action on State Sponsor of Terrorism (SST) and the Trading with the Enemy Act (TWEA)**

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North Korea: Presidential Action on State Sponsor of Terrorism (SST) and the Trading with the Enemy Act (TWEA)

By the U.S. Department of State

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#### **I. Introduction**

The U.S. Department of State released this fact sheet on the disablement of the Yongbyon reactor, the lifting of the Trading with the Enemy Act with respect to the DPRK and intent to rescind the DPRK's designation as a State Sponsor of Terrorism.

The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Nautilus Institute. Readers should note that Nautilus seeks a diversity of views and opinions on contentious topics in order to identify common ground.

#### **II. Statement by the U.S. Department of State**

- "North Korea: Presidential Action on State Sponsor of Terrorism (SST) and the Trading with the Enemy Act (TWEA)"

By the U.S. Department of State

- On June 26, the President announced the lifting of the application of the Trading with the Enemy Act (TWEA) with respect to the Democratic People's Republic of Korea (DPRK, or North Korea), and notified Congress of his intent to rescind North Korea's designation as a State Sponsor of Terrorism (SST).
- These actions were taken following North Korea's submission of a declaration of its nuclear programs, which will now be subject to verification.
- North Korea's declaration, in conjunction with the steps North Korea has taken to disable, for the purpose of abandonment, its ability to produce plutonium for nuclear weapons, are significant steps toward our goal of the denuclearization of the Korean Peninsula.
- The Six-Party process operates on the principle of "action for action," in which the United States, China, Japan, South Korea, and Russia have taken steps to fulfill commitments in correlation to actions taken by North Korea to fulfill its commitment to denuclearize.
- In the October 3, 2007 agreement on "Second-Phase Actions for the Implementation of the Joint Statement," North Korea committed to disabling its nuclear facilities, beginning with the three core facilities at Yongbyon, and to providing a complete and correct declaration of all its nuclear programs.
- Since November 2007, U.S. experts have been on the ground at Yongbyon continuously, overseeing disablement activities. As North Korea has fulfilled its disablement commitments, the other parties, including the United States, have taken reciprocal action to provide energy assistance to North Korea.
- On June 26, North Korea submitted to the Chinese government, which chairs the Six-Party Talks as well as the Working Group on Denuclearization, a declaration of its nuclear programs. This declaration package includes information about North Korea's plutonium program, which has produced fissile material for its nuclear weapons. It also addresses North Korea's uranium enrichment and proliferation activities.
- By submitting this declaration, North Korea has begun to fulfill its declaration commitment.
- In consideration of North Korea's action and having confirmed that North Korea meets relevant statutory criteria, the United States has taken reciprocal action to lift the application of the TWEA with respect to North Korea and is taking the legal steps necessary to rescind North Korea's designation as a State Sponsor of Terrorism.

- The actual rescission of North Korea's designation as a State Sponsor of Terrorism can be carried out 45 days after the President's notification to Congress. The Administration plans to carry out that rescission only after: the Six Parties reach agreement on acceptable verification principles and an acceptable verification protocol; the Six Parties have established an acceptable monitoring mechanism; and verification activities have begun.

#### Trading with the Enemy Act (TWEA)

- The President's action on June 26 effectively lifts the application of the Trading with the Enemy Act (TWEA).
- This action is largely symbolic, as most of the TWEA-based sanctions were lifted in 2000. Other sanctions - in particular those related to North Korea's detonation of a nuclear device on October 9, 2006, proliferation activities, and human rights violations - will continue on the basis of other laws and regulations.
- The termination of the application of TWEA does remove the current requirement for licenses on all imports from the DPRK, but certain imports continue to be banned under other legal authorities.
- On December 16, 1950, President Truman declared a national emergency with respect to North Korea. The next day, the Treasury Department implemented restrictive regulations under TWEA with respect to North Korea. President Bush's proclamation terminates this exercise of TWEA authority with respect to North Korea.

#### State Sponsor of Terrorism (SST)

- The President on June 26 provided a report to Congress justifying the intended rescission of North Korea's designation as a state sponsor of terrorism and certifying that North Korea has satisfied the statutory criteria for rescission.
- Consistent with the statutory criteria for rescission, the President has certified to Congress that North Korea (1) has not provided any support for international terrorism during the preceding six-month period and (2) has provided assurances that it will not support acts of international terrorism in the future.
- After a period of 45 calendar days and absent the enactment of a joint resolution blocking the proposed rescission, the Secretary of State may rescind North Korea's designation as a state sponsor of terrorism on August 11.
- During the 45-day period before the Secretary may rescind North Korea's designation as a state sponsor of terrorism, we will continue to assess the level of cooperation by North Korea in obtaining a Six Party agreement on acceptable verification principles; a Six Party agreement on an acceptable verification protocol; Six Party agreement on an acceptable monitoring mechanism; and commencement of verification activities. Based on this assessment the United States will act accordingly.
- As is the case with TWEA, rescission of North Korea's SST status is largely symbolic. Most sanctions, including those related to North Korea's detonation of a nuclear device on October 9, 2006, proliferation activities, and human rights violations, will continue on the basis of other laws and regulations.
- North Korea was designated as an SST in 1988 primarily on the basis of North Korea's involvement in the bombing of a Korean Airlines passenger flight in 1987.

- The State Department's 2007 Country Report on Terrorism noted that North Korea has not been known to have sponsored any terrorist acts since 1987. The report noted, however, that four Japanese Red Army members who participated in a jet hijacking in 1970 continue to live in North Korea. The report also notes that the Japanese government continues to seek a full accounting of the fate of Japanese nationals believed to have been abducted by DPRK state entities.
- On June 10, 2008, the North Korean Government issued an authoritative and direct public statement affirming that it does not support international terrorism now and will not support international terrorism in the future.
- Rescission of the State Sponsor of Terrorism designation will not diminish the United States' concern over the matter of North Korea's past abductions of Japanese citizens. The United States strongly supports Japan's position on the abduction issue. As the President has stated on several occasions that we have not forgotten, and will never forget, the suffering of the families of the abductees.
- Following bilateral meetings in early June between Japan and North Korea, North Korea agreed to take some steps toward addressing Japan's concerns on this matter. The United States will continue to urge the DPRK to address Japan's concerns without further delay, while welcoming any sincere actions taken by North to address this issue.

#### Verification

- North Korea's declaration will be subjected to an iterative process of verification aimed at resolving any discrepancies and achieving a declaration that is in fact complete and correct.
- On May 8, 2008, North Korea provided U.S. experts with nearly 19,000 pages of documentation consisting of operating records for the five-megawatt reactor [5-MW(e)] and the fuel rod reprocessing plant at the Yongbyon nuclear complex, where North Korea had produced its stock of weapons-grade plutonium.
- Review of these operating records, which date back to 1986, has yielded useful data and will contribute to the verification of North Korea's declaration.
- A comprehensive verification regime would include, among other things, short notice access to declared or suspect sites related to the North Korean nuclear program, access to nuclear materials, environmental and bulk sampling of materials and equipment, interviews with personnel in North Korea, as well as access to additional documentation and records for all nuclear-related facilities and operations.
- Any discrepancies in its declaration must be addressed by North Korea until the declaration is deemed to be complete and correct. Issues related to the declaration, including concerns on uranium enrichment and proliferation, can be also addressed via a Monitoring Mechanism to be established under the Denuclearization Working Group. That Monitoring Mechanism is intended to ensure follow-through on all Six Party commitments.

#### Disablement of Yongbyon

- The DPRK shut down and sealed the Yongbyon nuclear facility in July 2007 in accordance with the February 13, 2007 Six-Party agreement on "Initial Actions for the Implementation of the Joint Statement."
- The Yongbyon nuclear complex houses the three core facilities of North Korea's plutonium program: the 5-MW(e) reactor, the reprocessing facility (radiochemical laboratory), and the fuel

rod fabrication plant.

- These facilities were operating until they were shut down in July 2007 as part of the Six-Party process.
- In addition, North Korea invited back IAEA personnel to monitor and verify the shutdown and sealing of these facilities.
- North Korea also shut down and sealed two nuclear reactors that were under construction: a 50 MW(e) plant at Yongbyon and a 200 MW(E) plant at Taechon. IAEA personnel continue to monitor and verify the shutdown status of these sites.
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- The DPRK subsequently agreed in the October 3, 2007 agreement on "Second-Phase Actions for the Implementation of the Joint Statement" that it would disable all its existing nuclear facilities, beginning with the core facilities at Yongbyon by December 31, 2007.
- Since November 2007, U.S. experts have been on the ground at Yongbyon continuously, overseeing disablement activities.
- Eight out of 11 agreed disablement activities at the three core facilities have been completed. Work on disablement activities continues.
- U.S. experts currently are overseeing the discharge of the spent fuel rods from the 5-MW(e) reactor. As of late June, close to one-half of the spent fuel rods have been discharged successfully. We expect the DPRK to accelerate the process of discharging the reactor. Additionally, the DPRK must adequately disable its entire stock of fresh fuel rods by bending or selling the rods to another Party.
- These actions have halted the DPRK's ability to produce additional weapons-grade plutonium for its nuclear weapons program.
- The United States remains committed to the full implementation of the September 19, 2005 Joint Statement of the Fourth Round of the Six-Party Talks, which unanimously reaffirmed that the goal of the Six-Party Talks is the verifiable denuclearization of the Korean Peninsula in a peaceful manner.

### **III. Nautilus invites your responses**

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send responses to: [napsnet-reply@nautilus.org](mailto:napsnet-reply@nautilus.org) . Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

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