

United States Senate  
WASHINGTON, DC 20510

February 11, 2019

The Honorable Michael Pompeo  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

Dear Secretary Pompeo,

We write to express our deepening concern about U.S.-Korean coordination to fully implement sanctions on North Korea for the regime's nuclear weapons and ballistic missile programs. Specifically, we are concerned about the potential risk of exposure to U.S. sanctions for banks and other businesses inside the Republic of Korea (ROK) as a result of differing rates of progress in the North-South and U.S.-DPRK diplomatic tracks. We urge you to redouble U.S. efforts to ensure full coordination between the United States and the ROK so that both governments share the same understanding of the unilateral and multilateral sanctions against North Korea and how those sanctions will be enforced.

As both you and President Trump have reaffirmed, the U.S.-ROK alliance is invaluable to the national security of both our countries. Real or perceived differences in our approach to North Korea, including on sanctions, risk undermining our alliance and directly endanger that security.

Multiple United Nations Security Council Resolutions (UNSCRs) restrict or prohibit a range of financial activities with the DPRK, including trading (UNSCR 2270), providing commercial insurance (UNSCRs 2270, 2321), financing public and private support for trade (UNSCRs 2270, 2321), transferring bulk cash to pay for North Korean labor (UNSCR 2094), and maintaining correspondent accounts (UNSCR 2270). Paragraph 8(d) of UNSCR 1718 requires member states to "ensure" that any funds they transfer are not used to violate these resolutions.

The U.S. sanctions regime against the DPRK reinforces, implements, and exceeds multilateral sanctions. The North Korea Sanctions Policy and Enhancement Act of 2016 (Public Law 114-122) and the Countering America's Adversaries Through Sanctions Act of 2017 (Public Law 115-44) authorize the president to block bulk cash payments to North Korea (22 USC 9214), prohibit any bank from directly or indirectly establishing any correspondent account for a North Korean entity (22 USC 9214), ban imports into the US market of any goods produced with DPRK labor (22 USC 9241a), and mandate sanctions on any foreign person employing DPRK labor (22 USC 9241b).

In May 2018, despite the comprehensive sanctions noted above, multiple South Korean banks established task forces to pursue investments and operations in the DPRK. In September, President Moon brought multiple business executives to a DPRK summit to discuss "normalizing" the Kaesong and Kungang projects, and to plan for a groundbreaking railroad

ceremony “within this year,” and signed a joint declaration at the summit that included calls to form “a west coast joint special economic zone and an east coast joint special tourism zone.” In October ROK Foreign Minister Kang Kyung-wha announced the ROK was considering plans to lift its trade and investment moratoria, and President Moon reportedly engaged Britain, France, and the European Union on securing DPRK sanctions relief. On January 9, 2019 President Moon called for sanctions on the DPRK to be lifted as “soon as possible.” The ROK Foreign Ministry is reportedly seeking ways to fund Kaesong without bulk cash payments, including in-kind payments to DPRK labor.

We are concerned that the opacity of the DPRK, combined with its well-documented efforts of evading sanctions, makes it impossible to ensure that economic engagement with the North – regardless of intent to contribute to positive diplomatic progress on denuclearization – would not violate U.N. Security Council resolutions or be used for illicit activities prohibited by U.S. sanctions.

We applaud the work that the administration has done to coordinate with the ROK about sanctions risks. On September 19 and 20, the U.S. Department of Treasury held conference calls with seven ROK banks and sent a regulatory document that warned of potential failure “to comply with UN and US financial sanctions on North Korea.” We also view the U.S.-ROK bilateral working group on sanctions as a positive forum to socialize a shared respect and appreciation for the importance of sanctions and to assure tight coordination.

Nevertheless, we remain concerned about the possibilities of separation between the United States and the Republic of Korea on sanctions enforcement and implementation, and urge you to commit the full weight of the U.S. government to ensuring the integrity of the sanctions regime. It will be increasingly important, as the Administration continues its negotiations with North Korea, to ensure that South Korea and the United States, along with our other partners, are fully coordinated to assure that prudent and legal measures to further diplomacy and denuclearization do not result in premature relaxation of pressure on Kim Jong-un. We stand ready to assist you in doing so.

Sincerely,



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Ted Cruz  
United States Senator



Robert Menendez  
United States Senator