

MEMORANDUM OF JUSTIFICATION FOR RESCISSION OF NORTH KOREA STATE SPONSOR OF TERRORISM DESIGNATION

North Korea was designated on January 20, 1988 as a state sponsor of terrorism, following the North Korean state's involvement in the bombing of a KAL passenger flight on November 29, 1987. After careful review and as described in this Justification, the President has decided that the record supports the statutorily required certification that the DPRK has not provided any support for acts of international terrorism during the preceding six-month period and has provided assurances that it will not provide support for acts of international terrorism in the future.

The President's certification to permit rescission of North Korea's designation as a state sponsor of terrorism represents the culmination of years of concerted effort and monitoring of North Korea's behavior by the United States.

Since 1998, the DPRK has taken a number of steps to distance itself from international terrorism. On August 13, 1998, following the August 7 bombings of the U.S. Embassies in Tanzania and Kenya, the DPRK expressed deep regret and stated that it had consistently opposed all sorts of terrorist acts and any support for them.

On October 6, 2000, the United States and the DPRK issued a joint statement noting that international terrorism poses an unacceptable threat to global security and peace, and that terrorism should be opposed in all its forms, including terrorist acts involving chemical, biological, or nuclear devices or materials. During the talks leading up to the statement, the DPRK affirmed that, as a matter of official policy and as its government had stated previously, it opposed all forms of terrorism against any country or individual. The DPRK noted that it was the responsibility of every UN member state to refrain from organizing, instigating, facilitating, financing, encouraging, or tolerating terrorist activities. In the Joint Statement the United States and the DPRK underscored their commitment to support the international legal regime combating international terrorism and to cooperate with each other in taking effective measures to fight against terrorism and shared the view that such measures included not providing material support or resources, including safe haven, to terrorists or terrorist groups, bringing

terrorists to justice, and fighting terrorist acts against the safety of civil aviation and maritime navigation.

On October 12, 2000, in a Joint Communiqué, the United States and the DPRK reiterated their October 6 agreement to support and encourage international efforts against terrorism.

On December 12, 2000, the DPRK voted in favor of the UNGA resolution on Measures to Eliminate Terrorism (Res 55/158).

On September 12, 2001, following the September 11 terrorist attacks on the United States, the DPRK issued a statement noting the graveness of terrorism and stating that, as a UN member, the DPRK's position of opposing all forms of terrorism and any support to it remained unchanged. On September 28, 2001, the UN Security Council, pursuant to its authorities under Chapter VII of the UN Charter, passed UNSC Resolution 1373, which is binding on all UN members.

In November and December of 2001, the DPRK acceded to the International Convention Against the Taking of Hostages and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

On October 14, 2002, the President of the Presidium of the DPRK's Supreme People's Assembly sent a message of sympathy to the President of the Republic of Indonesia, following the bomb attack in Bali, explicitly clarifying the DPRK's opposition to all forms of terrorism.

On May 15, 2003, Foreign Minister Paek Nam-sun sent a message to the Foreign Minister of Saudi Arabia following bombings in Riyadh expressing deep sympathy and saying that it was the consistent stand of the DPRK to oppose all sorts of terrorism.

On March 31, 2004, the Permanent Representative of the DPRK to the United Nations reported to the Security Council Committee established pursuant to UNSC Resolution 1267, that the DPRK has no relations at all with the Taliban and Al-Qaida or any other individuals, groups, undertakings and entities associated with them and is fully implementing the measures imposed in UNSC Resolution 1267 and related resolutions.

On September 8, 2006, the DPRK joined in the consensus adoption of the United Nations Global Counter-Terrorism Strategy (GA Res 60/288).

On November 8, 2007, following an incident in which the North Korean trading ship “Taehongdan” came under attack in waters off Somalia and the United States supplied assistance to the North Korean crewmen, the DPRK noted that it is its Government’s consistent principled position to oppose all forms of terrorism, that this incident served as a symbol of DPRK-U.S. cooperation in the struggle against terrorism, and that the DPRK will continue to render international cooperation in the struggle against terrorism.

Most recently, on June 10, 2008, the North Korean Government, through its Foreign Ministry, issued an authoritative and direct public statement and subsequently conveyed this to the United States Government. The statement is explicitly identified as having been issued on the authority of the central government. The DPRK released the statement to the international media through the Korean Central News Agency (KCNA) and to the domestic audience through Rodong Sinmun, the primary newspaper of the Korean Workers’ Party, as well as through broadcasts on domestic TV and radio. In the statement, the DPRK calls attention to the previous demonstrations of its opposition to international terrorism and concludes with the following:

“The DPRK fully supports the international community in its efforts to establish an international legal mechanism to combat terrorism and will actively cooperate with it in taking effective measures for it.

It will take active part in the international efforts to prevent substance, equipment and technology to be used for the production of nukes and biochemical and radioactive weapons from finding their ways to the terrorists and the organizations that support them and faithfully fulfill its duty in the field of non-proliferation as it committed itself in the statement of the Ministry of Foreign Affairs on October 3, 2006 and agreements made at the six-party talks.

Upon the authorization of the government, the DPRK Ministry of Foreign Affairs clarifies that the DPRK will firmly maintain its consistent stand of opposing all forms of terrorism and any support to it and fulfill its responsibility and duty in the struggle against terrorism as a dignified member of the United Nations, in the future, too.”

Japan also announced June 13, 2008 that North Korea has agreed to cooperate in handing over the remaining members of the Japanese Red Army involved in the hijacking of a Japan Airlines plane to North Korea in

1970. These assurances, and in particular that of June 10, 2008, satisfy the statutory requirement for rescission that the President certify to the Congress that the government concerned has provided assurances that it will not support acts of international terrorism in the future.

The current intelligence assessment satisfies the second statutory requirement for rescission. Following a review of all available information, we see no credible evidence at this time of ongoing support by the DPRK for international terrorism, and we assess that the current intelligence assessment, including the most recent assessment published May 21, 2008, provides a sufficient basis for certification by the President to Congress that North Korea has not provided any support for international terrorism during the preceding 6-month period. Our review of intelligence community assessments indicates there is no credible or sustained reporting at this time that supports allegations (including as cited in recent reports by the Congressional Research Service) that the DPRK has provided direct or witting support for Hezbollah, Tamil Tigers, or the Iranian Revolutionary Guard. Should we obtain credible evidence of current DPRK support for international terrorism at any time in the future, the Secretary could again designate the DPRK a state sponsor of terrorism.

Meanwhile, since August 2003 the DPRK has been engaged in the Six-Party Talks with the United States, Russia, the Republic of Korea, the Peoples Republic of China, and Japan, the goal of which is the verifiable denuclearization of the Korean Peninsula in a peaceful manner.

After several rounds of multilateral negotiations, the Six Parties agreed to the September 19, 2005, Joint Statement of the Fourth Round of the Six-Party Talks, in which the DPRK committed to abandoning all nuclear weapons and existing nuclear programs and returning at an early date, to the Treaty on the Non-Proliferation of Nuclear Weapons and to IAEA safeguards. The Six Parties also agreed to take coordinated steps to implement these commitments in a phased manner in line with the principle of “action for action.”

On February 13, 2007, the Six Parties agreed to “Initial Actions for the Implementation of Joint Statement,” in which the DPRK would shut down and seal its Yongbyon nuclear complex and invite back IAEA personnel to monitor and verify those actions. In July 2007, the DPRK shut down and

sealed the Yongbyon nuclear facility and invited back the IAEA to verify and monitor these activities.

In the October 3, 2007 agreement on “Second-Phase Actions for Implementation of the Joint Statement,” the DPRK agreed to disable all existing nuclear facilities, beginning with the Yongbyon nuclear facility and to provide a complete and correct declaration of all its nuclear programs. They also reaffirmed their commitment not to transfer nuclear materials, technology, or know-how.

Since November 2007, U.S. experts have been on the ground in Yongbyon overseeing the disablement of the three core facilities of the DPRK’s nuclear weapons program: the 5-MW(e) reactor, the fuel fabrication facility, and the reprocessing facility. Most of the agreed disablement tasks at these three facilities have been completed, including the removal of several key pieces of equipment at the reprocessing plant necessary for the separation of plutonium from spent fuel rods, and the disablement and removal of major pieces of equipment at the fuel fabrication plant. The discharge of spent fuel is more than half completed at the 5-MW(e) reactor. The North Koreans also intend to “disable” their fresh fuel rods, most likely by selling them to the ROK. With these actions, the DPRK’s ability to produce weapons-grade plutonium, the key ingredient in its nuclear weapons program, has been halted. Due to health, safety and verification concerns, the Parties agreed that the fuel discharge (consisting of approximately 8,000 rods in the reactor core) would need to continue even after these other tasks were completed. Other disablement tasks, including the destruction and removal of the interior structure of the cooling tower, have also been completed.

On June 26, 2008, the DPRK formally began to fulfill its declaration commitment, as called for in the October 3, 2007 agreement, by submitting what it characterizes as a complete and correct declaration of all its nuclear programs. The DPRK and the other parties to the Six-Party Talks have agreed in principle that the DPRK’s declaration will be subjected to a process of verification aimed at resolving any discrepancies and ensuring achievement of a declaration that is in fact complete and correct. During the 45-day Congressional review period, we will assess North Korean cooperation on agreements in the Six-Party Talks on verification principles, a verification protocol, and a monitoring mechanism for tracking Six Party obligations. We will also assess North Korea’s cooperation upon commencement of verification activities. Based on these assessments, we

will act accordingly. Prior to the formal submission of its declaration, the DPRK had provided the United States on May 9, 2008, with an initial tranche of nearly 19,000 pages of operating records from the 5-MW(e) reactor and the reprocessing facility at Yongbyon. The ongoing U.S. review of these documents has yielded data which will serve as a starting point for verifying the DPRK's declaration. Additional activities, however, such as access to sites, materials, personnel, and additional documentation, will be necessary as part of the comprehensive verification process we envision. The DPRK has agreed to cooperate in these verification activities.

As a part of the formal declaration, the DPRK also acknowledged our concerns related to its uranium enrichment activities and nuclear cooperation with Syria. It affirmed that there is no ongoing related activity, and it has provided assurances that it will not engage in such activities in the future. The DPRK has also agreed to provide additional explanations regarding its uranium and proliferation activities

Also within the context of the Six-Party Talks, the issue of the abduction of Japanese nationals in the 1970s and 80s by DPRK state entities is being addressed through bilateral discussions between Japan and the DPRK. On June 13, 2008 Japan announced that North Korea has agreed to look again into the abductions issue. North Korea's official KCNA news agency also said Pyongyang would reinvestigate the abduction issue.

The designation of the DPRK in 1988 as a state sponsor of terrorism put the world on notice that the DPRK's sponsorship of international terrorism would not be tolerated. Since 1998, the DPRK has distanced itself from international terrorism; it has not provided any support for international terrorism during the preceding six months; and it has provided assurances that it will not support acts of international terrorism in the future.

The DPRK Government has also assured us that it will take active part in the international efforts to prevent substance, equipment and technology from being used for the production of nuclear, biochemical, and radioactive weapons from finding their way to terrorists and the organizations that support them and faithfully fulfill its duty in the field of non-proliferation. The Government of the DPRK has also assured us that it does not support acts of international terrorism and will not support acts of terrorism in the future.

It is now 20 years since the DPRK was designated as a state sponsor of terrorism. The President's report to Congress certifying that the DPRK has not provided any support for acts of international terrorism during the preceding six-month period and has provided assurances that it will not provide support for acts of international terrorism in the future will permit the Secretary of State to rescind the DPRK's designation following the 45-day Congressional review period. Rescission in this case will strongly support the objectives of the state sponsor legislation and will demonstrate to the DPRK the benefits of turning away from practices that are anathema to the international community.