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November 7, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Trump:

I am deeply troubled by reports that the U.S. government is barring American aid groups from shipping supplies or traveling to North Korea as they seek to provide the most basic humanitarian assistance. Although I firmly believe that the United States and others must maintain strong pressure on the regime of Kim Jong Un for its illicit nuclear weapons program and egregious human rights abuses, we must not let the selfless work of these organizations become collateral damage. Therefore, I respectfully request that you explain the rationale behind the apparent tightening of restrictions on basic aid.

I applaud your decision to engage in direct talks with the North Korean government. We cannot successfully address the threats posed by its nuclear weapons program without dialogue. And although I support maintaining strong and simultaneous pressure on the regime, I am very concerned about reports that the U.S. government has decided to curtail the number of American non-governmental organizations (NGOs) able to conduct humanitarian assistance work in North Korea.¹

In 2017, following the detainment and death of Otto Warmbier at the hands of the North Korean government, the State Department banned the travel of American citizens to North Korea. Despite the ban, the Department allowed exemptions, including for those with a “compelling humanitarian justification,” through the provision of special validation passports.²

¹ Edward Wong, *U.S. Bars American Aid Groups From Traveling to North Korea*, N.Y. Times (Oct. 17, 2018), <https://www.nytimes.com/2018/10/17/world/asia/north-korea-trump-administration-ban.html?action=click&module=Associated&pgtype=Article®ion=Footer&contentCollection=The%20Trump%20White%20House>; Jonathan Cheng, *U.S. Blocks Aid Workers From North Korea*, Wall Street Journal (Oct. 11, 2018), <https://www.wsj.com/articles/u-s-blocks-aid-workers-from-north-korea-1539288182>.

² <https://travel.state.gov/content/travel/en/passports/requirements/passport-for-travel-to-north-korea.html>

Additionally, the Treasury Department has made the process of implementing effective and well-monitored humanitarian aid programs so onerous as to effectively outlaw the practice. The Department now requires a process so complicated, costly, and time-consuming that groups are reporting that simple tasks now take months and require legal counsel to carry out.

Unfortunately, the humanitarian situation in North Korea is far too dire for these draconian policies. The United Nations estimates that 60,000 children are at risk of starvation, and cases of drug-resistant tuberculosis — if left untreated — threaten to spread with devastating effect throughout the country and potentially into neighboring states. So, it is incumbent upon the United States to have both a true moral compass and a nuanced understanding of U.S. foreign policy and national security interests. Americans who are compelled by their faith or their conscience to provide assistance to those in dire need should not be unduly impeded by their government.

After all, these regulations create barriers that are at odds with legislation passed by Congress and signed into law. In both the North Korea Sanctions and Policy Enhancement Act of 2016³ and the Countering America's Adversaries through Sanctions Act,⁴ Congress made clear its intent that humanitarian assistance should not be prohibited. Indeed, in the North Korea Sanctions and Policy Enhancement Act of 2016, Congress expressly found that, "[i]n order to achieve the peaceful disarmament of North Korea . . . it is necessary . . . to enforce sanctions in a manner that does not significantly hinder or delay the efforts of legitimate United States or foreign humanitarian organizations from providing assistance to meet the needs of civilians facing humanitarian crisis, including access to food, health care, shelter, and clean drinking water, to prevent or alleviate human suffering."⁵

Furthermore, restrictions on humanitarian aid are inconsistent with the U.S. government's obligations under international law, including U.N. Security Council Resolution 2397, which reaffirmed that the U.N. sanctions regime is "not intended to have adverse humanitarian consequences for the civilian population of the DPRK or . . . the work of international and non-governmental organizations carrying out assistance and relief activities."

To better understand your administration's policies on these issues, I respectfully request your response to the following questions by November 12, 2018:

1. Has the U.S. government made a deliberate decision to restrict the scope and number of humanitarian exemptions to the North Korea travel ban?
 - a. If so, what is the rationale for such a change in policy?

³ Pub. L. No. 114-122, 130 Stat. 93 (2016).

⁴ Pub. L. No. 115-44, 113 Stat. 886 (2017).

⁵ 22 U.S.C. § 9211.

- b. Is the reduction a part of the administration's "maximum pressure" policy? If so, can you explain why the administration deems it necessary to restrict travel that heretofore has been permitted?
 - c. Was any decision to limit the scope and number of travel exemptions tied to any recent change in the assessed risk of humanitarian travel to North Korea?
 - d. Which U.S. government agencies were involved in policy decisions to restrict the scope and number of humanitarian exemptions?
2. Has the U.S. government made a deliberate decision to restrict the ability of American NGOs to ship food and medical aid to North Korea?
 - a. If so, what is the rationale for such a change in policy?
 - b. Is the reduction a part of the administration's "maximum pressure" policy? If so, can you explain why the provision of modest amounts of humanitarian assistance for the most vulnerable North Korean citizens helps the United States gain leverage in the negotiations over North Korea's nuclear weapons program?
3. Has the U.S. government been urging the 1718 Committee to restrict the number and scope of exemptions granted to facilitate the shipment of humanitarian assistance to North Korea?
4. Is the U.S. government providing to aid organizations a thorough explanation for the denial of their applications for any type of humanitarian exemption? If not, why not?
 - a. Is there an appeals process for those who have been denied? If not, why not?
5. Has the administration conducted an assessment of the risks of diseases, like TB, spreading in North Korea and to neighboring countries, if the U.S. restrictions on humanitarian assistance continued? If not, why not? If so, which offices conducted the assessment and what were the results?
 - a. Has the administration shared any results with the South Korean and Chinese governments?

Thank you for your attention to this urgent matter.

Sincerely,



Edward J. Markey
United States Senator

President Donald J. Trump

November 7, 2018

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CC: The Honorable Mike Pompeo

CC: The Honorable Steve Mnuchin