

## CONTEMPORARY PRACTICE OF THE UNITED STATES RELATING TO INTERNATIONAL LAW

EDITED BY JEAN GALBRAITH

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## GENERAL INTERNATIONAL AND U.S. FOREIGN RELATIONS LAW

*Tensions Rise Between the United States and North Korea*

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On November 29, 2017, North Korea test-fired a ballistic missile that North Korean officials claim can deliver a nuclear warhead to any city in the United States.<sup>1</sup> According to North Korea's leader Kim Jong Un, the missile launch "finally realised" the nation's ambition "of completing the state nuclear force, the cause of building a rocket power."<sup>2</sup> At the same time, U.S. officials have reiterated that "[t]he United States does not accept a nuclear North Korea."<sup>3</sup> As a result, North Korea's fast-expanding nuclear weapons program has exacerbated the already fraught relations between the two countries.

During the latter half of 2017, the two nations engaged in an escalating tit-for-tat exchange of military threats. On August 8, President Trump told reporters: "North Korea best not make any more threats to the United States. They will be met with fire and fury like the world has never seen."<sup>4</sup> The following day, North Korea revealed a strike plan to launch nuclear weapons at the American territory of Guam.<sup>5</sup> In September, during his address to the United Nations General Assembly, Trump said:

No one has shown more contempt for other nations and for the well-being of their own people than the depraved regime in North Korea. . . . [N]ow North Korea's reckless pursuit of nuclear weapons and ballistic missiles threatens the entire world with unthinkable loss of human life. . . . The United States has great strength and patience, but if it is forced to defend itself or its allies, we will have no choice but to totally destroy North Korea. Rocket Man is on a suicide mission for himself and for his regime. . . . It is time for North Korea to realize that the denuclearization is its only acceptable future.<sup>6</sup>

<sup>1</sup> See *Kim Jong Un Guides Test-fire of ICBM Hwasong-15*, KCNA.KP (EN.) (Nov. 29, 2017), at <https://kcna.watch.co/newstream/1511960471-567278968/kim-jong-un-guides-test-fire-of-icbm-hwasong-15>. The claim has been corroborated by independent experts. See Michael Elleman, *The New Hwasong-15 ICBM*, INT'L INST. STRATEGIC STUD. (Dec. 1, 2017), at <http://www.iiss.org/en/regions/north-s-korea/the-new-hwasong-15-icbm-243a> (calculating the missile "could deliver a moderately-sized nuclear weapon to any city on the US mainland").

<sup>2</sup> *North Korea Tests Its Most Powerful Missile Yet*, ECONOMIST (Nov. 29, 2017), at <https://www.economist.com/news/asia/21731796-rhetoric-accompanying-launch-was-relatively-muted-north-korea-tests-its-most-powerful>.

<sup>3</sup> U.S. Dep't of Def. Press Release, Jim Mattis, U.S. Sec'y of Def., Joint News Conference with Secretary Mattis and South Korean Defense Minister Song Young-moo in Seoul, South Korea (Oct. 27, 2017), at <https://www.defense.gov/News/Transcripts/Transcript-View/Article/1356752/joint-news-conference-with-secretary-mattis-and-south-korean-defense-minister-s> [<https://perma.cc/2C6G-K3GK>].

<sup>4</sup> Donald J. Trump, Remarks Prior to a Briefing on the Opioid Crisis and an Exchange with Reporters in Bedminster, New Jersey, 2017 DAILY COMP. PRES. DOC. 2 (Aug. 8, 2017).

<sup>5</sup> Julian Borger, *North Korea Details Guam Strike Plan and Calls Trump 'Bereft of Reason'*, GUARDIAN (Aug. 10, 2017), at <https://www.theguardian.com/world/2017/aug/10/north-korea-details-guam-strike-trump-load-of-nonsense>.

<sup>6</sup> Donald J. Trump, Remarks to the United Nations General Assembly in New York City, 2017 DAILY COMP. PRES. DOC. 3 (Sept. 19, 2017).

In response, North Korea's Foreign Minister called Trump's comments "a declaration of war" and claimed North Korea has the right to shoot down American military planes operating outside North Korea's airspace.<sup>7</sup>

As suggested by Trump's UN remarks above, the two nations' leaders have also exchanged a series of personal insults and rebukes. Following Trump's remarks at the United Nations, Kim Jong Un called Trump "a mentally deranged U.S. dotard."<sup>8</sup> Trump has repeatedly and disparagingly referred to Kim Jong Un as "Little Rocket Man."<sup>9</sup> Though the threats and insults have garnered substantial media coverage, little attention has been paid to whether they constitute an unlawful threat of force under Article 2(4) of the UN Charter.<sup>10</sup>

Several American allies have expressed concern at this brinkmanship. In August, New Zealand's Prime Minister Bill English called Trump's threats "not helpful when the situation is so tense."<sup>11</sup> The German Foreign Ministry tweeted "[s]abre-rattling won't help," and "call[ed] on all parties for moderation."<sup>12</sup> And in South Korea, newly-elected President Moon Jae-in said: "Only the Republic of Korea can make the decision for military action on the Korean Peninsula. Without the consent of the Republic of Korea, no country can determine to take military action."<sup>13</sup>

Though neither side has gone beyond rhetorical threats, the Trump administration has made clear that "all options are on the table" with respect to North Korea.<sup>14</sup> The possibility of the United States launching a "first strike" raises several contested legal issues, including (1) whether, given North Korea's rhetoric and nuclear capabilities, such a strike would be in self-defense under the familiar *Caroline* test; (2) relatedly, whether such a strike would put the United States in breach of Article 2(4) of the UN Charter; and (3) to what extent the president has constitutional authority to order the use of force against North Korea in the absence of congressional authorization.<sup>15</sup>

<sup>7</sup> Rick Gladstone & David E. Sanger, *North Korea Says It Has the Right to Shoot Down U.S. Warplanes*, N.Y. TIMES (Sept. 25, 2017), at <https://www.nytimes.com/2017/09/25/world/asia/trump-north-korea.html?ref=collection%2Fsectioncollection%2Fworld&r=0>.

<sup>8</sup> *Full Text of Kim Jong-un's Response to President Trump*, N.Y. TIMES (Sept. 22, 2017), at <https://www.nytimes.com/2017/09/22/world/asia/kim-jong-un-trump.html>.

<sup>9</sup> E.g., Donald J. Trump (@realDonaldTrump), TWITTER (Oct. 1, 2017, 7:30 AM), at <https://twitter.com/realDonaldTrump/status/914497877543735296>.

<sup>10</sup> See UN Charter Art. 2, para. 4 (providing that members "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations"); cf. Marco Roscini, *Threats of Armed Force and Contemporary International Law*, 54 NETH. INT'L L. REV. 229, 234–43 (2007) (analyzing what constitutes a threat of force for purposes of Article 2(4)).

<sup>11</sup> Nicholas Jones, *PM Bill English Says Trump Threats to North Korea 'Not Helpful'*, NZ HERALD (Aug. 9, 2017), at [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11900966](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11900966).

<sup>12</sup> German Foreign Office (@GermanyDiplo), TWITTER (Aug. 9, 2017, 8:29 AM), at [https://twitter.com/GermanyDiplo/status/895306146331860993?ref\\_src=twsrc%5Etfw&ref\\_url](https://twitter.com/GermanyDiplo/status/895306146331860993?ref_src=twsrc%5Etfw&ref_url).

<sup>13</sup> Moon Jae-in, Address by President Moon Jae-in on the 72nd Anniversary of Liberation (Aug. 15, 2017), available at <http://www.korea.net/Government/Briefing-Room/Presidential-Speeches/view?articleId=148552>.

<sup>14</sup> Donald J. Trump, Statement on North Korea's Launch of a Ballistic Missile Over Japan, 2017 DAILY COMP. PRES. DOC. 1 (Aug. 29, 2017); see also White House Press Release, Sarah Sanders, White House Press Sec'y, Press Briefing (Oct. 6, 2017), at <https://perma.cc/72ZT-YMGU> ("[A]ll options are on the table, as they have been.")

<sup>15</sup> For various views on these issues, see, e.g., Marty Lederman, *No, the President Cannot Strike North Korea Without Congressional Approval*, JUST SECURITY (Aug. 10, 2017), at <https://www.justsecurity.org/44056/no-president-strike-north-korea-congressional-approval> (arguing that a preemptive strike by the Trump administration would violate both international and domestic law); Monica Hakimi, *North Korea and the Law on Anticipatory*

More generally, the Trump administration has articulated a policy of “strategic accountability” aimed at “the complete, verifiable and irreversible denuclearization of the Korean Peninsula.”<sup>16</sup> According to Secretary of State Rex Tillerson and Secretary of Defense James Mattis, the policy entails working “with the support of the international community” to apply “diplomatic and economic pressure on North Korea.”<sup>17</sup> The policy is intended to replace what they describe as the earlier “failed policy of ‘strategic patience.’”<sup>18</sup>

The Trump administration has achieved some success in mobilizing the international community with respect to North Korea. On August 5, 2017, the UN Security Council unanimously adopted a resolution strengthening economic sanctions on North Korea.<sup>19</sup> Among other things, Resolution 2371 targets specific sectors of the North Korean economy—prohibiting the sale of coal, iron, iron ore, seafood, lead, and lead ore to other countries.<sup>20</sup> According to press reports, “China’s Commerce Ministry announced it would enforce the new rules passed by the United Nations Security Council as punishment for the North’s nuclear and missile tests” following requests by the Trump administration.<sup>21</sup>

After a North Korean nuclear test on September 2, the Security Council further tightened sanctions on September 11.<sup>22</sup> The Council voted unanimously in Resolution 2375 to impose what the U.S. Ambassador to the United Nations Nikki Haley called “massive sanctions” on North Korea<sup>23</sup>—including a ban on the sale of liquefied natural gas to the regime, a cap on oil exports to the country, and new sanctions on the country’s textile industry.<sup>24</sup> On December 22, the Security Council went further and unanimously adopted new, tougher sanctions on the North Korean regime.<sup>25</sup> Resolution 2397 largely prohibits the direct or indirect supply

*Self-Defense*, EJIL:Talk! (Mar. 28, 2017), at <https://www.ejiltalk.org/north-korea-and-the-law-on-anticipatory-self-defense> (suggesting that “the law on anticipatory self-defense is potentially in flux” and that “North Korea could present something of a test case”); Jack Goldsmith, *The Ease of Writing an OLC Opinion in Support of Military Action Against North Korea*, LAWFARE (Sept. 14, 2017), at <https://www.lawfareblog.com/ease-writing-olc-opinion-support-military-action-against-north-korea> (arguing that prior practice would allow executive branch lawyers to conclude “without much trouble” that the president can take military action against North Korea without congressional authorization).

<sup>16</sup> Jim Mattis & Rex Tillerson, *We’re Holding Pyongyang to Account*, WALL ST. J. (Aug. 14, 2017), at <https://www.wsj.com/articles/were-holding-pyongyang-to-account-1502660253> (also available at <https://www.state.gov/secretary/remarks/2017/08/273409.htm>).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See *Security Council Toughens Sanctions Against Democratic People’s Republic of Korea, Unanimously Adopting Resolution 2371 (2017)*, UNITED NATIONS (Aug. 5, 2017), at <https://www.un.org/press/en/2017/sc12945.doc.htm>.

<sup>20</sup> S.C. Res. 2371, paras. 8–10 (Aug. 5, 2017).

<sup>21</sup> Jane Perlez, *China’s Crackdown on North Korea Over U.N. Sanctions Starts to Pinch*, N.Y. TIMES (Aug. 16, 2017), at <https://www.nytimes.com/2017/08/16/world/asia/china-north-korea-seafood-exports.html?ref=todayspaper>.

<sup>22</sup> S.C. Res. 2375, para. 1 (Sept. 11, 2017).

<sup>23</sup> White House Press Release, Press Briefing by Press Secretary Sarah Sanders, Nat’l Security Advisor H.R. McMaster, and U.N. (Sept. 15, 2017), at <https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-national-security-advisor-h-r-mcmaster-u-n-ambassador-nikki-haley-091517> [<https://perma.cc/A9CP-QN5B>].

<sup>24</sup> S.C. Res. 2375, *supra* note 22, paras. 13–16.

<sup>25</sup> *Security Council Further Tightens Sanctions Against DPR Korea*, UNITED NATIONS (Dec. 22, 2017), at [http://www.un.org/apps/news/story.asp?NewsID=58345#.Wkv\\_FVQ-fu1](http://www.un.org/apps/news/story.asp?NewsID=58345#.Wkv_FVQ-fu1).

of crude oil, refined petroleum products, and other raw materials to North Korea.<sup>26</sup> Further, the Security Council directed states to inspect and seize ships that these states have reasonable grounds to believe are involved in transporting items prohibited by United Nations sanctions.<sup>27</sup> Finally, Resolution 2397 instructs states to repatriate North Korean nationals earning income abroad within the next two years.<sup>28</sup> North Korea called the most recent round of sanctions an “act of war.”<sup>29</sup>

The United States has also rallied nations to isolate North Korea diplomatically. In early October, the United States “secured a commitment from Sudan to stop buying arms from North Korea” as part of the process of lifting American sanctions on Khartoum.<sup>30</sup> Also in October, Italy became the fifth country—after Spain, Mexico, Peru, and Kuwait—to expel the North Korean ambassador this year.<sup>31</sup> Reports indicate that the Trump Administration has been “vigorously lobbying” governments to cut diplomatic relations with North Korea.<sup>32</sup> Indeed, the Trump administration allegedly issued a directive instructing diplomats to “bring up North Korea in virtually every conversation with foreign interlocutors and urge them to sever all ties with Pyongyang.”<sup>33</sup>

In addition to mobilizing the international community, the United States has also taken unilateral action to increase economic and diplomatic pressure on North Korea. Following North Korea’s test of a ballistic missile that overflew Japan on September 14, Trump issued an executive order on September 20 imposing additional sanctions on North Korea designed to cut the regime off from the international financial system.<sup>34</sup> The order authorizes the U.S. Treasury secretary to “prohibit the opening and prohibit or impose strict conditions on the maintenance of correspondent accounts or payable-through accounts in the United States” as well as to “block all property and interests in property that are in the United States” or that will “come within the United States” of any financial institution that is determined to have “knowingly conducted or facilitated any significant transaction in connection with trade with North Korea.”<sup>35</sup> The new sanctions enable the United States, according to Treasury

<sup>26</sup> S.C. Res. 2397, paras. 4–8 (Dec. 22, 2017) (identifying certain exceptions to the prohibitions, including an initial crude oil cap of four million barrels per year and refined petroleum cap of 500,000 barrels per year).

<sup>27</sup> *Id.*, para. 9.

<sup>28</sup> *Id.*, para. 8 (excepting dual citizens and North Korean nationals “whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, and the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations”).

<sup>29</sup> Russel Goldman, *North Korea Calls U.N. Sanctions an ‘Act of War,’* N.Y. TIMES (Dec. 24, 2017), at <https://www.nytimes.com/2017/12/24/world/asia/north-korea-un-sanctions.html>.

<sup>30</sup> Matina Stevis-Gridneff & Ian Talley, *U.S. to Ease Sanctions Against Sudan After It Cuts Ties with North Korea*, WALL ST. J. (Oct. 6, 2017), at <https://www.wsj.com/articles/u-s-to-ease-sanctions-against-sudan-1507311816>; see also Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 100 (2018).

<sup>31</sup> Anna Fifield, *Italy Becomes Fifth Country to Expel North Korean Ambassador*, WASH. POST (Oct. 1, 2017), at [https://www.washingtonpost.com/world/europe/italy-becomes-fifth-country-to-expel-north-korean-ambassador/2017/10/01/98785c14-a6ad-11e7-8ed2-c7114e6ac460\\_story.html?utm\\_term=.a70b7a0802d7](https://www.washingtonpost.com/world/europe/italy-becomes-fifth-country-to-expel-north-korean-ambassador/2017/10/01/98785c14-a6ad-11e7-8ed2-c7114e6ac460_story.html?utm_term=.a70b7a0802d7).

<sup>32</sup> *Id.*

<sup>33</sup> Karen DeYoung, Ellen Nakashima & Emily Rauhala, *Trump Signed Presidential Directive Ordering Actions to Pressure North Korea*, WASH. POST (Sept. 30, 2017), at [https://www.washingtonpost.com/world/national-security/trump-signed-presidential-directive-ordering-actions-to-pressure-north-korea/2017/09/30/97c6722a-a620-11e7-b14f-f41773cd5a14\\_story.html?utm\\_term=.e3a9c97b8d8de](https://www.washingtonpost.com/world/national-security/trump-signed-presidential-directive-ordering-actions-to-pressure-north-korea/2017/09/30/97c6722a-a620-11e7-b14f-f41773cd5a14_story.html?utm_term=.e3a9c97b8d8de).

<sup>34</sup> Exec. Order No. 13,810, 82 Fed. Reg. 44,705 (Sept. 20, 2017).

<sup>35</sup> *Id.* at 44,706–07.

Secretary Steven Mnuchin, “to freeze or block any transactions, with any financial institution, anywhere in the world that facilitates any transactions” with North Korea or North Korean officials.<sup>36</sup>

The Trump administration has also taken other, more symbolic action. Though almost no North Korean nationals travel to the United States,<sup>37</sup> Trump included North Korea in the third iteration of his travel ban, indefinitely suspending “entry into the United States of nationals of North Korea as immigrants and nonimmigrants.”<sup>38</sup> And on November 20, 2017, the Trump administration redesignated North Korea as a state sponsor of terrorism.<sup>39</sup> Though the practical effects of the designation are limited—state sponsors of terror are subject to a “range of sanctions,” such as a ban on American arms-related sales and exports, that are largely redundant with already existing sanctions on North Korea<sup>40</sup>—Trump claimed the “designation will impose further sanctions and penalties on North Korea and related persons, and supports our maximum pressure campaign to isolate the murderous regime . . . .”<sup>41</sup>

Even as the United States has taken steps to isolate North Korea economically and diplomatically, the U.S. State Department has kept lines of communication open with North Korean leadership. In late September, Tillerson revealed that the two nations were in direct communication.<sup>42</sup> On December 12, 2017, Tillerson asserted that the United States is “ready to talk anytime North Korea would like to talk.”<sup>43</sup> Although he initially suggested the United States would be willing to meet “without precondition[s],”<sup>44</sup> Tillerson struck a tougher tone a few days later, insisting “a sustained cessation of North Korea’s threatening behavior must occur before talks can begin. North Korea must earn its way back to the table.”<sup>45</sup>

<sup>36</sup> White House Press Release, Steven Mnuchin, U.S. Treas. Sec’y, Press Briefing (Sept. 21, 2017), at <https://www.whitehouse.gov/briefings-statements/press-briefing-treasury-secretary-steven-mnuchin-092117> [<https://perma.cc/Z7N5-DJ92>]. On September 26, 2017, the U.S. Treasury Department used its authority pursuant to Executive Order 13,810 to sanction “eight North Korean banks and 26 individuals linked to North Korean financial networks.” U.S. Dep’t of Treas. Press Release, Treasury Sanctions Banks and Representatives Linked to North Korean Financial Networks (Sept. 26, 2017), at <https://www.treasury.gov/press-center/press-releases/Pages/sm0165.aspx> [<https://perma.cc/7KE6-CX4G>].

<sup>37</sup> Emily Rauhala, *Almost No North Koreans Travel to the U.S., So Why Ban Them?*, WASH. POST (Sept. 25, 2017), at [https://www.washingtonpost.com/world/almost-no-north-koreans-travel-to-the-us-so-why-ban-them/2017/09/25/822ac340-a19c-11e7-8c37-e1d99ad6aa22\\_story.html?utm\\_term=.16a96eae3d3](https://www.washingtonpost.com/world/almost-no-north-koreans-travel-to-the-us-so-why-ban-them/2017/09/25/822ac340-a19c-11e7-8c37-e1d99ad6aa22_story.html?utm_term=.16a96eae3d3).

<sup>38</sup> Proclamation No. 9645, 82 Fed. Reg. 45,161, 45,166 (Sept. 24, 2017); Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 109 (2018).

<sup>39</sup> U.S. Dep’t of State, *State Sponsors of Terrorism*, at <https://www.state.gov/j/ct/list/c14151.htm> [<https://perma.cc/EL9U-RHGP>]. North Korea had been previously designated a state sponsor of terrorism, but that designation ended in 2008. See John R. Crook, *Contemporary Practice of the United States*, 103 AJIL 164 (2009).

<sup>40</sup> See U.S. DEP’T OF STATE, BUREAU OF COUNTERTERRORISM AND COUNTERING VIOLENT EXTREMISM, COUNTRY REPORTS ON TERRORISM 2016, at ch. 3 (2016), available at <https://www.state.gov/documents/organization/272488.pdf> [<https://perma.cc/JV22-HW5G>].

<sup>41</sup> Donald J. Trump, Remarks Prior to a Cabinet Meeting, 2017 DAILY COMP. PRES. DOC. 1 (Nov. 20, 2017).

<sup>42</sup> U.S. Dep’t of State Press Release, Rex W. Tillerson, U.S. Sec’y of State, Remarks at a Press Roundtable (Sept. 30, 2017), at <https://www.state.gov/secretary/remarks/2017/09/274563.htm> [<https://perma.cc/57Z8-3AVX>].

<sup>43</sup> U.S. Dep’t of State Press Release, Rex W. Tillerson, U.S. Sec’y of State, On Meeting the Foreign Policy Challenges of 2017 and Beyond (Dec. 12, 2017), at <https://www.state.gov/secretary/remarks/2017/12/276570.htm> [<https://perma.cc/H4QE-MEWT>].

<sup>44</sup> *Id.*

<sup>45</sup> U.S. Dep’t of State Press Release, Rex W. Tillerson, U.S. Sec’y of State, Remarks at the UN Security Council Ministerial Meeting on D.P.R.K. (Dec. 15, 2017), at <https://www.state.gov/secretary/remarks/2017/12/276627.htm> [<https://perma.cc/R7VS-SCXC>].

The White House has expressed greater skepticism about the prospects of negotiating with Pyongyang. Referring to the Secretary of State's remarks in late September, Trump tweeted that Tillerson "is wasting his time trying to negotiate with Little Rocket Man."<sup>46</sup> And in December, the White House issued a statement distancing itself from Tillerson's initial offer to meet with North Korea "without precondition," saying: "The President's views on North Korea have not changed."<sup>47</sup>

GENERAL INTERNATIONAL AND U.S. FOREIGN RELATIONS LAW

*United States Lifts Economic Sanctions on Sudan*

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Effective October 12, 2017, the United States lifted a number of long-standing sanctions on Sudan. This decision reflects the U.S. view that Sudan has made "sustained positive actions" with respect to ongoing conflicts, humanitarian access, and cooperation with the United States.<sup>1</sup>

The sanctions on Sudan began in 1997. In Executive Order 13,067, President Clinton stated:

[T]he policies and actions of the Government of Sudan, including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States . . . .<sup>2</sup>

This order blocked the Sudanese government from retrieving any of its property in the United States and largely prohibited the trade of goods and other transactions between Sudan and the United States.<sup>3</sup>

In April 2006, President George W. Bush issued Executive Order 13,400 to expand the sanctions imposed by Clinton due to "the persistence of violence in Sudan's Darfur region."<sup>4</sup> This action came just over a year after Resolution 1591 of the UN Security Council, which imposed targeted sanctions on individuals who contributed in various ways to the conflict in

<sup>46</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Oct. 1, 2017, 7:30 AM), at <https://twitter.com/realDonaldTrump/status/914497877543735296>.

<sup>47</sup> Adam Taylor, *3 Big Questions About North Korea and No-Precondition Talks*, WASH. POST (Dec. 13, 2017), at [https://www.washingtonpost.com/news/worldviews/wp/2017/12/13/3-big-questions-about-north-korea-and-no-precondition-talks/?utm\\_term=.90926c0bd714](https://www.washingtonpost.com/news/worldviews/wp/2017/12/13/3-big-questions-about-north-korea-and-no-precondition-talks/?utm_term=.90926c0bd714).

<sup>1</sup> U.S. Dep't of State Press Release, *Sanctions Revoked Following Sustained Positive Action by the Government of Sudan* (Oct. 6, 2017), at <https://www.state.gov/r/pa/prs/ps/2017/10/274659.htm> [<https://perma.cc/YU73-S3R8>] [hereinafter Oct. 6 Press Release].

<sup>2</sup> Exec. Order No. 13,067, 62 Fed. Reg. 59,989 (Nov. 3, 1997) (generally citing the International Emergency Economic Powers Act and the National Emergencies Act as sources of presidential authority to impose sanctions).

<sup>3</sup> *Id.*

<sup>4</sup> Exec. Order No. 13,400, 71 Fed. Reg. 25,483 (Apr. 26, 2006).