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North Korea Should Be Put Back on the Terrorist List

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Malaysian authorities have announced that Kim Jong-nam, half-brother to North Korean leader Kim Jong-un, was assassinated using VX nerve agent.¹ Malaysian authorities also have stated that a senior diplomat at the North Korean Embassy and an employee of North Korean state-owned airline Air Koryo were wanted for questioning, and four additional North Koreans, who had returned to North Korea, were also suspected of being involved.²

VX is a chemical weapon classified by the United Nations as a weapon of mass destruction. North Korea is assessed as having the world's third largest stock of chemical weapons, potentially 2,500–5,000 tons. Although North Korea has not signed the Chemical Weapons Convention, U.N. Resolution 1718, adopted on October 14, 2006, “decide[d] that [North Korea] shall abandon all other existing weapons of mass destruction and ballistic missile programme in a complete, verifiable, and irreversible manner.”³

The United States placed North Korea on the State Sponsors of Terrorism list in 1988 after North Korean agents placed a bomb on a South Korean commercial airliner, killing 115 people. The Bush Administration removed Pyongyang from the list in 2008 in a failed attempt to stimulate progress in the Six-Party Talks nuclear negotiations. Since

its removal from the terrorism list, Pyongyang has conducted several terrorist acts, including deadly attacks against North Korean defectors abroad:

- In 2014, North Korea conducted a cyber attack against Sony pictures for producing a film critical of North Korean leader Kim Jong-un. Pyongyang also threatened “9/11-type attacks” against U.S. theaters showing the film.
- In 2009, 2011, 2012, and 2013, Seoul concluded that North Korea was behind cyber attacks using viruses or distributed denial-of-service tactics against South Korean government agencies, businesses, banks, and media organizations.
- In June 2012, Seoul Metropolitan Police arrested a South Korean man for violating the National Security Law. The man had met in China with agents of the North Korean ruling party’s General Reconnaissance Bureau to purchase software with malignant viruses that were used to conduct a cyber-attack on Incheon International Airport.
- In May 2012, North Korea jammed GPS signals affecting hundreds of civilian airliners flying in and out of South Korea. The Korea Communications Commission stated that the signals came from North Korea.
- In April 2012, North Korean agent An Hak-young was sentenced to four years imprisonment by a South Korean court for plotting to assassinate outspoken anti-Pyongyang activist Park Sang-hak with a poison-tipped needle.

This paper, in its entirety, can be found at <http://report.heritage.org/ib4660>

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- In July 2010, two agents of the North Korean General Reconnaissance Bureau were arrested and pled guilty before a South Korean court to attempting to assassinate high-level defector Hwang Jang-Yop, who was residing in South Korea. Kim Myung-ho and Do Myung-kwan were sentenced to 10 years in jail.
- In December 2009, Thai authorities seized 35 tons of North Korean weapons, including rockets and rocket-propelled grenades that were determined to be en route to terrorist groups Hamas and Hezbollah.
- In 2009, three shipments of North Korean conventional arms bound for Iran were seized. Western and Israeli intelligence officials believe the shipments were bound for Hamas and Hezbollah. Kim admitted to being an agent of the North Korean General Reconnaissance Bureau and having been ordered to assassinate Hwang.
- In October 2008, a North Korean woman was convicted by a South Korean court for plotting to kill South Korean intelligence agents with poisoned needles.

Trump Administration Vows Strong Action.

In a recent interview, President Donald Trump described North Korea as a “very dangerous problem for the world” and declared, “We’re very angry at what [Kim Jong-un has] done.”²⁴ Responding to Pyongyang’s recent missile test, President Trump vowed that “we will deal with that very strongly,”²⁵ while U.S. Ambassador to the U.N. Nikki Haley said, “It is time to hold North Korea accountable—not with our words, but with our actions.”²⁶

What the U.S. Should Do

As one component of a broader U.S. strategy toward North Korea, the Trump Administration should return Pyongyang to the State Sponsors of Terrorism List. Under 18 U.S. Code § 2331, international terrorism is defined as acts that:

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum....

Despite North Korea’s repeated actions, former President Barack Obama refused to redesignate North Korea as a terrorism-sponsoring nation. Until pressured to do so by Congress, the Obama Administration also hesitated in sanctioning North Korean

1. Richard C. Paddock and Choe Sang-hun, “Kim Jong-nam Was Killed by VX Nerve Agent, Malaysians Say,” *The New York Times*, February 23, 2017, https://www.nytimes.com/2017/02/23/world/asia/kim-jong-nam-vx-nerve-agent-.html?_r=0 (accessed January 27, 2017).

2. Richard C. Paddock and Choe Sang-hun, “Kim Jong-nam’s Death: A Geopolitical Whodunit,” *The New York Times*, February 22, 2017, https://www.nytimes.com/2017/02/22/world/asia/kim-jong-nam-assassination-korea-malaysia.html?_r=0 (accessed February 27, 2017).

3. United Nations Security Council, Resolution No. 1718, adopted October 4, 2006, p. 2, http://www.nti.org/media/pdfs/unsc_res_1718_2006.pdf?_=1316546802 (accessed February 27, 2017).

4. Reuters, “Highlights of Reuters Interview with Trump,” February 24, 2017, <http://www.reuters.com/article/us-usa-trump-interview-highlights-idUSKBN1622RG> (accessed February 27, 2017).

5. Reuters, “Donald Trump Promises ‘Very Strong’ response to North Korea, but No Action Taken,” *Newsweek*, February 14, 2017, <http://www.newsweek.com/trump-un-denounces-north-korea-no-action-taken-556511> (accessed February 27, 2017).

6. Ned Parker, “Update 2-U.N. Security Council Condemns North Korea Missile Launching,” Reuters, February 13, 2017, <http://www.reuters.com/article/northkorea-missiles-un-securitycouncil-idUSL1N1FY1TB> (accessed February 27, 2017).

entities for human rights violations, despite a U.N. report concluding that Pyongyang had conducted “crimes against humanity.”

Returning North Korea to the terrorist list would be a proper and pragmatic recognition of regime behavior that violated U.S. statutes. It would also have tangible impact on regime finances. It would enable invoking stronger financial transaction licensing requirements under 31 CFR Part 596 vs. 31 CFR Part 510 and remove North Korea’s sovereign immunity from civil liability for terrorist acts. Redesignation would also require the U.S. government to oppose loans to North Korea by international financial institutions, such as the World Bank, International Monetary Fund, and Asian Development Bank.

In June 2016, the House of Representatives Foreign Affairs Committee approved two measures calling for the U.S. to put North Korea back on the terrorist list. In January 2017, Representative Ted Poe (R-TX) introduced H.R. 479, the North Korea State Sponsor of Terrorism Designation Act, which would “require a report on the designation of the Democratic People’s Republic of Korea as a state sponsor of terrorism.”⁷ In February 2017, six U.S. Senators signed a letter to Treasury Secretary Steven Mnuchin urging strong action on North Korea, including “work[ing] with the State Department to investigate whether North Korea merits re-designation as a State Sponsor of Terrorism.”⁸

Conclusion

It is long past time for Washington to do the right thing and belatedly acknowledge that North Korea’s repeated deadly acts legally constitute terrorist acts and justify returning the regime to the State Sponsors of Terrorism List. Pyongyang’s brazen assassination of Kim Jong-nam using a weapon of mass destruction in a crowded airport filled with civilians should be a wake-up call as to Kim Jong-un’s true nature.

North Korea’s two nuclear tests in 2016 were a catalyst for a new international consensus on the need to impose pressure on the regime for its serial violations of international agreements, U.N. resolutions, and U.S. law. But while global attention has been on nuclear weapons and missiles, we must not lose sight of North Korea’s terrorist acts and gross violations of human rights.

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7. H.R. 479, North Korea State Sponsor of Terrorism Designation Act of 2017, 115th Cong., 1st Sess., January 12, 2017, <https://www.congress.gov/115/bills/hr479/BILLS-115hr479ih.pdf> (accessed February 27, 2017).

8. Letter from Senators Ted Cruz, Thom Tillis, Pat Toomey, Cory Gardner, Marco Rubio, and David Perdue to The Honorable Stephen Mnuchin, Secretary of the Treasury, February 14, 2017, http://www.cruz.senate.gov/files/documents/Letters/20170214_NorthKoreaLetter.pdf (accessed February 27, 2017).