

# CRS Report for Congress

## North Korea: Terrorism List Removal?

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## Summary

The issue of North Korea's inclusion on the U.S. list of terrorism-supporting countries has arisen twice in recent U.S.-North Korean diplomacy. In 2000, North Korea demanded that the Clinton Administration remove North Korea from the terrorism-support list before North Korea would send a high level envoy to Washington and accept the Clinton Administration's proposal to begin negotiations with the United States over the North Korean missile program. In 2003, multilateral negotiations involving six governments began over North Korea's nuclear programs in the wake of North Korea's actions to terminate its obligations under the Nuclear Non-Proliferation Treaty and the 1994 U.S.-North Korean Agreed Framework. In the six party talks, North Korea demanded that in return for a North Korean "freeze" of its plutonium nuclear program, the United States agree to a number of U.S. concessions, including removing North Korea from the U.S. terrorism-support list.

In late 2006 and early 2007, the Bush Administration reportedly offered North Korea removal from the U.S. terrorism list if North Korea agreed to end its nuclear programs. U.S. and North Korean diplomats negotiated much of the Six Party Nuclear Agreement, which was signed on February 13, 2007. That agreement specified that the United States and North Korea would begin to negotiate a process of removal of North Korea from the terrorism list. In August-September 2007, Assistant Secretary of State Christopher Hill apparently made promises to North Korea's chief negotiator to remove North Korea as part of the process to implement Phase Two of the February 2007 nuclear agreement. They set a deadline of December 31, 2007, for completion of Phase II. Phase II requires North Korea to allow the "disablement" of its plutonium facilities at Yongbyon and to issue a declaration of its nuclear programs. The Bush Administration increasingly took the position that the issue of North Korea's kidnapping of Japanese citizens was not linked to removing North Korea from the terrorism list, from the standpoint of U.S. law or policy. The Japanese government objected to this position. The State Department continued to declare that North Korea had not committed a terrorist act since 1987. However, reports from French, Japanese, South Korean, and Israeli sources described recent North Korean programs to provide arms and training to Hezbollah in Lebanon and the Tamil Tigers in Sri Lanka, two groups on the U.S. list of international terrorist organizations.

If the Administration removes North Korea from the terrorism list, it is required under law to notify Congress 45 days prior to removal. For Congress to prevent removal, it would have to pass legislation (not resolutions) that would be subject to a presidential veto. The Administration has stated that it will adhere to the requirement of providing Congress with a 45-day notice.

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# North Korea: Terrorism List Removal?

## Background

### U.S.-North Korean Negotiations

**Three Stages in Diplomacy over the Terrorism List.** The issue of North Korea's inclusion on the U.S. list of state sponsors of terrorism has been in U.S.-North Korean diplomacy since 2000, but three stages are of particular importance: the first in 2000 in Clinton Administration-North Korean negotiations; the second during the 2003-2004 Six Party negotiations over the North Korean nuclear issue; and the third in the diplomacy around the Six Party nuclear agreement of February 2007. Until 2000, the core element of U.S.-North Korean diplomacy was the Agreed Framework, which Washington and Pyongyang signed in October 1994. It dealt primarily with North Korea's nuclear program, but U.S. obligations specified in the Agreed Framework included economic and diplomatic measures. However, the issue of removal of North Korea from the U.S. terrorism list was omitted from the Agreement. The issue appears not to have been a major object of the negotiations in 1994.

In October 1999, the Clinton Administration unveiled the Perry Initiative toward North Korea. Formulated under the direction of William Perry, former Secretary of Defense, the Perry initiative primarily sought a new round of U.S.-North Korean negotiations over North Korea's missile program. The Perry Initiative report of October 1999 stated that if North Korea agreed to a "verifiable cessation" of its missile program, the United States would provide a series of economic and diplomatic benefits to North Korea leading to normalization of U.S.-North Korean relations.<sup>1</sup>

The Clinton Administration sought an early visit of a high level North Korean official to Washington to obtain substantive negotiations.<sup>2</sup> North Korea, however, began to demand several pre-conditions for a high level visit. Beginning in February 2000, one of these was removal of North Korea from the U.S. list of terrorism-supporting countries. North Korea reportedly persisted in this demand well into the summer of 2000 before finally relenting. The high level envoy visited Washington in October 2000.

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<sup>1</sup> *Review of United States Policy Toward North Korea.* Report by Dr. William J. Perry, Special Advisor to the President and the Secretary of State. October 12, 1999.

<sup>2</sup> Pomfret, John. "North Korea Threatens To Skip Talks." *Washington Post.* March 29, 2000. p. A20.

The terrorism list issue receded until 2003 when a new round of U.S.-North Korean diplomacy ensued. This round was precipitated by the Bush Administration's assertion that North Korea admitted in October 2002 to U.S. diplomats that it was operating a secret uranium enrichment program. The Administration declared the secret program a violation of the Agreed Framework and began to end U.S. obligations under the Agreed Framework. North Korea retaliated by reopening nuclear facilities that had been frozen under the Agreed Framework, expelling monitors of the International Atomic Energy Agency, and withdrawing from the Nuclear Non-Proliferation Treaty. Multilateral negotiations began in April 2003 hosted by China and ultimately involving six governments (the United States, North Korea, South Korea, China, Russia, and Japan). At six party talks in August 2003, North Korea demanded that in return for North Korean concessions on the nuclear issue, the United States agree to a number of U.S. concessions, including removing North Korea from the U.S. list of terrorism-supporting countries. North Korea made its demand more specific in December 2003 when it issued a revised proposal centered on a "freeze" of North Korea's plutonium nuclear programs (but not the uranium enrichment program). This proposal restated North Korean demands for multiple concessions in return for a freeze. Removal from the terrorism support list was near the top of the list.<sup>3</sup> North Korea reiterated its demand at the six party meetings in February and June 2004 in the context of its freeze proposal.

The third stage began after North Korea's test of an atomic bomb in October 2006. Bilateral meetings between Assistant Secretary of State Christopher and North Korean Vice Foreign Minister Kim Gye-gwan in November 2006 and January 2007 contained discussions of the terrorism list issue as the two diplomats laid the groundwork for the nuclear agreement that the six parties announced on February 13, 2007. That agreement created a "working group" on North Korea-U.S. normalization of relations. The agreement stated

The DPRK and the U.S. will start bilateral talks aimed at resolving bilateral issues and moving toward full diplomatic relations. The U.S. will begin the process of removing the designation of the DPRK as a state sponsor of terrorism, and advance the process of terminating the application of the Trading with the Enemy Act with respect to the DPRK.

**U.S. Responses: The Clinton Administration in 2000.** The Clinton Administration reportedly presented to North Korea in February 2000 four steps that North Korea would have to take to be removed from the terrorism list: (1) issue a written guarantee that it no longer is engaged in terrorism; (2) provide evidence that it has not engaged in any terrorist act in the past six months; (3) join international anti-terrorism agreements; and (4) address issues of past support of terrorism.<sup>4</sup> In consulting U.S. allies, South Korea stated that the United States need not consider North Korean terrorism against South Korea in responding to North Korea's demand and that the Kim Dae-jung administration in Seoul favored removal of North Korea

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<sup>3</sup> North Korean Foreign Ministry statement on talks. Reuters News Agency, December 9, 2003.

<sup>4</sup> *Agence France-Presse* (Hong Kong) report, February 8, 2000. Yonhap News Agency (Seoul) report, February 8, 2000.

from the U.S. list of terrorism-supporting countries.<sup>5</sup> Japan, however, strongly urged the Clinton Administration to make a redress of North Korean terrorist acts against Japan conditions for removing North Korea from the list. Japan specifically cited North Korea's kidnapping of at least ten Japanese citizens and North Korea's harboring of Japanese Red Army terrorists since the 1970s.<sup>6</sup> The U.S. State Department had cited North Korea's harboring of Japanese Red Army terrorists as a reason for North Korea's inclusion on the U.S. list of terrorism-supporting states. A State Department official stated on April 25, 2000, that the United States considers "resolving this issue as an important step in addressing [U.S.] concerns about North Korean support of terrorism."<sup>7</sup> Moreover, according to informed sources, U.S. officials began to raise the kidnapping issue with the North Korea in negotiations over the terrorism list.

Japan intensified diplomacy on the terrorism issue in September and October 2000 as the United States prepared to receive the high ranking North Korean official and as Japan prepared for bilateral normalization talks with North Korea. Japan urged the Clinton Administration to raise Japan's concerns over terrorism in the high level U.S.-North Korean exchanges of October 2000 and not to remove North Korea from the terrorism list.<sup>8</sup> The visit to Washington of North Korean military leader, Jo Myong-rok on October 9-12, 2000, produced two general U.S.-North Korean statements opposing terrorism. However, the State Department's North Korea policy coordinator, Wendy Sherman, said on October 12 that Secretary Albright's planned visit to Pyongyang did not mean that the Clinton Administration would remove North Korea from the terrorism list. North Korea, she said, "knows what it needs to do."<sup>9</sup>

The impact of Japan's entreaties were demonstrated during Albright's visit to North Korea. In the first ever meeting between an American official and North Korean leader, Kim Jong-il, Albright raised the issue of the kidnapped Japanese. She reported to Japanese Foreign Minister Kono Yohei that in her meetings with Kim Jong-il, "I brought up the [abduction] issue time and again. I told him that this issue was important not only to Japan but also to the United States as well." Kono reportedly expressed satisfaction, saying "She seems to have thought about Japan."<sup>10</sup>

The Clinton Administration thus decided in late 2000 to give Japan's concerns over terrorism a higher priority in U.S. negotiations with North Korea over the U.S.

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<sup>5</sup> ROK to press US to remove DPRK from terrorism list. *Korea Herald*, internet version, June 21, 2000.

<sup>6</sup> U.S. to question DPRK on kidnappings of Japanese nationals. Jiji News Agency (Tokyo) report, February 16, 2000.

<sup>7</sup> U.S. Department of State Daily Press Briefing [by James P. Rubin], April 25, 2000. p. 8.

<sup>8</sup> Varied Aspects of Japan-North Korean Relations. *Mainichi Shimbun* (Nikkei Telecom Database version), October 28, 2000. Jiji Kokkoku Column. *Asahi Shimbun* (internet version), October 8, 2000.

<sup>9</sup> Carter, Tom. Clinton Plans First-ever Presidential Trip to North Korea. *Washington Times*, October 13, 2000. p. A1.

<sup>10</sup> Varied Aspects of Japan-North Korean Relations, *Mainichi Shimbun*, October 28, 2000.

terrorism list. This, in effect, lowered the priority of South Korea's position in U.S. policy.

**U.S. Responses: The Bush Administration in 2003-2004.** There were at least three components to the Bush Administration's policy regarding North Korea's inclusion on the terrorism-supporting list after the Agreed Framework collapsed and the six party talks began in 2003. The first was the U.S. response to North Korea's demand at the six party talks for removal from the list. A second was the raising by U.S. officials of the danger that North Korea would provide nuclear, biological, or chemical weapons to terrorist groups like Al Qaeda. The third was the emphasis given to the Japanese kidnapping in State Department statements on North Korea's inclusion on the list of terrorism-supporting countries.

Until June 2004, the Bush Administration took the position that it would not discuss issues in U.S.-North Korean relations, including the terrorism-support list, until North Korea agreed to and took concrete steps to dismantle its nuclear programs. In line with this stance, the Administration refused to submit any comprehensive U.S. proposal at the six party talks. The Administration's position changed in June 2004, apparently because of pressure from U.S. allies, Japan and South Korea, and heightened criticism of the Administration's position from China. At the six party meeting in June 2004, the Administration proposed a detailed plan in which North Korea would freeze its nuclear programs and submit to international verification during a three-month preparatory period followed by a full dismantlement of all nuclear programs. Once North Korea had met the requirements of the preparatory period, the United States would begin negotiations with North Korea on other issues, including the terrorism-support list.<sup>11</sup>

The Bush Administration has linked North Korea's kidnapping of Japanese citizens to the six party talks and to the terrorism-support list. When the Bush Administration took office in 2001, it reportedly assured Japan, including the families of suspected kidnapping victims, that the United States would continue to raise the kidnapping issue with North Korea and would not remove North Korea from the U.S. list of terrorism-supporting countries.<sup>12</sup> In the six party talks, U.S. Assistant Secretary of State James Kelly stated several times to the North Korean delegates that North Korea should settle the kidnapping issue with Japan.

In April 2004, the State Department emphasized the kidnapping of Japanese in its justification for North Korea's inclusion on the U.S. list of terrorism-supporting countries, as part of the Department's annual report on international terrorism.<sup>13</sup> The State Department's *Patterns of Global Terrorism 2003* described Kim Jong-il's admission of North Korean kidnapping during his meeting with Japanese Prime Minister Koizumi in September 2002 and that Japan-North Korea negotiations over

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<sup>11</sup> Philip P. Pan and Glenn Kessler, U.S. revises proposal at North Korea nuclear talks, *Washington Post*, June 24, 2004, p. A17. See CRS Report RL33590, *North Korea's Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch.

<sup>12</sup> National Association for the Rescue of Japanese Kidnaped by North Korea. Report of Mission to the U.S. from February 25 to March 3, 2001.

<sup>13</sup> U.S. Department of State. *Patterns of Global Terrorism 2003*. p. 92.

the issue were continuing. Coffer Black, the State Department's top counterterrorism official, stated upon the release of the report that the kidnapping issue was a key factor in the report's designation of North Korea as a state sponsor of terrorism.<sup>14</sup> During this period, President Bush, Vice President Cheney, and National Security Adviser Condoleezza Rice made public statements pledging to support Japan. At his summit meeting with Prime Minister Koizumi in May 2003, President Bush stated: "Abduction is an abominable act. The United States supports Japan completely until we find out the whereabouts of each and every Japanese citizen who has been abducted by North Korea."<sup>15</sup> Condoleezza Rice described the kidnapping issue as "a priority also for the United States, that we abhor what the North Koreans have done."<sup>16</sup> In April 2004, Vice President Cheney said in Tokyo that Americans shared Japan's "outrage" over North Korea's kidnappings and that the Bush Administration supported Japan's demand for a "resolution of all the issues surrounding the criminal abduction of your citizens by the regime in Pyongyang."<sup>17</sup>

In mid-2002, Japan and North Korea went into secret negotiations regarding the kidnapping issue. In September 2002, Prime Minister Koizumi Junichiro flew to Pyongyang where North Korean leader Kim Jong-il admitted that North Korea had abducted 13 Japanese citizens; of these, he claimed that 8 had died and that 5 were alive. The five subsequently went to Japan. In May 2004, Koizumi again traveled to Pyongyang and secured the release of 6 children of the 5 Japanese. However, the issue quickly reached an impasse. Japan harbored doubts about the truthfulness of North Korea's claim that 8 of the 13 kidnapped Japanese were dead and that the remains of all 8 had been washed away by floods and were not available for identification. In 2006, the Japanese government added 3 other missing Japanese citizens to its list of Japanese kidnapped by North Korea. In Japan, publicized claims also emerged that North Korea had kidnapped up to several hundred Japanese.

The Bush Administration supported Koizumi's efforts but reportedly pressed the Japanese government not to reciprocate with financial aid to North Korea before the nuclear and missile issues with North Korea were resolved. The Administration urged Koizumi prior to each visit to press North Korea for policy changes on the nuclear issue. Japan reportedly complied with the U.S. urgings.<sup>18</sup>

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<sup>14</sup> Washington links N. Korea abductions of Japanese with terrorism, Yonhap News Agency, April 30, 2004.

<sup>15</sup> Growing US distrust of South Korea, Tokyo Sentaku, June 2003, p. 6-9.

<sup>16</sup> Bush's National Security Adviser Rice says DPRK abduction issue priority topic, Mainichi Shimbun (internet version), May 31, 2003.

<sup>17</sup> Bill Gertz, "Cheney backs Koizumi on Iraq stance," *Washington Times*, April 13, 2004, p. A3.

<sup>18</sup> "Japan, U.S. agree to put pressure on Pyongyang." Yonhap New Agency, May 1, 2004. "Japan PM says Bush supportive on North Korea trip." Reuters News Agency, September 12, 2002. Howard W. French, "Japan-North Korea talks conclude with deep splits," *New York Times*, October 31, 2002, p. A13. James Brooke, "North Korea's A-arms project jeopardizes aid, Japan says," *New York Times*, October 22, 2002, p. A6.



These urgings pointed up the overall importance of Japan to U.S. policy toward North Korea and thus the broader influence of the kidnapping issue. As a participant in the six party talks, Japan was viewed as crucial in any settlement of the nuclear or missile issues that involved reciprocal economic or financial benefits to North Korea. As far back as the Perry initiative in 1999-2000, U.S. officials acted on the assumption that any settlement of the nuclear and missile issues with North Korea would require a major Japanese financial contribution.<sup>19</sup> Japan promised North Korea billions of dollars in aid as part of a normalization of relations, but Japan specified that normalization depends on a settlement of the nuclear, missile, and kidnapping issues.<sup>20</sup>

At the six party talks in June 2004, the Bush Administration put forth a detailed settlement proposal under which North Korea would receive heavy oil in the initial stage of a settlement process, financed by Japan and South Korea. The United States also offered North Korea negotiations on resolving North Korea's broader energy and electricity needs, which also undoubtedly would require a substantial Japanese financial input. On the other hand, the Bush Administration discussed with Japan the imposition of economic sanctions on North Korea. Japan joined the Proliferation Security Initiative in 2003, which President Bush proposed to stifle the proliferation activities of states like North Korea. In 2006, Japan imposed strong economic sanctions on North Korea when the United Nations Security Council approved sanctions in response to North Korea's missile tests of July 2006 and atomic bomb test of October 2006.

**U.S. Responses: The Bush Administration Moves Toward Removal, October 2006-November 2007.** Although the Bush Administration sought and obtained U.N. Security Council sanctions after North Korea's atomic bomb test in October 2006, it changed its policy on the North Korean nuclear issue in more fundamental ways — one of which was to bring the terrorism list issue more directly into negotiations. The change was directed by Secretary of State Condoleezza Rice and Assistant Secretary of State Christopher Hill. There have been three fundamental changes in Bush Administration policy since the North Korean nuclear test that have implications for the terrorism list issue. Tactically, the Administration abandoned its opposition to bilateral talks with North Korea and actively sought bilateral meetings with Pyongyang. Moreover, Assistant Secretary of State Christopher Hill used these meetings, in late November 2006 and mid-January 2007, to negotiate actively the details of the six party agreement that was announced on February 13, 2007.

The second change under the Rice-Hill strategy has been in the U.S. policy objective toward North Korea's nuclear programs and weapons. Dismantlement of Pyongyang's nuclear programs and weapons remains as the official Bush Administration policy goal, but the February 2007 Six Party Agreement says little

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<sup>19</sup> Nicksch, Larry A., North Korea and Terrorism: The Yokita Megumi Factor. *The Korean Journal of Defense Analysis*. Spring 2002. pp. 14-16.

<sup>20</sup> For ex-Prime Minister Koizumi's statement of these conditions, see Kim, Jack and Kitano, Masayuki. Japan, S. Korea urge N. Korea to move on crisis. *Reuters News Agency*, July 22, 2004.

about dismantlement. The two phases outlined in the agreement focus on freezing North Korean nuclear facilities in the first phase, to be completed in 60 days, then “disablement of all existing nuclear facilities” and disclosure by North Korea of “all nuclear programs” in the second phase that has no time deadline.” The February 2007 agreement thus signals an apparent policy objective of containment of North Korea’s nuclear programs and nuclear weapons development, limiting their size and scope. The Bush Administration continues to cite full nuclear dismantlement as its goal for 2008. However, in the limited number of months left of an actively functioning Bush Administration (prior to the U.S. presidential election campaign starting in September 2008), the most realistic prospect of success is negotiating and implementing the two phases of this Six Party Agreement or at least a partial implementation. The dismantlement issue likely will be left for the U.S. Administration that comes into office in January 2009. Consequently, this scenario appears to have influenced the Bush Administration to delink total dismantlement as a primary condition for removal of North Korea from the terrorism list and to link removal with lesser North Korean steps in the February 2007 agreement, particularly “disablement” of the Yongbyon plutonium nuclear facilities and a declaration of its nuclear programs.

Thus, the third change under the Rice-Hill strategy has been to link removal from the terrorism exclusively to a successful North Korean implementation of its obligations under Phase Two of the February 2007 nuclear agreement. Beginning with the Hill-Kim Kye-gwan meeting of November 28-29, 2006, and especially in their meeting in Berlin in January 2007, Hill reportedly said that the Bush Administration would remove North Korea from the U.S. list of state sponsors of terrorism if North Korea dismantled its nuclear programs.<sup>21</sup> In the February 2007 agreement, the Administration agreed to begin the process of removing the DPRK from the list.<sup>22</sup>

North Korea also may have increased the incentive for the Bush Administration to strengthen this linkage. The South Korean newspaper, *JongAng Ilbo*, quoted “a diplomatic source knowledgeable on the New York talks” between Hill and Kim Kye-gwan on March 5-6, 2007, that Kim asserted that if the United States took steps to normalize relations, North Korea could disable the Yongbyon nuclear installations within a year (i.e., March 2008). Kim specifically mentioned as a key step the removal of North Korea from the list of state sponsors of terrorism.<sup>23</sup> Kim repeated this during the six party meeting in July 2007.

As the Bush Administration moved toward this exclusive linkage, it began to separate the Japanese kidnapping issue from the terrorism-support list. During

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<sup>21</sup> What ‘new ideas’ did Washington offer Pyongyang? *Chosun Ilbo* (Seoul, internet version), December 4, 2006. U.S. offered to remove N. Korea from terror list — South Korea. Dow Jones International News, December 26, 2006. Arimoto Takashi, Six-party talks: Japan, PRC concerned about US-DPRK pre-talk coordination becoming regularized, suspect ‘secret deal’, *Sankei Shimbun* (internet version), August 14, 2007.

<sup>22</sup> See [<http://www.state.gov/s/ct/rls/crt/2006/82736.htm>] at p. 147.

<sup>23</sup> Yi Sang-il and Chin Se-ku. Yongbyon nuclear facility can be disabled within a year. *JongAng Ilbo* (internet version), March 13, 2007.

Japanese Prime Minister Abe's visit to the White House in May 2007, Secretary of State Rice told him that the Bush Administration had no legal obligation to link the kidnapping and terrorism list issues.<sup>24</sup> State Department officials subsequently emphasized this "no legal obligation" position but also that Hill had urged North Korea to negotiate progress on the kidnapping issue with Japan.<sup>25</sup> In a press conference with foreign correspondents on August 30, 2007, President Bush evaded a direct answer to a reporter's question whether progress on the kidnapping issue was a condition for North Korea's removal; Bush instead repeated his concern over the kidnappings and his feelings when he received the families of kidnapped Japanese at the White House.<sup>26</sup>

In September 2007 meetings between Assistant Secretary of State Hill and North Korean negotiator Kim Gye-gwan, they agreed to complete the implementation of Phase Two of the February 2007 nuclear agreement by December 31, 2007, including North Korea's obligations to disable the Yongbyon installations and declare its nuclear programs. Kim Gye-gwan and North Korea's Foreign Ministry asserted that Hill had stated that part of this implementation would be the removal of North Korea from the terrorism list.<sup>27</sup> Hill did not confirm this, but it has been reported widely and believed by many observers that he made a specific commitment to Kim Gye-gwan regarding the terrorism list.<sup>28</sup>

On October 3, 2007, the six parties issued a statement on the implementation of Phase Two, which included a target deadline of December 31, 2007. The statement implied a U.S. commitment to remove North Korea as part of the implementation process. Referencing the U.S. commitments in the February 2007 nuclear agreement to begin the process of removing North Korea from the list of state sponsors of terrorism and the Trading with the Enemy Act, the statement read that "the United States will fulfill its commitments to the DPRK in parallel with the DPRK's actions based on consensus reached at the meetings on the working group on normalization of DPRK-U.S. relations." Christopher Hill stated at an October 25 congressional hearing that fulfilling these commitments "will depend on the DPRK's fulfillment of its Second-Phase commitments on providing a complete and correct

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<sup>24</sup> Abductions by N. Korea not related to US terrorist list, Chosun Ilbo (internet version), May 14, 2007.

<sup>25</sup> Pyongyang fallout, *The Wall Street Journal Asia*, November 16, 2007, p. 12. Statement by Tom Casey, State Department spokesman.

<sup>26</sup> The White House, Roundtable Interview of the President by Foreign Print Media, August 30, 2007.

<sup>27</sup> Choe Sang-hun and David E. Sanger, North Korea claims U.S. will remove sanctions, *International Herald Tribune*, September 4, 2007, p. 5.

<sup>28</sup> Japanese abductions unlikely to stop U.S. from removing N. Korea, Yonhap News Agency, September 6, 2007. Ser Myo-ja, Kang Chan-ho, Cheong Yong-whan, North: US ready to lift sanctions, adjust terror list, JoongAng Ilbo (internet version), September 3, 2007.

declaration and disabling its nuclear facilities, as well as on satisfaction of legal requirements ... set forth in U.S. law.”<sup>29</sup>

The Bush Administration appears to maintain this intention despite mounting criticism from Japan and a reported warning from U.S. Ambassador to Japan Thomas Schieffer that removal of North Korea without progress on the kidnapping issue could damage the U.S.-Japan alliance.<sup>30</sup> In contrast, the South Korean and Chinese governments appeared to support the Administration’s planned removal of North Korea.<sup>31</sup>

## Terrorist State Activity Designations

In April 2007, the Department of State released its annual global terrorism report to Congress, *Country Reports on Terrorism, 2006* [*Country Reports, 2006*].<sup>32</sup> North Korea is prominently mentioned in the yearly report, which include data on terrorist trends and activity worldwide and serves as the basis for the U.S. list of state sponsors of terrorism that are subject to U.S. sanctions. Emerging, or ongoing, problem areas “areas of concern” are identified as well.

In addition to data on terrorist trends, groups, and activities worldwide, *Country Reports* provide a description as to why countries are on the U.S. list of state sponsors of terrorism that are subject to U.S. sanctions. Thus, included in *Country Reports* are detailed data on the five countries currently on the “terrorism list”: Cuba, Iran, North Korea, Sudan, and Syria.<sup>33</sup> U.S. Administration officials maintain that

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<sup>29</sup> Statement of Christopher R. Hill, Assistant Secretary of State, before the House Committee on Foreign Affairs, Subcommittee on Asia, the Pacific and the Global Environment, and Subcommittee on Terrorism, Nonproliferation, and Trade, October 25, 2007.

<sup>30</sup> Gilles Campion, Senior Japanese adviser to Fukuda warns US over taking DPRK off terrorist list, Agence France Presse, October 25, 2007. Michael Green and James Przystup, The abductee issue is a test of America’s strategic credibility, PacNet, November 15, 2007. Michael Green was Director for East Asia with the National Security Council until January 2007. James Przystup is a Senior Fellow at the National Defense University.

<sup>31</sup> Chang Lu, How much of 13 February joint document of six-party talks has been put into effect? Xinhua Domestic Service, July 16, 2007.

<sup>32</sup> *Country Reports* (formerly *Patterns of Global Terrorism*; hereinafter, “Patterns”) is an annual report to Congress required by Title 22 of the United States Code, Section 2656f(a). See [<http://www.state.gov/s/ct/rls/crt/2006/>].

<sup>33</sup> The degree of support for, or involvement in, terrorist activities typically varies dramatically from nation to nation. For 2005 and 2006, of the five on the U.S. terrorism list, Iran continued to be characterized on one extreme of the spectrum of terrorist list states as an active supporter of terrorism: a nation that uses terrorism as an instrument of policy or warfare beyond its borders. Closer to the middle of the spectrum is Syria. Although not formally detected in an active role since 1986, *Country Reports* asserts that the Assad regime reportedly uses groups in Syria and Lebanon to export terror into Israel and allows groups to train in territory under its control. On the less active end of the spectrum, one  
(continued...)

the practice of designating and reporting on the activities of the state sponsors of terrorism list and concomitant sanctions policy has contributed significantly to a reduction in the overt — and apparently overall — activity level of states supporting terrorism in the past decade. Libya and Sudan are frequently cited as examples of such success, but to date, not North Korea. North Korea is also included on a concomitant list of states “not fully cooperating” with U.S. anti-terrorism efforts. This list includes the five state sponsors of terrorism currently on the Department of State’s list and Afghanistan.

## State Sponsors/Supporters List

North Korea remains one of five countries currently on the list that the Secretary of State maintains have “repeatedly provided support for acts of international terrorism.”<sup>34</sup> Data supporting this list are drawn from the intelligence community. Listed countries are subject to severe U.S. export controls — particularly of dual-use technology and selling them military equipment is prohibited.<sup>35</sup> Providing foreign aid under the Foreign Assistance Act is also prohibited. Section 6(j) of the 1979 Export Administration Act stipulates that a validated license shall be required for export of controlled items and technology to any country on the list, and that the Secretaries of Commerce and State must notify the House Committee on Foreign Affairs, and the Senate Committees on Banking, Housing, and Urban Affairs, and Foreign Relations at least 30 days before issuing any validated license for goods and services that could significantly enhance a nation’s military capability or its ability to support terrorism as required by this act.<sup>36</sup> In addition, Section 509(a) of the 1986

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<sup>33</sup> (...continued)

might place countries such as Cuba or North Korea, which at the height of the Cold War were more active, but in recent years have seemed to settle for a more passive role of granting ongoing safe haven to previously admitted terrorists. Also at the less active end of the spectrum, and arguably falling off it, is Sudan, which reportedly has stepped up counter-terrorism cooperation with the United States. An area of concern for some observers is the impact DPRK removal from the state sponsors list may have on prospects for Cuba’s removal.

Note that Libya was certified by the Secretary of State as being eligible for removal from the list on May 12, 2006. See Presidential Determination No. 2006-14, May 12, 2006, which went into effect June 28, 2006 [<http://www.whitehouse.gov/news/releases/2006/05/20060515-5.html>] with the end result of Libya’s designation as a state sponsor of terrorism being rescinded on June 30, 2006. Sanctions against Iraq pursuant to its inclusion on the terrorism list were suspended on May 7, 2003 by Presidential Determination No. 2003-23 (*Federal Register* of May 16, 2003), Vol. 68, No. 95, p. 26459). Iraq was removed from the list by a rescission of determination on October 7, 2004 (*Federal Register*, October 20, 2004, Vol. 69, No. 202, p. 61702).

<sup>34</sup> U.S. Department of State, *Country Reports on Terrorism, 2006*.

<sup>35</sup> See CRS Report RL31696, *North Korea: Economic Sanctions*, by Dianne E. Rennack.

<sup>36</sup> The interpretation of these “significant dual use items,” especially when items such as aircraft parts are involved, is often the subject of considerable discussion within the executive branch as well as the subject of informal consultations with Congress.

Omnibus Diplomatic Security and Antiterrorism Act (P.L. 99-399) bars export of munitions list items to countries on the terrorism list.

A restriction potentially related to North Korea is found in Section 1621 of the International Financial Institutions Act (P.L. 95-118). Entitled “Opposition to Assistance by International Financial Institutions to Terrorist States,” Section 1621 states: “The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961.” In short, the United States must oppose financial assistance from institutions like the World Bank and the International Monetary Fund to any state on the U.S. terrorism list. Given the influence of the United States in these institutions, U.S. opposition would constitute a huge obstacle to any proposals for financial aid to North Korea. Section 1621, however, does not require the United States to oppose North Korean membership in the IMF and World Bank. North Korean membership is the near term goal of the South Korean government, which views this as an initial step toward financial aid.

P.L. 109-58, the Energy Policy Act of 2005 prohibits the export, re-export, transfer or retransfer of U.S. nuclear materials and technologies to any country identified by the Secretary of State as a sponsor of terrorism. This provision, in Section 632 of the Act, was authored specifically to foreclose the possibility of civilian nuclear cooperation between the United States and North Korea, either directly or through third countries that have access to U.S. nuclear technology.<sup>37</sup>

## **Nations Not Fully Cooperating Category**

The DPRK also remains on a list (required by P.L. 104-132), which prohibits, absent a presidential waiver, the sale of arms to nations not fully cooperating with U.S. anti-terrorism efforts.<sup>38</sup>

## **Adding and Removing Countries on the List**

In late January each year, under the provisions of Section 6(j) of the Export Administration Act of 1979, as amended, the Secretary of Commerce, in consultation with the Secretary of State, provides Congress with a list of countries supporting terrorism. Compilation of the list is the result of an ongoing process. Throughout the year the Department of State gathers data on terrorist activity worldwide, and then

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<sup>37</sup> Letter from Representative Edward J. Markey to Secretary of State Condoleezza Rice, October 3, 2007. Representative Markey was a principle author of Section 632.

<sup>38</sup> Periodically, discussions have been held under differing administrations to provide for graduated sanctions within this category to make it a more effective tool, but no substantive action, to date, has been taken on this issue. Note that P.L. 104-132 also requires the withholding of foreign assistance to nations providing lethal military aid to countries on the list of state sponsors.

beginning about November, the list is formally reviewed. Each new determination under Section 6(j) of the act must also be published in the *Federal Register*.

Congressional report language provides guidelines for designation. A House Foreign Affairs Committee report approving the Anti-Terrorism and Arms Export Amendments Act of 1989 (H.Rept. 101-296) included as criteria (1) allowing territory to be used as a sanctuary; (2) furnishing lethal substances to individuals/groups with the likelihood that they will be used for terrorism; (3) providing logistical support to terrorists/groups; (4) providing safe haven or headquarters for terrorists/organizations; (5) planning, directing, training or assisting in the execution of terrorist activities; (6) providing direct or indirect financial support for terrorist activities; and (7) providing diplomatic facilities such as support or documentation to aid or abet terrorist activities. A Senate report had similar criteria (S.Rept. 101-173).

Paragraph 6(j)(4) of the Export Administration Act prohibits removing a country from the list unless the President first submits a report to the House Committee on Foreign Affairs, and the Senate Committees on Banking, Housing, and Urban Affairs, and Foreign Relations. When a government changes (i.e., a government is significantly different from that in power at the time of the last determination), the President's report, submitted before the proposed rescission would take effect, must certify that (1) there has been a fundamental change in the leadership and policies of the government of the country concerned (an actual change of government as a result of an election, coup, or some other means); (2) the new government is not supporting acts of international terrorism; and (3) the new government has provided assurances that it will not support acts of international terrorism in the future.

When the same government is in power, the current situation with North Korea, the President's report — submitted at least 45 days before the proposed rescission would take effect — must justify the rescission and certify that (1) the government concerned has not provided support for international terrorism during the preceding six-month period; and (2) the government concerned has provided assurances that it will not support acts of international terrorism in the future. Congress can let the President's action take effect, or pass legislation to block it, the latter most likely over the President's veto. Since enactment of this procedure in 1989, the Bush Administration has removed two countries from the list of state sponsors of terrorism — Libya and Iraq. The Administration has stated that in the case of North Korea, it will adhere to the legal requirement of providing Congress with a 45-day notice before removal that would include the required certification.<sup>39</sup>

Congress has passed several resolutions on North Korean support for terrorism since 2005. In January 2005, the entire Illinois delegation in Congress sent a letter to North Korea's United Nations Ambassador demanding information on the Reverend Kim Dong-shik, who was kidnapped by North Korean agents in China in 2000. The Illinois delegation stated that it would oppose removing North Korea from the list of state sponsors of terrorism until his fate is resolved. H.R. 3650, a bill

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<sup>39</sup> Letter from Jeffrey T. Bergner, State Department, Assistant Secretary for Legislative Affairs to Representative Edward J. Markey, November 6, 2007.

introduced in the House of Representatives in September 2007 with 27 sponsors as of December 10, 2007, would continue to designate North Korea as a state sponsor of terrorism until North Korea met a number of conditions related to cessation of nuclear and missile proliferation, arms and training to terrorist groups, the counterfeiting of U.S. currency; and the release of kidnapped Japanese and Kim Dong-shik and South Korean prisoners of war from the Korean War.

A complex challenge facing those charged with compiling and maintaining the list is the degree to which diminution of hard evidence of a government's active involvement indicates a real change in behavior, particularly when a past history of active support or use of terrorism as an instrument of foreign policy has been well established. For example, Iraq, which was removed in 1982, was again placed on the list in 1990, to be again removed in 2004. Some observers suggest that one reason that countries have not been dropped from the list is the reluctance of the executive branch to confront Congress on the issue.

## **Rationale and Background for DPRK Retention on the Two Lists**

North Korea was added to the "official" list of countries supporting terrorism because of its implication in the bombing of a South Korean airliner on November 29, 1987, which killed 115 persons. According to the State Department, North Korea has not been conclusively linked to any terrorist acts since 1987. A North Korean spokesman in 1993 condemned all forms of terrorism, and said his country resolutely opposed the encouragement and support of terrorism. A similar statement was made in November 1995 and again in 2001, in the wake of the 9/11 attacks.

*Country Reports, 2006*, continues to contain language that could be used to justify retention of the DPRK on the list of state supporters of terror:

... The DPRK continued to harbor four Japanese Red Army members who participated in a jet hijacking in 1970. The Japanese government continued to seek a full accounting of the fate of the 12 Japanese nationals believed to have been abducted by DPRK state entities; five such abductees have been repatriated to Japan since 2002....<sup>40</sup>

Using language similar to the 2006 Report, *Country Reports, 2005*, in a brief two-paragraph section on North Korea states that:

The Democratic People's Republic of Korea (DPRK) is not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987.

Pyongyang in 2003 allowed the return to Japan of five surviving abductees, and in 2004 of eight family members, mostly children, of those abductees. Questions about the fate of other abductees remain the subject of ongoing negotiations

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<sup>40</sup> See [<http://www.state.gov/s/ct/rls/crt/2006/82736.htm>] (p. 147 of the published version).



between Japan and the DPRK. In November, the DPRK returned to Japan what it identified as the remains of two Japanese abductees, whom the North had reported as having died in North Korea. The issue remained contentious at year's end. There are also credible reports that other nationals were abducted from locations abroad. The ROK government estimates that approximately 485 civilians were abducted or detained since the 1950-53 Korean War. Four Japanese Red Army members remain in the DPRK following their involvement in a jet hijacking in 1970; five of their family members returned to Japan in 2004.<sup>41</sup>

Perhaps most revealing of United States' policy rationale for keeping nations such as North Korea on the terrorism list is text contained in the "State Sponsors Of Terror Overview" section of *Country Reports, 2005*, and partially reprinted in *Country Reports, 2006*. Prominently mentioned are two factors: (1) maintaining ties to terrorist groups and (2) "the capability to manufacture WMD and other destabilizing technologies that can get into the hands of terrorists."

Libya and Sudan continued to take significant steps to cooperate in the global war on terror. Cuba, Iran, **North Korea**, and Syria, however, continued to maintain their ties to terrorist groups. Iran and Syria routinely provide unique safe haven, substantial resources and guidance to terrorist organizations.

State sponsors of terrorism provide critical support to non-state terrorist groups. Without state sponsors, terrorist groups would have much more difficulty obtaining the funds, weapons, materials, and secure areas they require to plan and conduct operations. *Most worrisome is that some of these countries also have the capability to manufacture WMD and other destabilizing technologies that can get into the hands of terrorists. The United States will continue to insist that these countries end the support they give to terrorist groups.* [Emphasis and italics added]<sup>42</sup>

## North Korea Previously Cited for Possible Removal

In its "Introduction," the *Patterns 1999* report cites North Korea as a possible candidate for removal from the list of state sponsors of terrorism. The *Patterns 1999* report states:

The designation of state sponsors is not permanent, however. In fact, a primary focus of U.S. counterterrorist policy is to move state sponsors off the list by delineating clearly what steps these countries must take to end their support for terrorism and by urging them to take these steps ...There have been some encouraging signs recently suggesting that some countries are considering taking steps to distance themselves from terrorism. North Korea has made some positive statements condemning terrorism in all its forms. We have outlined

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<sup>41</sup> See [<http://www.state.gov/s/ct/rls/crt/c17689.htm>], p. 175.

<sup>42</sup> *Country Reports, 2005*, p. 171, at [<http://www.state.gov/s/ct/rls/crt/c17689.htm>] and *Country Reports, 2006*, p. 145, at [<http://www.state.gov/s/ct/rls/crt/2006/82736.htm>]. The italicized text appears identically in *Country Reports* for both 2005 and 2006.

clearly to the Government of North Korea the steps it must take to be removed from the list, all of which are consistent with its stated policies.

The report states that “if a state sponsor meets the criteria for being dropped from the terrorism list, it will be removed — notwithstanding other differences we may have with a country’s other policies and actions.”

In June 15, 2000, testimony before the Senate Foreign Relations Committee, Michael Sheehan, the State Department Coordinator for Counterterrorism, testified that

We need to take into account all relevant considerations in connection with moving states onto or off of the list, and we also need to explore whether it would be appropriate in any cases to identify states as “not fully cooperating” rather than as state sponsors of terrorism if doing so was warranted by the facts and would advance U.S. counterterrorism objectives ... I have been considering what intermediate steps could be taken to give state sponsors a clearer look at how they might “graduate” off the list. It may be possible that in appropriate cases state sponsors could step off the state sponsor list and be left only on the “not fully cooperating” list, with an eye towards stepping off of that list when they fully cooperate with U.S. antiterrorism efforts.

Similarly, in July 12 testimony before the House International Relations Committee, Ambassador Sheehan confirmed that his earlier statements were intended as a clear signal to terrorist supporting countries that the United States would consider taking them off the list if they take the necessary steps to cease their support for terrorism.

## **Prospects for Removal Are Set Back**

*Patterns 2000*, issued in 2001 under the new Bush Administration, changed the tone. It does state that “the Department of State is engaged in ongoing discussion with North Korea and Sudan with the object of getting those governments completely out of the terrorism business and off the terrorism list.” It cites the North Korean statement in the U.S.-North Korean joint statement of October 12, 2000, in which “the DPRK reiterated its opposition to terrorism and agreed to support international actions against such activity.” However, as stated previously, *Patterns 2000* was more specific in citing evidence of North Korean support of other terrorist groups, particularly in the Philippines. The report also asserts that “the US has a long memory and will not simply expunge a terrorist’s record because time has passed.”

*Patterns 2001* and *Patterns 2002*, arguably, softened language to designed to provide a rationale for retaining the DPRK on the terror list. For example, *Patterns 2002*, although noting that “Pyongyang continued to sell ballistic missile technology to countries designated by the United States as state sponsors of terrorism, including Syria and Libya,” concluded with the statement that “North Korea is a party to six of

the twelve international conventions and protocols relating to terrorism.”<sup>43</sup> Contrast such language to *Patterns 2003*: “*Although it is a party to six international conventions and protocols relating to terrorism, Pyongyang has not taken any substantial steps to cooperate in efforts to combat international terrorism. [italics provided]*”<sup>44</sup>

*Patterns 2003*, which covers the year North Korea was designated a member of the “axis of evil” by President Bush in his 2003 State of the Union Address, appears to take a somewhat more confrontational position.<sup>45</sup> The 2003 report begins with text to the effect that the DPRK is not known to have sponsored any terrorist acts since 1987. The report notes, however, that North Korea continued to give sanctuary to hijackers affiliated with the Japanese Red Army. Although *Patterns 2003* arguably indicates that North Korea’s support for international terrorism appears limited at present, it offers no promising language to suggest that DPRK removal from the terrorism list may occur anytime soon.

*Country Reports, 2004*, again offers no promising language to suggest that DPRK removal from the terrorism list may occur anytime soon, but notes what can be interpreted as progress in resolving the issue of kidnapped Japanese citizens. Again restated is language to the effect that the DPRK is “not known” to have sponsored any acts of terrorism since 1987. Pyongyang, however, is cited for lack of “substantial steps” in co-operating in efforts to combat international terrorism, although it has signed six international conventions and protocols relating to terrorism.

The Democratic People’s Republic of Korea (DPRK) is not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987.

At a summit with Japanese Prime Minister Koizumi in Pyongyang in September 2002, National Defense Commission Chairman Kim Jong Il acknowledged the involvement of DPRK “special institutions” in the kidnapping of Japanese citizens and said that those responsible had already been punished. Pyongyang in 2003 allowed the return to Japan of five surviving abductees, and in 2004 of

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<sup>43</sup> *Patterns 2002*, p. 81. On the other hand, the section covering North Korea begins with text characterizing the DPRK’s response to international efforts to combat terrorism as “disappointing throughout 2002.”

<sup>44</sup> *Patterns 2003*, p. 92.

<sup>45</sup> See text in preceding paragraph regarding lack of international cooperation. Note that arguably, a factor that may affect whether the DPRK is removed from the terrorism list is whether any other nations — notably Libya and possibly Sudan — are removed first. In the wake of one or two successful cases of removal, a political climate may well be created that is less risk adverse to chancing removal of a third state. Conversely, removing the DPRK from the list prior to removing other nations would arguably create a climate more favorably disposed to removal of additional states as well. In the past, the list has been subject to criticism that it is governed by political criteria not necessarily connected to a nation’s level of support for terrorism. See CRS Report RL32417, *The Department of States Patterns of Global Terrorism Report: Trends, State Sponsors, and Related Issues*, by Raphael Perl.

eight family members, mostly children, of those abductees. Questions about the fate of other abductees remain the subject of ongoing negotiations between Japan and the DPRK. In November, the DPRK returned to Japan what it identified as the remains of two Japanese abductees whom the North had reported as having died in North Korea. Subsequent DNA testing in Japan indicated that the remains were not those of Megumi Yokota or Kaoru Matsuki, as Pyongyang had claimed, and the issue remained contentious at year's end. Four Japanese Red Army members remain in the DPRK following their involvement in a jet hijacking in 1970; five of their family members returned to Japan in 2004. Although it is a party to six international conventions and protocols relating to terrorism, Pyongyang has not taken substantial steps to cooperate in efforts to combat international terrorism.<sup>46</sup>

## Process for Removal Moves Forward

In a dramatic shift in U.S. position regarding DPRK removal from the terrorist list, *Country Reports, 2006*, clearly states that the United States has agreed to begin the process of removing the DPRK from the list of state supporters of terror:

The Democratic People's Republic of Korea (DPRK) was not known to have sponsored any terrorist acts since the bombing of a Korean Airlines flight in 1987. The DPRK continued to harbor four Japanese Red Army members who participated in a jet hijacking in 1970. The Japanese government continued to seek a full accounting of the fate of the 12 Japanese nationals believed to have been abducted by DPRK state entities; five such abductees have been repatriated to Japan since 2002. **In the February 13, 2007 Initial Actions Agreement, the United States agreed to “begin the process of removing the designation of the DPRK as a state-sponsor of terrorism.”** [Emphasis added]<sup>47</sup>

The *Country Reports, 2006*, reflected the new Rice-Hill strategy of linking removal of North Korea to fulfillment of the February 2007 nuclear agreement. While it mentions the Japanese kidnapping issue, there is less discussion of it than in prior reports. Moreover, it did not describe progress or a settlement of the kidnapping issue as a condition for North Korea's removal.

## New Reports of Support of Terrorist Groups

The State Department's long-standing claim that North Korea “was not known to have sponsored any terrorist acts since 1987” was particularly important in 2007 in view of the clear goal of the Rice-Hill strategy to remove North Korea from the list of state sponsors of terrorism. However, questions about the accuracy of the claim are relevant in view of two types of reported information. One is from the State Department, itself. In the Department's *Country Reports, 2005*, the section on North Korea discusses the Japanese kidnapping issue and then states that there are “credible

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<sup>46</sup> See [<http://www.state.gov/s/ct/rls/crt/c14813.htm>], p. 90 of the full pdf file, or the “North Korea” section at the end of *Chapter 5 — Country Reports B*.

<sup>47</sup> See [<http://www.state.gov/s/ct/rls/crt/2006/82736.htm>] (p. 147 of the published version).

reports that other nationals were abducted from locations abroad.” The State Department does not appear to have provided clarification or details regarding these “credible reports.” This assertion in *Country Reports, 2005* could be seen as contradicting the assertion that North Korea has not sponsored any terrorist acts since 1987.

The second type of reports, coming from several diverse sources, asserts that North Korea has provided arms and possibly training to Hezbollah in Lebanon and the Tamil Tigers in Sri Lanka. Hezbollah and the Tamil Tigers are two of the most active terrorist groups on the U.S. list of international terrorist groups. The new reports contain considerable details alleging North Korean support for these groups.

In September 2006, *Paris Intelligence Online*, a French internet publication specializing in political and economic intelligence, published a report detailing an extensive program by North Korea to provide arms and training to Hezbollah.<sup>48</sup> It described Iran as the facilitator of the North Korea-Hezbollah relationship. The program, it said, began in the late 1980s and early 1990s with visits by Hezbollah cadre to North Korea. These visits were reported to involve training courses of several months run by the North Koreans. The *Paris Intelligence Online* report cited three current top Hezbollah officials who, it says, received training in North Korea during this earlier period: Hassan Nasrallah, Hezbollah’s secretary-general and head of Hezbollah’s military organization; Ibrahim Akil, the head of Hezbollah’s security and intelligence service; and Mustapha Badreddine, Hezbollah’s counter-espionage chief. *Paris Intelligence Online* reported that after 2000, the program expanded with the dispatch of North Korean trainers to southern Lebanon where they instructed Hezbollah cadre in the development of extensive underground military facilities. (North Korea is believed to have extensive underground military installations inside North Korea.) This, according to the report, significantly improved Hezbollah’s ability to fight the Israelis during the 2006 Israel-Hezbollah war. Other reports, too, cited Hezbollah’s underground facilities as greatly enhancing Hezbollah’s capabilities in the 2006 war. These reports asserted that Hezbollah was able to hide many of its 1,000-1,500 rocket launchers underground; and thus, Israeli aerial surveillance had only limited effectiveness in locating the rocket launchers before Hezbollah fired rockets into Israel. When Israeli ground troops entered southern Lebanon, Hezbollah troops used networks of underground tunnels and bunkers to move from location to location and often to attack the Israelis from the rear. Deep underground bunkers also were found to have large storage rooms.<sup>49</sup>

Another report of the North Korea-Hezbollah relationship appeared in the South Korean newspaper, *JoongAng Ilbo*, in November 2007. The author of this report was

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<sup>48</sup> Hezbollah a North Korea-Type Guerrilla Force, Paris Intelligence Online, September 7, 2006. The publication is put out by the French Indigo Publications press group.

<sup>49</sup> Jonathan Finder, Israeli soldiers find a tenacious foe in Hezbollah, *Washington Post*, August 8, 2006, p. O1. Molly Moore, Israelis confront ‘new kind of war’; high-tech tactics fail to halt rocket fire, *Washington Post*, August 9, 2006, p. A11. Paul Moorcraft, Hezbollah rising; the surprising success of Iran’s client, *Washington Times*, August 15, 2006, p. A15.

Professor Moon Chung-in, a professor at South Korea's Yonsei University.<sup>50</sup> Professor Moon is a specialist on Korean security issues and is a close adviser to the South Korean government of President Roh Moo-hyun. This advisory role has given him access to the U.S. government and other foreign governments. He is well-known to American experts on Korean issues, and he has advocated policies to improve relations with North Korea. It is noteworthy that Professor Moon cited Mossad, the Israeli government's main intelligence agency, as the source of an assessment that "vital missile components" of Hezbollah missiles fired into Israel during the 2006 war came from North Korea. Dr. Moon stated that Mossad believes that the missiles with North Korean components were assembled in Iran and were transported to Hezbollah in Lebanon via Syria. According to Professor Moon, Mossad "partially blames North Korea" for the effectiveness of Hezbollah's missile strikes into Israel.

Reports of North Korean arms shipments to the Tamil Tigers appeared in the Japanese newspaper, *Sankei Shimbun*, in September 2007.<sup>51</sup> *Sankei Shimbun* is Japan's fifth largest national newspaper with a circulation of two million daily. It is considered to be right of center politically and generally is critical of North Korea. Two reports described several North Korean attempts in late 2006 through the spring of 2007 to smuggle conventional arms, including machine guns, automatic rifles, and anti-tank rocket launchers, to the Tamil Tigers in Sri Lanka. The Sri Lankan navy intercepted and attacked three North Korean ships carrying arms in October 2006, February 2007, and March 2007. It sunk two of the vessels, seized some of the North Korean arms, and may have captured several North Korean crewmen. *Sankei Shimbun* published photographs of the North Korean weapons it says were seized by the Sri Lankan navy. According to *Sankei Shimbun*, the Sri Lankan government filed an official protest with the North Korean government. U.S. intelligence agencies, using spy satellites, may have conveyed information about the North Korean ships to the Sri Lankan government, according to the reports.

Press reports in September 2006, February 2007, and March 2007 cited incidents of the Sri Lankan navy intercepting and attacking large, unidentified cargo ships, which, according to the Sri Lankan navy, were attempting to smuggle arms into Sri Lanka for the Tamil Tigers.<sup>52</sup> The Sri Lankan navy sighted four such ships with no flags or other indentifying markers — two on March 18, 2007. In each incident, the Sri Lankan navy contacted the ships, which gave false identifications and refused to allow a search. When the ships fired on Sri Lankan naval vessels, the navy attacked. The Sri Lankan navy claimed to have seized weapons aboard the ship

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<sup>50</sup> Moon Chung-in, The Syrian nuke connection, JoongAng Ilbo (internet version), November 26, 2007.

<sup>51</sup> Kubota Ruriko, DPRK plotted to export weapons to terrorist organ, *Sankei Shimbun* (internet version), September 26, 2007. Kubota, Ruriko, Busting of DPRK arms smuggling part of US psychological war aiming at weakening dictatorial regime, economic damage, *Sankei Shimbun* (internet version), September 26, 2007.

<sup>52</sup> See reports of Agence France Presse of September 19 and October 15, 2006, and February 28 and March 18, 2007. Also: Ranga Sirilal, Sri Lanka says sinks big rebel arms transport ship, Reuters News, February 27, 2007. Bharatha Mallawarachi, Sri Lankan navy destroys ships smuggling arms, attacks rebel flotilla, Associated Press, February 28, 2007. Lanka navy destroys two Tiger ships, The Press Trust of India Limited, March 18, 2007.

in the incident of February 28, 2007. However, neither the Sri Lankan navy nor the Sri Lankan government made public any subsequent information on the identity of the ships, the crewmen, or the origins of the weapons aboard the ships.

Moreover, the reported arms supply link between North Korea and the Tamil Tigers appears to be one of long duration. In 2000, the *Far Eastern Economic Review* reported that, according to foreign intelligence sources in Bangkok, the Tamil Tigers had received a sizeable portion of its weapons from North Korea.<sup>53</sup> In its *Patterns of Global Terrorism* reports for 2001, 2002, and 2003, the State Department cited evidence that North Korea had supplied arms to terrorist groups. *Patterns of Global Terrorism, 2002* stated that North Korea “has sold weapons to several terrorist groups.”

## Apparent Policy Options

North Korea and the United States failed to meet the target deadline of December 31, 2007, for completion of Phase Two of the February 2007 nuclear agreement. The Bush Administration reported substantial progress in reaching the goal of “disabling” the North Korean plutonium facilities at Yongbyon, but it contended that North Korea had not delivered a complete list of its nuclear programs. The North Korean Foreign Ministry stated on January 5, 2008, that it had given the United States a complete declaration of its nuclear programs. It accused the United States of delaying promised energy aid and of failing to fulfill its obligations to remove North Korea from the list of state sponsors of terrorism and from the sanctions provisions of the U.S. Trading with the Enemy Act.<sup>54</sup>

One possible U.S. policy response to this situation might be to give priority to completion of Phase Two of the February 2007 nuclear agreement and remove North Korea from the terrorism support list upon the completion of Phase Two. This appears to be the Bush Administration’s preferred option, based on statements by Administration officials that it will continue to seek implementation of Phase Two. North Korea could be kept on the lower-level list of “not fully cooperating countries,” or it could be placed on the informal “countries of concern” warning category. This would enable the Bush Administration to continue the February 2007 nuclear accord and enter a new phase of negotiations aimed at full dismantlement of North Korea’s nuclear weapons, materials, installations, etc. However, removal of North Korea would be controversial and likely would be criticized by some in the United States and Japan because of the Japanese kidnapping issue and reports that North Korea has provided arms and training to terrorist groups. This, in turn, could affect the utility of the U.S. list of state sponsors of terrorism in U.S. counterterrorism policy. This could put pressure on the Bush Administration to require that North Korea’s declaration of its nuclear programs contain a high level of details that would be more acceptable to potential critics.

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<sup>53</sup> Tigers buy North Korean arms, *Far Eastern Economic Review*, June 8, 2000, p. 12.

<sup>54</sup> Choe Sang-hun and Steven Lee Myers, North Korea says it met nuclear disclosure deadline in previous declaration, *New York Times*, January 5, 2008, p. A5.

A second potential policy response might be to proceed with removing North Korea from either the terrorism list or the Trading with the Enemy Act in reciprocity for North Korea allowing completion of the disablement of the Yongbyon nuclear facilities, but hold back on removing North Korea from the other until North Korea fulfills its obligation for a declaration of its nuclear programs. This would represent a 50% completion of Phase Two of the February 2007 nuclear agreement. It would allow the Bush Administration to point to progress in implementing the February 2007 accord even if the deadlock over the contents of the declaration produces a diplomatic stalemate for a period of time. It would make it easier from the Administration to justify a continuation of energy aid to North Korea. However, if the Administration chose to remove North Korea from the terrorism support list in exchange for disablement of Yongbyon, critics in the United States and Japan likely would argue that the Administration gained too little at the expense of alienating Japan and compromising the list of state sponsors of terrorism.

A third possible policy response might be to offer North Korea alternative benefits for completion of Phase Two but specify terrorism-related conditions, rather than nuclear-related conditions, that North Korea would have to fulfill continuously to realize removal from the terrorism support list. Terrorism-related conditions could require North Korea to take a “necessary first substantive step” toward resolving the kidnapping issue with Japan. They also could require a specific assurance that North Korea would cease any programs of military support for international terrorist groups. A third condition could be a cessation of North Korean military cooperation with other states on the terrorism support list — Iran and Syria. The danger in this option is that North Korea would reject alternative benefits (such as increased energy aid, renewed U.S. food aid, or increased diplomatic exchanges with the United States) and create another diplomatic stalemate on the nuclear issue. One advantage is that it likely would satisfy Japanese sentiment on the kidnapping issue. Moreover, it would link North Korea’s removal from the terrorism support list closer to North Korean activities in the Middle East (expanded missile cooperation and possibly nuclear cooperation with Iran and Syria and reported military support for Hezbollah facilitated by Iran).