

# **NORTH KOREA: GETTING BACK TO TALKS**

Asia Report N°169 – 18 June 2009

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## NORTH KOREA: GETTING BACK TO TALKS

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

The motivations for North Korea's second nuclear test are, as with many of its actions, mostly impenetrable. It may be the latest step in an unrelenting drive to become a permanent nuclear state or it could be advertising nuclear wares to potential buyers. It may be driving up the price others will pay for the North to give up its weapons or it might be about ensuring that the military will accept whatever decision Kim Jong-il has made on his successor. Most likely, North Korea's nuclear weapons program serves multiple purposes for the leadership. Whatever the rationale, there are no good options in response. Finding a way to resume talks on ending the nuclear program may appear to reward Pyongyang's bad behaviour, but diplomacy is still the least bad option. At the same time, the UN Security Council's strong and united condemnation of the test in Resolution 1874 must be enforced, while containment of proliferation and deterrence of North Korean provocations need to be boosted.

Getting the North Koreans back to the table may not be easy; not only have they tested nuclear explosive devices and missiles, but they have said that the Six-Party Talks are dead, they will no longer respect the Korean War armistice, and any sanctions imposed by the UN will be treated as a declaration of war. Much of this is the normal overheated rhetoric that Pyongyang often produces, but it would be a mistake to put the issue on the back burner. Getting North Korea back to talks will require significant changes in the way the portfolio is handled in Washington, including a high-level approach by the U.S., if and when there appears to be a prospect, however uncertain, that the North is willing to engage seriously.

The trip to key capitals undertaken in the first week of June by Deputy Secretary of State James Steinberg and Special Representative for North Korea Policy Ambassador Stephen Bosworth suggests Washington may be seriously reviewing its assessments of Pyongyang's objectives and its own alternatives. The need to do so was underlined on 8 June, when the North, in another provocative action, sentenced two U.S. journalists it had detained in its border area three months earlier to twelve years hard labour.

The temptation will be to punish North Korea with mostly ineffectual multilateral sanctions and then wait for the crisis to blow over, but there are good reasons to take up the challenge now:

- ❑ A likely succession in North Korea could unleash instability, or it could result in a much more belligerent or isolated military regime. The transfer of power after Kim Jong-il is far less clear than when his father died in 1994.
- ❑ An isolated North Korea under sanctions will be more, not less, likely to sell weapons or technology for hard currency. Given that its clients have been in the Middle East and South Asia, this is likely to create further problems in highly insecure areas.
- ❑ The nuclear test may have narrowed the cracks that were appearing among the countries in the Six-Party Talks, with China and Russia more likely to press the North on coming to an agreement.
- ❑ The longer the issue is left to fester, the greater the strains on the alliances, the risk to the balances that have kept the peace in North East Asia for decades, the advances the North will make in developing warheads and missiles and the likelihood proliferation will occur.

The Six-Party Talks faltered in December 2008 on issues of sequencing and verification. These issues can be resolved, and the talks need to resume and address them. But a bolder approach is also needed that will be less likely to become enmeshed in the bilateral concerns that participants have with the North. While still preserving the Six-Party framework, not least because of its potential utility as a mechanism for addressing North East Asian security issues more generally, the U.S. needs to talk to Pyongyang directly at the highest levels. At best this could result in a deal; at worst it might shed some light on North Korea's motivations and aspirations. High-level engagement may seem to be rewarding bad behaviour, but it is also the only way any agreement is likely to be reached.

While any direct bilateral talks should continue the “actions for actions” model established in the multi-lateral forum, a U.S. negotiator should not be entirely limited by that approach. The views of North Korea’s leadership, both military and civilian, are shaped by the Korean War and by a deep insecurity about the U.S. in particular and the outside world in general. Assuaging that insecurity by formally ending the Korean War, establishing liaison offices and eventually diplomatic relations and providing greater humanitarian aid would cost little but would build significant confidence. Bilateral contacts in the realm of education, sports, arts and sciences would also be helpful.

The U.S. administration needs to avoid the pitfalls of its predecessors. Interminable battles over policy, with the hesitations and mixed signals they produce, will only undermine diplomacy. Putting implementation on hold while waiting for North Korea to collapse has always been a mistake. Any strategy will need to be sold to Congress but not at the price of giving any primacy to a military response. It needs to coordinate closely with Japan and South Korea, but it must also persuade its allies that solely bilateral concerns cannot be allowed to hold up the key issue of North Korea’s denuclearisation. While diplomacy needs to be backed up by the most effective possible deterrence and containment, it is still the best option.

This Policy Report is published simultaneously with two Crisis Group Background Reports, *North Korea’s Nuclear and Missile Programs* and *North Korea’s Chemical and Biological Weapons Programs*<sup>1</sup> and should be read in conjunction with them.

## RECOMMENDATIONS

### To the Government of the Democratic People’s Republic of Korea:

1. Return to the Six-Party Talks, implement commitments under the Six-Party “Statement of Principles”, and specifically allow inspectors from the International Atomic Energy Agency (IAEA) and other Six-Party participants to verify its nuclear declaration submitted in June 2008.
2. Implement commitments under the 1992 Joint Declaration on the Denuclearisation of the Korean Peninsula, which prohibits the production or pos-

session of nuclear weapons, the enrichment of uranium, and the reprocessing of spent reactor fuel.

3. Abide by UN Security Council Resolutions 1695, 1718 and 1874, which demand that the DPRK not conduct another nuclear test or ballistic missile test and return to the Nuclear Non-Proliferation Treaty (NPT) and IAEA safeguards.

### To the Government of the United States:

4. Be prepared, if and when there appears a prospect, however uncertain, of engaging seriously (and after consulting with China, Russia, Japan and South Korea), to send a high-level special envoy to Pyongyang, to discuss how to break the deadlock in the Six-Party Talks in a way that alleviates the security concerns of both North Korea and the international community.
5. Improve coordination in the Six-Party process by revitalising the Trilateral Coordination and Oversight Group, which has languished in recent years.
6. Maintain a strong policy of deterrence and stepped up containment, and encourage China, Russia, Japan and South Korea to do likewise.
7. Reconsider, with South Korea, so as to reinforce the deterrence and containment message, the termination of the U.S.-South Korea Combined Forces Command scheduled for April 2012.
8. Give strong weight in the current Nuclear Posture Review to the impact of a clear change in U.S. doctrine – to “no first use”, or at least a declaration that the only role of nuclear weapons is to deter others using them – in undermining the DPRK argument that it needs a nuclear deterrent.

### To the Government of the Republic of Korea:

9. Maintain the separation of humanitarian assistance and denuclearisation in inter-Korean relations.
10. Deploy limited missile defence, but refrain from joining a fully integrated regional missile defence system with Japan and the U.S. unless diplomacy fails.

### To the Government of the People’s Republic of China:

11. Press Pyongyang by all available diplomatic means to accept and engage seriously with a high-level U.S. special envoy, return to the Six-Party Talks, implement its previous commitments and abide by relevant Security Council resolutions.

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<sup>1</sup> Crisis Group Asia Report N°168, *North Korea’s Nuclear and Missile Programs*, 18 June 2009; Crisis Group Asia Report N°167, *North Korea’s Chemical and Biological Weapons Programs*, 18 June 2009.

12. Consider suspending the “Treaty on Friendship, Cooperation and Mutual Assistance between China and the DPRK” until North Korea returns to the Six-Party Talks.

**To the Government of Japan:**

13. Separate the issues of denuclearisation and North Korean abductions of Japanese citizens and be prepared to restart cooperation on humanitarian aid and fuel supplies.

**To the Government of the Russian Federation:**

14. Provide technical expertise if needed to verify the DPRK’s nuclear declaration.

**Seoul/Brussels, 18 June 2009**

## NORTH KOREA: GETTING BACK TO TALKS

### I. INTRODUCTION

Tensions have been rising with North Korea since the Six-Party Talks on ending its nuclear program broke down in December 2008. A series of provocative steps and a rise in rhetorical temperature culminated in the testing of a nuclear device on 25 May 2009. That step has brought North Korea back to where it likes to be – the centre of attention of the world’s major powers. As distasteful as it may be to indulge Pyongyang’s behaviour, the risks of the use of nuclear weapons, the proliferation of technology or fissile material and the potential for an arms race in North East Asia all mean that the issue demands urgent attention.

This paper examines ways to balance, on the one hand, the need to respond to the provocation through the UN Security Council (as was done with the strong Resolution 1874, adopted unanimously on 12 June 2009), and on the other hand, the need to get back to talks with North Korea to find a way to continue the slow process of ending its nuclear weapons program in a complete and irreversible manner. It also examines ways in which the Obama administration can avoid some of the pitfalls of its predecessor’s approach to North Korea. Better policy coordination in Washington and with allies will be essential to get the process back on track. More and better channels of communication need to be opened with the North in line with the view of the new administration that talking is not a reward in itself.

It is almost impossible to divine North Korea’s intentions. Its domestic politics are opaque, and yet they are probably what drive most of its decisions in regard to security and international relations. This report is based on open source material and internal government documents obtained by Crisis Group, as well as interviews with officials and analysts from around North East Asia and the U.S. Where officials have made off-the-record comments, efforts have been made to verify the information from other sources. It should be read in conjunction with two simultaneously published background reports: *North Korea’s Nuclear and Missile Programs* and *North Korea’s Chemical and Biological Weapons Programs*.<sup>2</sup>

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<sup>2</sup> Ibid.

## II. RECENT DEVELOPMENTS

### A. IMPLEMENTING THE 2007 AGREEMENTS

On 13 February 2007, the participants in the Six-Party Talks reached an outline agreement for implementation of the September 2005 “Statement of Principles” aimed at ending North Korea’s nuclear programs. Pyongyang agreed to disable and dismantle its Yŏngbyŏn nuclear plants and re-admit inspectors from the International Atomic Energy Agency (IAEA). A subsequent agreement on 3 October 2007 committed the North to complete the disablement by the end of that year. Under the agreement:

- ❑ the DPRK<sup>3</sup> agreed to provide a complete and correct declaration of all its nuclear programs;
- ❑ the DPRK agreed to disable its 5MW(e) nuclear reactor, reprocessing plant and fuel rod fabrication plant;
- ❑ the DPRK committed not to transfer nuclear materials, technology, or know-how;
- ❑ the U.S. reaffirmed intent to fulfil its commitments to remove its designation of the DPRK as a state sponsor of terrorism and to terminate the application of its Trading with the Enemy Act (TWEA) with respect to the DPRK;
- ❑ the U.S. actions related to the terrorism designation and TWEA application depended on the DPRK fulfilling its second-phase commitments to provide a nuclear declaration and disable its nuclear facilities;
- ❑ the DPRK and Japan agreed to make “sincere efforts” to normalise their relations; and
- ❑ the other parties reaffirmed their commitment to providing the DPRK with one million tons of heavy fuel oil (HFO), inclusive of the 100,000 metric tons that already had been delivered.<sup>4</sup>

The 31 December 2007 second-phase deadline was unrealistic, since two difficult obstacles had to be overcome: Pyongyang’s submission of its nuclear declaration; and Washington’s lifting of the TWEA sanctions and removal of the DPRK from the State Department’s terrorism list. The sequencing of these actions was contentious, and they had to be coordinated with the delivery of fuel oil as well as the North’s disablement measures in Yŏngbyŏn.

<sup>3</sup>The Democratic People’s Republic of Korea (North Korea).

<sup>4</sup>“Six Parties October 3, 2007 Agreement on ‘Second-Phase Actions for the Implementation of the Joint Statement’”, 3 October 2007.

### B. TENSIONS BUILD

On 26 June 2008, North Korea submitted a declaration of its nuclear programs to China, which has served as the host of the talks, but Washington insisted that a verification protocol for the declaration was necessary before Pyongyang could be removed from the terrorism list. The North disagreed and slowed down the disablement work in protest.

The nuclear declaration has not been made public but is reportedly in English and about 60 pages long.<sup>5</sup> Media reports have said it did not meet U.S. expectations and does not include information about nuclear weapons or nuclear weapons facilities.<sup>6</sup> The declaration addresses the plutonium program, and the DPRK has acknowledged U.S. concerns over uranium enrichment activities and nuclear proliferation in a separate two-page “confidential minute” provided to Washington in April 2008.<sup>7</sup> The declaration does not include information related to weaponisation, and several nuclear facilities have been omitted.<sup>8</sup> In January 2009, North Korean officials said the declaration includes 30.8kg of plutonium, enough for about five to seven bombs, but that the plutonium has now been weaponised.<sup>9</sup> The 30.8kg figure is on the lower end of the DPRK’s estimated plutonium inventory but is plausible. North Korea’s total plutonium stockpile depends on the past operation of its nuclear reactor and the efficiency of its reprocessing operations.

During September 2008, North Korea increased pressure by threatening to reverse the disablement work and reactivate its nuclear reactor. On 22 September, it asked IAEA monitors to remove surveillance cameras and seals that had been installed in July 2007 under the first phase of denuclearisation.<sup>10</sup> Around the same

<sup>5</sup>“N. Korea destroys nuclear reactor tower”, CNN, 27 June 2008; “Analysis: long-awaited nuclear papers from North Korea answer few questions, raise others”, Associated Press, 27 June 2008.

<sup>6</sup>Ibid; Crisis Group interviews, Seoul.

<sup>7</sup>Christopher R. Hill, “North Korean Six-Party Talks and Implementation Activities: Statement before the Senate Committee on Armed Services”, 31 July 2008; “Analysis”, Associated Press, op. cit.

<sup>8</sup>Crisis Group interviews, Seoul.

<sup>9</sup>Chris Buckley, “N. Korea says plutonium ‘weaponised’ and off-limits”, Reuters, 17 January 2009.

<sup>10</sup>Mark Heinrich, “ElBaradei says N. Korea asks UN to back off from nuclear site”, Reuters, 22 September 2008; 이상민 (Yi Sang-min), “北 핵시설 중단…한반도 핵경고등 1 단계 OFF” [“North’s nuclear facilities shut down ... first step of Korean Peninsula nuclear warning is OFF”], *Segye Ilbo*, 16 July 2007.

time, activities were also noted at the site of the 2006 nuclear test, although it was unclear whether preparations for another were underway.<sup>11</sup>

Christopher Hill, at the time still the U.S. special negotiator, visited Pyongyang from 1-3 October 2008 and reached a vague verification agreement with the foreign ministry.<sup>12</sup> U.S. negotiators carried a detailed list of verification measures, but North Korea refused to allow environmental sampling and the removal of samples from the country, as well as other intrusive activities. The two sides ultimately agreed to ambiguous diplomatic language that referred to “scientific principles”, but the two sides have not been able to agree on what these encompass, or where the verification activities could be applied. The U.S. claims there was agreement that verification would be applied comprehensively to “the plutonium-based program and any uranium enrichment and proliferation activities”. Interestingly, the State Department’s Bureau of Verification and Compliance did not accompany Hill to Pyongyang and take part in the negotiations.<sup>13</sup>

Washington relented on 11 October, and the Bush administration declared it would remove the DPRK from the terrorism list. The following day, the DPRK foreign ministry announced that North Korea would resume disablement work, which continued into early 2009.<sup>14</sup>

### C. THE TALKS BREAK DOWN

The delegations to the Six-Party Talks convened in Beijing 8-11 December 2008 to discuss implementation of the “Statement of Principles”, focusing on three issues: implementation of the second phase of North Korean denuclearisation (disablement) and commitments of the parties, including energy assistance to North Korea; verification of the denuclearisation of the Korean peninsula; and principles on peace and security in North East Asia.

The North Korean delegation reportedly was very uncooperative during the talks and unwilling to compromise. Ambassador Kim Sook, former head of the South Korean delegation, believes there was a serious misunderstanding between Washington and Pyongyang over the interpretation of the written agreement that was reached during the October 2008 bilateral negotiations. Kim claimed several core elements of verification had to be resolved, including the meaning of “scientific procedures”, which the U.S. inserted into the draft in lieu of specific activities that North Korean negotiators found objectionable.<sup>15</sup>

The talks were expected to slow down with the change of administration in Washington. It is unclear whether the parties would otherwise have been able to resolve the impasse over verification, but it was recognised that the Obama administration would need months to make key appointments and carry out a review of policy on North Korea. However, North Korea’s own domestic politics may have affected the December talks in the wake of Kim Jong-il’s rumoured stroke in August 2008. Succession plans, now coming to light, may have begun in earnest when Pyongyang began to take a hard line in the talks.

### D. ESCALATING TO A NUCLEAR TEST

In late January 2009, Kim Jong-il told a visiting Chinese Communist Party official that the DPRK was committed to a nuclear-free Korean peninsula, and he was waiting to see the policies of the new U.S. administration.<sup>16</sup> Despite repeated offers by that administration to engage in both bilateral and multilateral dialogue, however, the North remained silent until May, when state media began to describe the U.S. as maintaining the “hostile policy of the past” and “stepping it up in a more cunning manner”.<sup>17</sup>

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<sup>11</sup> Jin Dae-woong, “N Korea repairing nuke reactor”, *The Korea Herald*, 2 October 2008; Choe Sang-hun and Helene Cooper, “U.S. official prolongs N. Korea talks”, *The New York Times*, 2 October 2008.

<sup>12</sup> Glenn Kessler, “U.S. drops North Korea from terrorism list”, *The Washington Post*, 12 October 2008.

<sup>13</sup> Lee Chi-dong, “sampling core part of verification deal with N Korea: US official”, Yonhap News Agency, 1 December 2008.

<sup>14</sup> “Foreign ministry spokesman on DPRK’s will to cooperate in verification of objects of nuclear disablement”, Korean Central News Agency (KCNA), 12 October 2008; “IAEA to resume monitoring of N. Korea denuclearisation”, *The Chosun Ilbo*, 15 October 2008.

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<sup>15</sup> Crisis Group interview, Ambassador Kim Sook, Special Representative for Korean Peninsula Peace and Security Affairs, Seoul, 13 January 2009.

<sup>16</sup> Wang Jiarui, director of the Chinese Communist Party’s International Department, met with Kim in Pyongyang on 23 January 2009. “U.S. welcomes DPRK top leader’s remarks on denuclearisation”, Xinhua News Agency, 24 January 2009.

<sup>17</sup> “U.S. wrong policy toward DPRK rebutted”, KCNA, 7 May 2009; “Spokesman for DPRK foreign ministry blasts U.S. invariable hostile policy towards it”, KCNA, 8 May 2009; “U.S. moves to work out new strategy towards DPRK under fire”, KCNA, 19 May 2009; “U.S. warmongers accused of stepping up military moves against the DPRK”, KCNA, 26 May 2009.



The DPRK's steps to escalate the crisis were surprising in their boldness and rapidity. On 30 January, its Committee for the Peaceful Reunification of Korea, a Korean Workers' Party (KWP) organisation handling inter-Korean affairs, declared that Pyongyang was scrapping all political and military agreements with Seoul, and the western sea boundary (Northern Limit Line, NLL) was void.<sup>18</sup> Around this same time, U.S. intelligence detected the deployment of a long-range missile, which the DPRK Space Technology Committee declared on 24 February was part of preparations to launch an experimental communications satellite.<sup>19</sup>

On 2 March, officials from the [North] Korean People's Army (KPA) and the UN Command met at Panmunjom for the first high-level talks in seven years. KPA officers complained about the approach of the U.S.-South Korea (ROK) combined military exercises Key Resolve and Foal Eagle that were held from 9-20 March. On 5 March, the DPRK said it could not guarantee the safety of civilian aircraft transiting its airspace during those exercises, which caused some flights to be diverted. On 9 March, it temporarily closed the demilitarised zone (DMZ) between North and South, stranding South Koreans in the inter-Korean industrial project in Kaesŏng, North Korea. Pyongyang opened the crossing the next day, but intermittently closed it and restricted crossings thereafter.<sup>20</sup>

Pyongyang's actions further threatened the inter-Korean economic project when a South Korean employee at the complex was detained on 30 March, allegedly for slandering the DPRK and enticing a North Korean female worker to defect.<sup>21</sup> The employee has as yet neither been released nor brought to trial. North Korea announced on 15 May that all contracts and agreements governing the complex were no longer valid.<sup>22</sup> On 11 June, it demanded that monthly wages for its workers be raised from the current rate of about \$75

to \$300, and that the 50-year lease for use of the land be revised from \$16 million to \$500 million.<sup>23</sup>

The situation began to deteriorate rapidly when Pyongyang made a failed attempt to place a small satellite into orbit with a three-stage space launch vehicle on 5 April.<sup>24</sup> The UN Security Council issued a president's statement on 13 April that condemned the launch as in contravention of its Resolution 1718. The DPRK foreign ministry responded within hours that the North would never again participate in the Six-Party Talks and would "strengthen its nuclear deterrent".<sup>25</sup> Four IAEA inspectors monitoring the disablement of nuclear facilities in Yŏngbyŏn were expelled from the country on 16 April, and U.S. officials overseeing the disablement of nuclear facilities left the nuclear complex on the same day.<sup>26</sup>

On 24 April, the Security Council's DPRK sanctions committee identified three North Korean entities subject to sanctions: Korea Mining Development Trading Corp. (KOMID), Korea Ryongbong General Corp. and Tanchon Commercial Bank.<sup>27</sup> The following day, the foreign ministry announced that engineers were proceeding with the reprocessing of spent fuel rods from the Yŏngbyŏn nuclear reactor.<sup>28</sup>

On 29 April, the foreign ministry declared that unless the Security Council apologised for the 13 April president's statement condemning the rocket launch, the DPRK would conduct nuclear tests and flight-tests of intercontinental ballistic missiles (ICBMs). It also said Pyongyang would build a light-water reactor and "start technological development for ensuring self-production of nuclear fuel".<sup>29</sup> Light-water reactors require low-enriched uranium fuel rods, but this capability also enables the production of highly enriched

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<sup>18</sup> "DPRK to scrap all points agreed with S. Korea over political and military issues", KCNA, 30 January 2009.

<sup>19</sup> "Preparations for launch of experimental communications satellite in full gear", KCNA, 24 February 2009.

<sup>20</sup> Kim Sue-young, "N. Korea reopens inter-Korean border", *Korea Times*, 10 March 2009; Kim Sue-young, "North Korea to normalise military hotline", *Korea Times*, 20 March 2009.

<sup>21</sup> "DPRK detains ROK employee at joint industrial estate", Agence France-Presse, 30 March 2009.

<sup>22</sup> "S. Korea keeps trying to hold talks with N. Korea on troubled joint venture", Yonhap News Agency, 16 May 2009; "Prospect of KIZ depends on S. side's attitude", KCNA, 15 May 2009.

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<sup>23</sup> Kwang Tae Kim, "N Korea demands 4-fold raise in wages from South", Associated Press, 11 June 2009; Kim Sue-young, "Firms reject NK's demand for wage hike", *Korea Times*, 12 June 2009.

<sup>24</sup> Crisis Group Asia Briefing N°91, *North Korea's Missile Launch: The Risks of Overreaction*, 31 March 2009; "S. Korea, U.S. say North Korea failed to orbit satellite", Yonhap News Agency, 5 April 2009.

<sup>25</sup> "DPRK foreign ministry vehemently refutes UNSC's 'presidential statement'", KCNA, 14 April 2009.

<sup>26</sup> Kyodo World Service, in "IAEA inspectors out of N. Korea, U.S. nuke experts also leaving", Open Source Center (OSC) Document ID: JPP20090416969040, 16 April 2009.

<sup>27</sup> Louis Charbonneau, "UN committee puts 3 North Korea firms on blacklist", Reuters, 24 April 2009.

<sup>28</sup> "Foreign ministry spokesman on reprocessing of spent fuel rods", KCNA, 25 April 2009.

<sup>29</sup> "UNSC urged to retract anti-DPRK steps", KCNA, 29 April 2009.

uranium for nuclear bombs. Nearly a month after issuing these threats, the North partially made good on them by testing a nuclear device and more short-range missiles.

The DPRK's second nuclear test was conducted at 9:54am local time on 25 May 2009 at the Mount Mant'ap site, which is about 40km north-north west of Kilchu and only about 70km from the Chinese border. Initial estimates placed the yield of the blast at about two to eight kilotons of TNT, with approximately four kilotons likely.<sup>30</sup> The North informed the Chinese embassy in Pyongyang 29 minutes before the test, and its UN mission in New York informed U.S. officials five minutes later.<sup>31</sup>

### III. WHY DID THE NORTH TEST AGAIN?

Divining the motives of the North Korean government is almost impossible but it is important to consider a number of possibilities as to why Pyongyang tested a weapon and what it means. The nuclear program has enormous costs for the North, not only in diverted resources but in lost opportunities and aid. There are a number of possible reasons for the test:

- **Desire to be a permanent nuclear state.** The North may have decided that its only means of insulating the country and its regime from any possible attack is to have a nuclear deterrent and has no intention of ever giving up its nuclear weapons. On this analysis, all previous negotiations probably have been conducted simply to buy time, and the tests have been about developing a useable warhead. The target yield is unknown, but if North Korea tested a device similar to the one it tested in 2006 and aimed, as then, at a four kiloton yield, the test can be termed a success. State media reported "the test helped satisfactorily settle the scientific and technological problems arising in further increasing the power of nuclear weapons and steadily developing nuclear technology".<sup>32</sup>

Some analysts argue the small yield indicates a low capability, but if the target yield was itself low, this could mean North Korea has been working within design parameters for a missile warhead all along and could be satisfied with a relatively low-yield weapon.<sup>33</sup> According to Siegfried Hecker, co-director of Stanford University's Center for International Security and Cooperation, and former director of the Los Alamos National Laboratory, "there is little question that they were working on miniaturisation and increased reliability". However, Hecker believes the North cannot be confident of having warheads small enough to fit on its missiles after only two tests.<sup>34</sup>

- **Advertising its wares on the global market.** North Korea has a long record of missile proliferation and is believed to have transferred nuclear technology to Syria. It also had close links to A.Q. Khan's nuclear trading network. It has said, for what this is worth, that it would not transfer fissile

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<sup>30</sup> Jeffrey Park, "The North Korean nuclear test: what the seismic data says", *The Bulletin of the Atomic Scientists*, 26 May 2009, <http://thebulletin.org/web-edition/features/the-north-korean-nuclear-test-what-the-seismic-data-says>; Thom Shanker and William J. Broad, "Seismic readings from North Korea blast appear to point to a small nuclear test", *The New York Times*, 25 May 2009; Bill Gertz, "Inside the Ring: North Korean test", *The Washington Times*, 28 May 2009; Kim Su-jeong and Yoo Jee-ho, "Expert: North's test not a surprise, more to come", *The JoongAng Ilbo*, 1 June 2009, <http://joongAngdaily.joins.com/article/view.asp?aid=2905533>.

<sup>31</sup> "원세훈 '北핵실험 지진파감지美측에 통보'" ["Wŏn Se-hun: 'Seismic waves from North's nuclear test detected; U.S. informed'"], *The Chosun Ilbo*, 26 May 2009.

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<sup>32</sup> "KCNA report on one more successful underground nuclear test", KCNA, 25 May 2009.

<sup>33</sup> Zhang Hui, "Revisiting North Korea's nuclear test", *China Security*, vol. 3, no. 3, summer 2007, pp. 119-130.

<sup>34</sup> Crisis Group email correspondence, Siegfried Hecker, 8 June 2009.

material, and it is certainly unlikely to be willing to sell its limited stockpile of plutonium. Selling weapons, as distinct from delivery systems, is probably the least likely driver of Pyongyang's recent activity, but proliferation remains a serious concern given the North's technical abilities.

- **Pay-off to the military and succession.** The most recent test may well have been about, in whole or large part, reinforcing the "military first" (*sŏn'gun chŏngch'i*) policy and preparing the ground for Kim Jong-il's succession. This possibility does not bode well for a negotiated end to the nuclear program. Internal struggles over the issues surrounding the succession are very unlikely to create an environment for international compromises that would be viewed internally as weakness.

Kim Jong-il has apparently recovered from what is believed to have been a stroke he suffered in August 2008, but his health problems must have led the senior leadership to turn its attention inwards to eventual succession. Since he assumed power in the mid-1990s, the military has become more prominent in domestic affairs. In 1998, North Korea revised its constitution to elevate the status of the National Defence Commission, and the national media introduced Kim's "military first" politics as a new state doctrine. While no one can predict the situation after Kim, the military is positioned to assume direct control or exert significant influence on the government, and military leaders are viewed as less likely to abandon any weapons capabilities than a civilian-led government.

Immediately after the nuclear test, North Korea reportedly disseminated information to party and state institutions that Kim Jong-il had chosen his son, Kim Jong-un, as his successor.<sup>35</sup> The nuclear test and the 5 April attempted satellite launch are being attributed to Kim Jong-un, as elements of the state apparatus are being mobilised to upgrade

his credentials.<sup>36</sup> Many analysts believe that when it is completed in October, the son will be given credit for the "150-day battle" the North launched in May 2009 to mobilise labour and resources in an effort to increase economic productivity. In another sign of power transition, school children are said to be learning "the song of General Kim Jong-un".<sup>37</sup>

- **Prestige and scientific nationalism.** State doctrine calls for the establishment of a "strong and prosperous country" (*kangsŏngdaeguk*) by April 2012 – the 100-year anniversary of Kim Il-sung's birth. To achieve this goal, the leadership focuses on politics, ideology, military power and the economy. Pyongyang claims it is strong in the first three categories but acknowledges economic weakness. Science and technology are viewed as critical components for economic recovery, and state propaganda frequently promotes high-profile scientific achievements such as nuclear tests as evidence that prosperity is just around the corner.

As a variation on this theme, there is a view among some observers that Pyongyang has not entirely given up its ambition to reunite the peninsula under its communist leadership and that it considers the prestige and assumed power that might be seen to flow from being a nuclear armed state would be important contributions to that objective. Most analysts dismiss this on the ground that the North Korean leadership is not entirely immune to reality, but it may conceivably be a reinforcing element in at least some thinking.

- **Raising the stakes in negotiations.** The series of provocative steps suggest that the North may be upping the stakes ahead of hoped-for talks. This fits a pattern of behaviour in which Pyongyang tries to escalate tensions in an effort to raise the price it would receive in any settlement. U.S. officials, including Secretary of Defense Robert Gates – "I'm tired of buying the same horse twice" – have said that Washington will not be duped into paying the DPRK to attend talks or to fulfil existing commitments.<sup>38</sup>

The most that can be concluded is that the DPRK leadership is probably motivated by multiple factors.

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<sup>35</sup> A frequent foreign visitor to the DPRK told Crisis Group that during 25-28 May 2009, North Korean officials in Pyongyang informed him of the succession plans for the first time. DPRK officials reportedly said they are worried and hope the transition does not have to be implemented in the coming weeks or months. South Korea's National Intelligence Service confirmed the succession plans on 1 June 2009. Crisis Group interview, Seoul, 29 May 2009; "Spy agency confirms N.K. leader's third son as successor", Yonhap News Agency, 2 June 2009; Kim So-hyun, "Kim Jong-un named next 'Dear Leader'", *The Korea Herald*, 3 June 2009.

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<sup>36</sup> Moon Sung Hwee, "Kim Jong Woon mentioned by name", *The Daily NK*, 4 June 2009, [www.dailynk.com/english/read.php?cataId=nk00100&num=5007](http://www.dailynk.com/english/read.php?cataId=nk00100&num=5007).

<sup>37</sup> Shin Joo Hyun, "Pyongyang kids learn the new song", *The Daily NK*, 21 May 2009, [www.dailynk.com/english/read.php?cataId=nk01500&num=4942](http://www.dailynk.com/english/read.php?cataId=nk01500&num=4942).

<sup>38</sup> Nicholas Kralev, "Gates issues tough warning to N. Korea", *The Washington Times*, 31 May 2009.

While the system is opaque and mysterious to outsiders, North Korean leaders will often act in similar ways to other state leaders: in particular, they will take actions they feel are most likely to ensure state survival. In the North Korean case, the state – in its current form – and the Kim family are inseparable. The DPRK faces several sources of insecurity, most of which are internal, and all security problems are exacerbated by the presence of an alternative state, South Korea, across the DMZ. Kim Jong-il and his advisers must make national security decisions while pondering a complex chess board of military, economic, food and energy insecurity and the need to prevent insurrection and maintain social order. At the same time, the regime must differentiate itself from the liberal, democratic and market-oriented South to justify its continued existence.

Dual-use technologies, such as nuclear and rocket technologies, are well-suited to Kim Jong-il's national security strategy that must address multiple challenges. While the North Korean leadership exaggerates external military threats, a credible nuclear deterrent can be viewed as nullifying the prospect of attack, and spectacular scientific achievements may insulate the Kim family from internal challenges. "Military first" means the state can focus on economic recovery once military security is no longer in doubt, so, paradoxically, Kim and his advisers might believe economic recovery is more likely if the country maintains its nuclear arsenal rather than cashing it in for economic assistance and integration into the global economy.

## IV. GETTING BACK TO TALKS

### A. SETTING PRIORITIES

The first priority is to secure North Korea's nuclear weapons, whatever stage of development they may be at, and its fissile material. This will be difficult, but reasonable compromises are worthwhile, if they can shorten the time to do it. This might require an earlier discussion than Washington would desire of whether North Korea can have a peaceful nuclear power program, but at the same time it would force Pyongyang to take steps to rejoin the NPT and conclude a safeguards agreement with the IAEA. The other parties should insist upon it signing an Additional Protocol agreement with that agency, if it expresses a desire to invoke its NPT Article IV right to the peaceful use of nuclear technology.

Beyond this, there is the issue of ensuring that the North's nuclear weapons program is dismantled and that it no longer retains the capacity to produce weapons. Even after this, a large number of disarmament issues will remain to be tackled, including dealing with its chemical and biological weapons programs,<sup>39</sup> as well as conventional arms control. These are only likely to be resolved in an environment of widening cooperation on aid, economic development, energy and technological issues that are still important to the North Korean leadership, including peaceful nuclear energy and space technology.

### B. THE U.S. ROLE

#### 1. Ending neglect

Since 2001, U.S. policy has delivered one success – the agreement at the Six-Party Talks in 2005 under which North Korea said it would dismantle its nuclear programs. Unfortunately that agreement has not been implemented. On the other side of the scale, the eight years of the Bush administration saw the situation escalate from one where the North's nuclear program was essentially frozen to one where it has tested two weapons and may have made significant progress on its missile and warhead development. The Bush administration's policies failed because it never developed a coherent strategy, was too quick to dismiss all the policies of the Clinton administration, was too deeply divided over whether even to talk to Pyongyang and

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<sup>39</sup> See Crisis Group Report, *North Korea's Chemical and Biological Weapons Programs*, op. cit.

put too much faith in the idea that China would pressure the North to give up its weapons.<sup>40</sup>

North Korea has not so far been near the highest level of the Obama administration's foreign policy priorities. The U.S. president has appointed high-level envoys for Afghanistan and Pakistan, the Middle East peace process and Iran and given them – especially Richard Holbrooke and George Mitchell – strong public endorsements. He has made personal appeals to the Iranian people and to the Islamic world, but North Korea has seen little attention, with the president only mentioning the issue in response to the North's provocations. The administration appointed the well-regarded former diplomat Stephen Bosworth as Special Representative for North Korea Policy, but he devotes only part time to the job, while continuing as dean of the Fletcher School at Tufts University. This has been widely seen by others involved in the Six-Party Talks as downplaying the importance of the issue. Even after the nuclear test, Defense Secretary Gates declined to characterise the situation as a "crisis".<sup>41</sup>

There are valid reasons for keeping calm in the face of North Korean provocations and attention-seeking, but the issue still needs to be dealt with in a timely and effective way. The temptation will be to punish the North with mostly ineffectual multilateral sanctions and then wait for the crisis to blow over, but there are good reasons to take up the challenge now:

- succession in North Korea could unleash instability or result in a much more belligerent or isolated military regime, and the transfer of power after Kim Jong-il is far less clear than when his father died in 1994;
- an isolated North Korea under sanctions would be more, not less, likely to sell weapons or technology for hard currency. Given that its clients have been in the Middle East and South Asia, this would likely create further problems in highly insecure areas that are vital to U.S. interests;
- the nuclear test may have narrowed the cracks that were appearing among the countries in the Six-

Party Talks, with China and Russia more likely to press the North on coming to an agreement, while South Korea has started to press Beijing and Moscow on maintaining a firmer line;

- the longer the issue is left to fester, the greater the strains on the alliances and risk to the balances of power that have kept the peace in North East Asia for decades; and
- the worst that can come from direct talks is that they break down. At a minimum they are likely to offer useful insights into what is happening in North Korea in what seems to be a time of uncertainty there.

## 2. How to approach talks

While maintaining the Six-Party structure, and consulting fully with China, Russia, Japan and South Korea before doing so, the U.S. needs to talk to North Korea directly and at a high level, if and when there appears even a small chance that the North is prepared to engage seriously. While Ambassador Bosworth continues to manage diplomacy on the North, it would be appropriate, if that moment comes, for an envoy with the political stature of, for example, former President Clinton, Al Gore, Colin Powell, Bill Richardson, Sam Nunn or Chuck Hagel to visit Pyongyang to initiate dialogue.<sup>42</sup> The Obama administration has made it clear, and will need to continue to do so, that it does not regard talks as a reward in themselves, as Bush did. There are obvious presentational risks in a high level, and high visibility, visit of this kind – though these might be lessened by publicising the formal agenda as the humanitarian case of the two imprisoned journalists – but it is difficult to believe that a breakthrough can be achieved without taking them.

There needs to be a clearly planned strategy for such talks, including a clear sense of what the red lines are and what is on offer. Without clear agreement within the administration, negotiations will be undermined by hesitations and missteps, as under Bush. The administration also needs to work on how to manage the issue with Congress, fights with which over funding were among the reasons for the eventual failure of the Agreed Framework. Entering into a policy with the idea that it will never be implemented because the North will collapse is another error to be avoided.

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<sup>40</sup> For example, during the early stages of the Six-Party Talks, U.S. officials were on strict orders to only speak with DPRK diplomats if they were within sight of the other parties. The Chinese hosts provided sofas in a room for the two delegations, but James Kelly had to tell his North Korean counterparts it was "not an official meeting". Mike Chinoy, *Meltdown: The Inside Story of the North Korean Nuclear Crisis* (New York, 2008), pp. 184-185.

<sup>41</sup> Lara Jakes, "Gates: No reason to build up U.S. troops in Korea", Associated Press, 29 May 2009.

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<sup>42</sup> Gore was U.S. Vice President, 1993-2001. Powell was Secretary of State, 2001-2005. Nunn and Hagel were prominent senators. Richardson, a former member of Congress and U.S. ambassador to the UN, is governor of the state of New Mexico.

Key elements in the policy outline that the U.S. needs to come up with include:

- ❑ an exchange of liaison offices with Pyongyang, a long-delayed step that could help build familiarity and ease logistical issues. Such offices preceded full diplomatic ties with China and Vietnam;
- ❑ the possibility of inspections of U.S. bases in South Korea to verify the ROK's non-nuclear status. Although this is bound to be resisted by the Pentagon, it could be an important part of confidence building. U.S. military superiority over North Korea is so vast that nothing that could be learned from inspections would make much tactical difference in the event of war;
- ❑ an indication of the extent of financial assistance the U.S. would be willing to offer if North Korea were to live up to its agreements, which needs to involve detailed discussions with Congress on what would be approved and in what form;
- ❑ an outline of what the administration would want in a peace agreement ending the Korean War; and
- ❑ the application of a modified "Taiwan policy" to the Korean Peninsula, whereby Washington would reject the use of force by either side to achieve unification. Essentially a pledge of non-interference until the two Koreas can unify peacefully, this would require U.S. acknowledgment and acceptance of inter-Korean agreements such as the 4 July 1972 communiqué, the 1992 "Basic Agreement", the 15 June 2000 summit and the 4 October 2007 summit. However it should be clear that Washington will not renounce its alliance commitments under this formula.

In addition, Washington should give strong weight in its current Nuclear Posture Review, due to be completed by the end of 2009, to the impact that would be made, in undermining the DPRK argument that it needs a nuclear deterrent, by a clear change in U.S. nuclear doctrine – preferably all the way to "no first use", but at least to a declaration that the U.S. regards the only role of its nuclear weapons as being to deter others using such weapons against it or its allies. This is an issue that has wider ramifications, not least in the context of NATO, but nowhere would such a change of doctrine have more immediate and positive resonance than in North East Asia. Such a declaration would, of course, not imply any diminution in U.S. capacity and willingness to protect its allies from non-nuclear attacks by non-nuclear military means.

### 3. Ending over-reliance on China

The Bush administration outsourced much of its diplomacy to China, believing that if Beijing were to apply enough pressure, the North would capitulate. This has not happened and will not happen. China is more concerned about the risk of the North's collapse and both possible refugee flows and the economic impact in its vulnerable north-eastern provinces than it is about the nuclear program.<sup>43</sup> It has consistently shown that it is unwilling to apply severe economic sanctions on the North and that the nuclear issue is not at the top of its agenda. There is a growing consensus that China would simply prefer what it has called "the status quo forever" – a divided Korean peninsula, with the North as an occasionally problematic but mostly dependent ally and buffer state.<sup>44</sup>

The Bush administration's reliance on China illustrated that Beijing not only has less influence than believed but also that it will not use strong-arm tactics short of the North launching a war against the South. Moving away from reliance on China does not mean the end of the Six-Party Talks, which have an important potential role as a mechanism for addressing North East Asian security issues more generally. It is, however, a necessary step if talks on winding up the North's nuclear program are to progress. China will continue to have an important role, but it is necessary to assess the objectives in the diplomatic process and then determine which actors are best suited to helping achieve them. Beijing should continue as host of the Six-Party Talks and as a key interlocutor with Pyongyang, but there are limits to its influence. For the indeterminate future, Washington will have to provide active leadership for any regional security mechanism to thrive; delegating the nuclear issue to China only signals that Pyongyang will have to rely upon its own capabilities for security and survival.

### C. THE UN SECURITY COUNCIL

North Korea's tests of nuclear weapons and missiles violated Security Council Resolutions 1695 and 1718 that passed with the support of Russia and China. Resolution 1718 ordered sanctions against the North that were never implemented due to Pyongyang's return to the Six-Party Talks.

<sup>43</sup> Crisis Group Asia Report N°112, *China and North Korea: Comrades Forever?*, 1 February 2006.

<sup>44</sup> Yoichi Funabashi, *The Peninsula Question* (Washington DC, 2008), pp. 325-328.

The Council unanimously adopted Resolution 1874 on 12 June, condemning North Korea's nuclear test in the strongest terms. The resolution demands that the DPRK conduct no more nuclear tests or launches using ballistic missile technology. It also includes new measures:

- expanding provisions of Resolution 1718 on prevention of the sale and/or export of prohibited materiel<sup>45</sup> to include all arms and related materiel, financial transactions, technical training, advice, services, or assistance related to the provision, manufacture, maintenance, or use of such arms or materiel. Moreover, member states are called on to "exercise vigilance" over the supply of small arms and light weapons;
- authorising states to inspect all cargo to and from the DPRK in their territory and vessels, with the consent of the flag state, on the high seas, and to seize and dispose of prohibited materiel and report to the Security Council's sanctions committee, and calling upon any flag state that does not consent to such inspection on the high seas to direct its vessel to an appropriate and convenient port for the required inspection by the local authorities;
- calling on member states to prohibit any financial intermediation that could be linked to weapons-related activities, authorising asset freezes in this regard, and calling on member states and international institutions to provide no new financial assistance or trade support to the DPRK, except what is directly linked to humanitarian or development assistance;
- deciding that the sanctions committee set up by Resolution 1718 should adjust its measures within 30 days, including to designate additional entities, goods, and individuals; and

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<sup>45</sup> Under Resolution 1718 Sections 8(a), these include: "(i) Any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related materiel including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee); (ii) All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs; (iii) Luxury goods".

- instructing the Secretary-General to establish a panel of experts to monitor and verify implementation of the sanctions.

If implemented and sustained, such economic sanctions will be costly to North Korea. But compared to its neighbours, the DPRK economy is underdeveloped and involves little foreign trade. Economic sanctions have not persuaded Pyongyang to abandon its proliferation activities, and they are particularly ineffective when imposed by countries that have no economic relationship with it. China is North Korea's main trading partner, but Beijing is unwilling to impose an economic blockade in an effort to gain non-proliferation compliance. Food, fuel and humanitarian assistance are essentially off the table for any sanctions regime from Beijing's perspective. South Korea under Lee Myung-bak is more willing to apply pressure on the North, but even the Lee government is unwilling to suspend or block humanitarian assistance.

Ironically, economic sanctions intended to curtail North Korean proliferation can have the opposite effect. Since few legitimate international business opportunities have been available to Pyongyang, illicit activities have become a major source of foreign exchange. Its own policy choices created the current situation, but the country's chronic current account deficit must be balanced, and North Korea's comparative advantage lies in weapons and little else. Transforming the munitions industry into peaceful civilian enterprises will be difficult, even impossible, under the Kim family regime, but disarmament and economic recovery will eventually require reforms, opening and access to international markets.

#### D. INTERNATIONAL COORDINATION

International policy coordination will be paramount if the talks are to recommence and progress, and the parties will have to make efforts to cooperate in policy formation and implementation. However, differences can emerge even when there is a strong consensus on final objectives. In particular, the dismantlement phase will be difficult and costly, and the issue of burden sharing could become contentious. South Korea still resents that it was saddled with a \$4 billion bill for the \$5 billion light water reactor project under the Agreed Framework – a deal negotiated and signed by Washington and Pyongyang.

If there is progress on North Korean denuclearisation or even a firm commitment or denuclearisation road map, the Lee Myung-bak government is prepared to implement its "Vision 3000" initiative aimed at raising the North's per capita GDP from about \$500 to \$3,000

through a generous assistance program. However, delivery of the assistance will require North Korean compliance with its denuclearisation commitments and have to be phased in. For example, the Lee government is prepared to help 100 North Korean firms become exporters earning at least \$3 million per year, but this will require Pyongyang to join export control regimes and comply with export control rules and norms. This can only be achieved with international coordination.

Although many doubt that North Korea will ever abandon its nuclear weapons unless there is a dramatic change in government, any denuclearisation agreement will require a package of positive incentives. Since the North faces significant challenges in economic, energy and food security, as well as public health, an incentive package could take many forms. Of course, the arrangement must be acceptable to Pyongyang, but providers will have to coordinate supply and negotiate sequencing and cost sharing. Third parties and NGOs could provide an oversight or monitoring function for transparency and a more efficient allocation of resources.

## E. RELATIONS ON THE KOREAN PENINSULA

Surmounting the obstacles in the Six-Party process has been complicated by the inauguration of a new U.S. president, personnel changes in the U.S. and ROK delegations, increasing tensions between the two Koreas, possible North Korean instability over succession issues, and Pyongyang's attempted satellite launch and second nuclear test. The Obama administration is pressed for time while it faces extraordinary domestic, economic and security issues. There are high expectations for it, but there are no quick fixes to the challenges North Korea poses.

The atmosphere for resumption of the Six-Party Talks is complicated by a serious decline in relations between the two Koreas. Since the inauguration of President Lee Myung-bak in February 2008, relations have sunk to their lowest level in several years. In July 2008, a South Korean tourist was shot and killed by a North Korean soldier while visiting an inter-Korean tourism project at Kŭmgang Mountain in the North, and the project has been suspended.<sup>46</sup> North Korea also shut down the inter-Korean tourism project to its city of

Kaesŏng on 1 December 2008.<sup>47</sup> It has severed inter-Korean military communications links, and in March 2009 temporarily suspended transit to and from the Kaesŏng Industrial Complex, an inter-Korean project on the North Korean side of the DMZ, thereby threatening the project's viability.<sup>48</sup>

It will be extraordinarily difficult for Seoul to achieve a thaw in inter-Korean relations until Pyongyang feels confident that its U.S. relations have begun to move in a positive direction. In any event, North Korea probably is too preoccupied with internal succession issues to deal with inter-Korean relations in the immediate future. Therefore, Seoul should do nothing to worsen the situation and remain open to dialogue. The Lee Myung-bak government should be lenient in allowing South Korean organisations to visit the North for commemoration of the liberation from Japanese colonial rule (15 August) as well as to attend any other cultural or academic exchanges, as long as Pyongyang guarantees their safe return. Denying these visits or exchanges does little but antagonise the North and reduce the likelihood of cooperation.

## F. JAPAN

The kidnapping of Japanese citizens by North Korean agents in the 1970s and 1980s is a significant stumbling block in bilateral relations. The issue has strong emotional overtones in Japanese domestic politics. Tokyo refuses to provide any energy assistance or other positive incentives to North Korea until it is satisfactorily resolved. The Japanese government officially recognises seventeen Japanese victims, but North Korea has admitted to kidnapping only thirteen. Kim Jong-il apologised to Prime Minister Junichiro Koizumi for the abductions in September 2002, which Pyongyang apparently believed would resolve the issue. However, confirmation of the kidnappings has inflamed Japanese public opinion against the DPRK.<sup>49</sup>

South Korean policymakers are often frustrated by Tokyo's position on the abduction issue. While Seoul

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<sup>46</sup> Shim Sun-ah, "Clouds gather over inter-Korean relations following killing of S. Korean tourist", Yonhap News Agency, 14 July 2008.

<sup>47</sup> John Sudworth, "Glimpse of N Korea disappears", BBC News, 1 December 2008.

<sup>48</sup> Kim Ji-hyun, "Seoul may shut down Gaeseong Complex", *The Korea Herald*, 17 March 2009; "NK partially reopens border to S. Koreans", *The Korea Times*, 16 March 2009; "Kaesong firms complain of disrupted business", *The Chosun Ilbo*, 16 March 2009; Yoo Jee-ho and Jeong Yong-soo, "Closed border leaves hundreds trapped in North", *The Joonggang Ilbo*, 16 March 2009.

<sup>49</sup> "Abductions of Japanese Citizens by North Korea", Japanese foreign ministry, 2008, [www.mofa.go.jp/region/asia-paci/n\\_korea/abduction.pdf](http://www.mofa.go.jp/region/asia-paci/n_korea/abduction.pdf).



sympathises with the victims and their families, most South Koreans do not believe progress on North Korean denuclearisation should be held hostage to the plight of the abductees. The issue is complicated by the fact that North Korea has also abducted nearly 500 South Koreans. The Lee Myung-bak government has been more willing to confront North Korea on human rights issues than its predecessors, but most South Koreans still believe denuclearisation is a priority. Nevertheless, more citizens are becoming outspoken on the issue and demanding that abducted family members be repatriated.<sup>50</sup>

The abductions have been played up as an issue by the far right in Japan. A resolution is certainly needed but is more likely in an environment of improving relations between Tokyo and Pyongyang. Bilateral discussions have yielded much more information and brought about the release of some abductees and their families, whereas the ratcheting up of Japanese sanctions has done little to advance a settlement of the decades-old problem. Japan should set the issue aside for a time and focus on resolving the nuclear issue and improving ties with the North.

North Korea is unlikely to move towards reconciliation with Japan until it believes it is making progress in resolving its outstanding issues with Washington. Therefore, Tokyo should support any bilateral initiatives between the U.S. and the DPRK and refrain from rhetoric that gives Pyongyang excuses to be more recalcitrant, even though it may be politically popular at home.

## V. THE KEY ISSUES

### A. VERIFICATION AND DISMANTLEMENT

Verification has emerged as a significant stumbling block. Verifying the DPRK's June 2008 nuclear declaration and accounting for Pyongyang's nuclear weapons, fissile material, nuclear facilities, nuclear proliferation and all past nuclear activities will be difficult and expensive. The process will take years even if Pyongyang fully cooperates, which is very doubtful.

To prepare for the establishment of a North Korean nuclear verification regime, the U.S. State Department's Bureau of Verification and Compliance began drafting a plan in late 2003 that included authority to conduct inspections "anywhere, anytime, and with no notice". The draft plan was controversial, since some senior State Department officials believed it was too intrusive and would never be acceptable to Pyongyang.<sup>51</sup> However, the bureau has sought to include methods that are common to other arms control agreements, in particular, the collection and analysis of environmental samples.

North Korea is demanding a less intrusive regime that would be phased in during the third phase of dismantlement. In July 2004, the foreign ministry declared that verification and inspection of the country's nuclear facilities could only be discussed during that phase.<sup>52</sup> Furthermore, DPRK officials and state media say that verification must apply to the whole Korean Peninsula, and the non-nuclear status of the ROK, including U.S. military bases, must also be verified.<sup>53</sup> While the North has a legitimate interest in a non-nuclear South Korea, some officials and analysts believe this is simply a negotiation tactic to delay and obtain more concessions.<sup>54</sup>

If North Korea wants to verify the non-nuclear status of South Korea, Pyongyang could rejoin the IAEA and review Seoul's compliance with its safeguards commitments.<sup>55</sup> It also could participate in a bilateral nuclear inspection regime, which is one of its commitments under the "Joint Declaration of the Denuclearisation

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<sup>50</sup> "Kidnap victims' families urge more action on abductees", *The Donga Ilbo*, 12 March 2009, <http://english.donga.com/srv/service.php3?bicode=040000&biid=2009031295168>.

<sup>51</sup> Chinoy, *Meltdown*, op. cit., p. 195.

<sup>52</sup> "FM spokesman on DPRK's stand on nuclear freeze and way of verification", KCNA, 14 July 2004.

<sup>53</sup> "DPRK foreign ministry's spokesman dismisses U.S. wrong assertion", KCNA, 13 January 2009.

<sup>54</sup> Crisis Group interview, ROK government official, Seoul, 6 August 2008.

<sup>55</sup> Ibid.; Kyle Fishman, "IAEA South Korean concerns resolved", *Arms Control Today*, July/August 2008.

of the Korean Peninsula”.<sup>56</sup> The two Koreas signed that declaration in 1992 and agreed to form a bilateral verification regime, but they were unable to agree on an inspections protocol.<sup>57</sup> The Six-Party “Statement of Principles” declares that “the 1992 Joint Declaration of the Denuclearisation of the Korean Peninsula should be observed and implemented”, but on 30 January 2009, the DPRK’s Committee for the Peaceful Reunification of Korea, a Korean Workers’ Party organisation in charge of inter-Korean affairs, declared all political and military agreements with Seoul null and void.<sup>58</sup> Clearly, the DPRK would have to reverse this decision if it is to implement its Six-Party commitments.

In late February 2009, Chinese Vice Foreign Minister Wu Dawei visited Pyongyang and met with Vice Foreign Minister Kim Kye-gwan to discuss reconvening the talks. Kim told Wu that Pyongyang would accept full verification measures if supplied with light-water power reactors, as promised under the 1994 Agreed Framework.<sup>59</sup> While the U.S. has promised to discuss the possibility of peaceful nuclear power for the DPRK at an “appropriate date”, this is unlikely to happen until the North has rejoined the NPT and is in compliance with IAEA safeguards. Furthermore, the U.S., Japan, South Korea and other countries now are unlikely to provide the financial support required to

build the two light-water reactors envisioned under the Agreed Framework.

Verification is a core issue related to the sequencing of commitments and must be addressed immediately to move the talks forward. The position of Japan, South Korea and the U.S. during the December 2008 talks was that a verification protocol must be completed before conclusion of the disablement phase, while the DPRK insists the second phase should only include verification of the disablement measures related to the plutonium program, and full verification can only be accomplished during the third, dismantlement phase. While many policymakers and analysts fear a two-step verification protocol would set a dangerous precedent for future negotiations, it might be necessary to avoid a long delay in the talks.

North Korea has improved its bargaining position now that it has received most of its benefits from the disablement phase. Even though some of the energy assistance is still outstanding, Pyongyang has been removed from the U.S. State Department’s terrorism list, and Washington no longer applies sanctions under the Trading with the Enemy Act. For Pyongyang, there is little cost if the talks are delayed for several months or longer. However, a two-step verification arrangement could expedite completion of the disablement phase, and the parties could begin the third phase and start working on a full verification protocol that addresses uranium enrichment and proliferation activities.

Since the third phase includes the North’s obligation to return to the NPT and IAEA safeguards, serious discussions of these steps must begin immediately. The IAEA role in the verification process has been uncertain and was not discussed in detail in the December 2008 talks. However, there is a strong consensus among the parties – except for North Korea – that it should play the leading role in verification. The Russian delegation was adamant in December 2008 about the IAEA being involved throughout, despite the North’s difficult experience with the agency.<sup>60</sup>

North Korea’s resistance to an IAEA role could simply be a bargaining tactic to shift responsibility for verification to the U.S., which could give Pyongyang an opportunity to engage with Washington bilaterally. Other than the IAEA, only the U.S. has the expertise and resources to verify the DPRK nuclear declaration and denuclearisation, and Moscow and Beijing would prefer to see the IAEA doing the verification work.

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<sup>56</sup>In 1992, the two Koreas signed the “Joint Declaration on the Denuclearisation of the Korean Peninsula”. The declaration provided that:

- The North and the South shall not test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons.
- The North and the South shall use nuclear energy solely for peaceful purposes.
- The North and the South shall not possess nuclear reprocessing and uranium enrichment facilities.
- The North and the South, in order to verify the denuclearisation of the Korean peninsula, shall conduct inspections of the objects selected by the other side and agreed upon between the two sides, in accordance with procedures and methods to be determined by a North-South joint nuclear control commission.
- The North and the South, in order to implement this joint declaration, shall establish and operate a North-South joint nuclear control commission within one month of the effectuation of this joint declaration.

<sup>57</sup>Yong-sup Han, “North Korean Behaviour in Nuclear Negotiations”, *The Nonproliferation Review*, Spring 2000, pp. 41-54.

<sup>58</sup>“DPRK to scrap all points agreed with S. Korea over political and military issues”, KCNA, 30 January 2009.

<sup>59</sup>“N. Korea seeks light-water reactors in exchange for nuke verification”, *Kyodo World Service*, 19 March 2009, in OSC Document ID: JPP20090319969041; Lee Chi-dong, “Chinese envoy visited Pyongyang for talks on its missile activity”, *Yonhap News Agency*, 26 February 2009.

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<sup>60</sup>Crisis Group interview, Ambassador Kim Sook, Special Representative for Korean Peninsula Peace and Security Affairs, Seoul, 13 January 2008.

For the U.S., it is more than just a matter of transparency and political legitimacy; verification is expensive, and it could be difficult to obtain Congressional funding for a process that could cost over \$100 million.<sup>61</sup>

In May 2008, the DPRK gave the U.S. about 19,000 pages of operating records for its nuclear reactor and reprocessing facility.<sup>62</sup> The records will be valuable for verifying past activities related to plutonium production, but accurate accounting will require environmental sampling and access to nuclear waste storage facilities, which Pyongyang is not willing to accept at this time. For the time being, verification is limited to its nuclear declaration and plutonium production facilities, but if the third phase of dismantlement is implemented, a full accounting and verification of nuclear activities and materials will be necessary. Since the declaration must include “all nuclear programs”, verification must address suspicions surrounding North Korea’s uranium enrichment program and nuclear proliferation activities. Pyongyang acknowledged the concerns over uranium enrichment and proliferation in a confidential document provided to Washington in April 2008, but it is unclear how these concerns will be resolved and verified.

## B. DISABLEMENT AND ENERGY ASSISTANCE

According to the “Initial Actions” agreement reached by the Six Parties in February 2007, North Korea received 50,000 tons of heavy fuel oil (HFO) to shut down and seal the 5MW(e) nuclear reactor, the reprocessing facility (Radiochemical Laboratory), and the fuel fabrication plant at the Yŏngbyŏn Nuclear Complex in July 2007. An additional 950,000 tons of HFO or equivalent in materials was promised for disabling the facilities.<sup>63</sup> The parties agreed that it would take at least eighteen months if the North were to seek to reverse the disablement measures and that these measures would apply to the 5MW(e) nuclear reactor, the reprocessing facility, and the fuel fabrication plant. By early 2009, eight of eleven disablement steps had been completed. The three remaining measures include removing the spent fuel rods from the 5MW(e) reactor core, eliminating about 14,800 unused fuel rods and

disabling the control system used to insert and remove fuel rods for the 5MW(e) reactor.<sup>64</sup>

North Korea slowed the process of disablement whenever it felt that the proportion of disablement work was greater than the proportion of energy deliveries. However, disablement continued under the supervision of IAEA monitors until they were expelled in April 2009. Since the last quarter of 2008, the North had been removing about fifteen fuel rods a day from the reactor core, well below the daily capacity of about 100.<sup>65</sup> By March 2009, about 80 per cent of the nuclear reactor’s 8,000 rods had been removed, so the task should be completed around 1 July 2009 if the rate remains unchanged. Of course, Pyongyang can halt or accelerate the removal at any time. And the discharged fuel rods can be reprocessed and the extracted plutonium diverted to weapons.

Disposition of the approximately 14,800 unused fuel rods involves some 2,400 for the 5MW(e) reactor and about 12,400 for the 50MW(e) reactor in T’aech’ŏn that was under construction but never completed under the terms of the 1994 Agreed Framework. The unused rods include about 100 tons of natural uranium worth about \$10 million. In January 2009, South Korea sent a representative to inquire about the possibility of purchasing the fuel rods, but North Korea reportedly demanded more than ten times the international market price for an equivalent amount of uranium.<sup>66</sup> The ROK is interested in purchasing the rods and re-fabricating them for use in South Korean power reactors but is very unlikely to pay such an inflated price.

By early 2009, most of the energy assistance had been delivered.<sup>67</sup> However, none of Japan’s portion has been supplied, because Tokyo refuses to provide any assistance to North Korea until the abduction issue is

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<sup>61</sup> One ROK government official asserted the total verification costs for North Korea’s complete nuclear dismantlement could be in the hundreds of millions of dollars. Crisis Group interview, Seoul, 6 August 2008.

<sup>62</sup> Christopher R. Hill, *op. cit.*

<sup>63</sup> “Initial Actions for the Implementation of the Joint Statement”, 13 February 2007.

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<sup>64</sup> Crisis Group interview, Ambassador Kim Sook, Special Representative for Korean Peninsula Peace and Security Affairs, Seoul, 13 January 2008; Lee Chi-dong, “S. Korean envoy fetches no immediate breakthrough from N. Korea”, Yonhap News Agency, 20 January 2009.

<sup>65</sup> Naoko Aoki, “N. Korea slows nuclear disablement work even further”, Kyodo World Service, 17 March 2009.

<sup>66</sup> Jung Ha-won, “Seoul ambivalent on Pyongyang’s pricey reactor rods”, *The JoongAng Ilbo*, 6 February 2009; Jung Sung-ki, “Pyongyang removed 75% of spent fuel rods”, *The Korea Times*, 15 March 2009.

<sup>67</sup> The U.S. and Russia have completed their deliveries (200,000 tons each). In addition to some HFO, Seoul has provided pipes and steel products for power plants, and Beijing has provided coking coal, vehicles and other materials. Crisis Group interview, Park Yong-min, director, North Korean Nuclear Negotiations Division, foreign and trade ministry, Seoul, 13 January 2009.

resolved. South Korea chairs the Six-Party Economic and Energy Cooperation Working Group, and is responsible for finding an alternative supply source. It has approached a number of countries but several months will be needed to secure the HFO. Australia and New Zealand were asked but have declined to provide any assistance until there is progress on a verification protocol.<sup>68</sup>

Seoul also asked a few European countries, but they declined since the European Union (EU) had not formulated a common policy on the issue. A European diplomat close to the issue described the effort as awkward in terms of protocol, but South Korean foreign ministry officials explained that the amount of funding is small, and the decision-making process within the European Commission could take a long time for such a minor request.<sup>69</sup> However, the ROK government is not opposed to an EU role in North Korea's denuclearisation, and Seoul might approach it in the future.<sup>70</sup> South Korea also asked Canada, whose foreign affairs and international trade ministry is reviewing the issue but could take several months to reach a decision on what is not an urgent priority for the Canadian government.<sup>71</sup>

By early 2009, Pyongyang was scheduled to have received 800,000 tons in HFO or equivalent in materials, and South Korea expects Japan's 200,000 ton share to be resolved in conjunction with the verification issue.<sup>72</sup> But no country is likely to provide energy assistance without a verification agreement, and North Korea is unlikely to complete the remaining disablement measures unless the outstanding energy assistance is forthcoming. Though in the absence of an agreement to wrap up the disablement phase and the subsequent collapse of the talks, Pyongyang has threatened to reconstitute its plutonium production facilities, this could take at least a year, and probably longer.

In summary, the primary goals of the disablement phase were to halt North Korea's plutonium production and render the plutonium production facilities inoperable for at least eighteen months. Pyongyang was obliged to submit a declaration of "all its nuclear programs" in return for energy assistance, and Washington was committed to remove it from the State Department's terrorism list and cease to apply the Trading with the Enemy Act against it. These steps are complete or nearly complete, but several outstanding issues remain before the North's denuclearisation process can move forward.

### C. DESTINATION OF FISSILE MATERIAL

The most important step in North Korea's denuclearisation will be the dismantlement of any weapons and the removal of fissile material and weapons components, data and other related materials. The IAEA should provide oversight and a full accounting of all materials, which then should be shipped out of the country for safe storage and disposal. Data and design information should be destroyed onsite, with appropriate IAEA supervision. Only inspectors from the nuclear weapons states are permitted access to nuclear weapons materials and data, so officials from Japan and South Korea will be excluded. There is no guarantee that North Korea might not produce and store additional copies of weapons design data, but every effort should be made to ensure no copies remain.

The parties might disagree over the final destination of North Korea's fissile material, but Russia is probably the best choice, given its proximity and technical capacity. North Korea has already reprocessed most of its spent fuel, but the spent fuel rods now being removed from the reactor cannot be reprocessed in Yŏngbyŏn because the facility has been disabled.<sup>73</sup> They will have to be shipped out of the country, but the parties will have to decide who gets the unpopular task of accepting and handling the North's nuclear waste.

### D. PEACEFUL NUCLEAR ENERGY

The DPRK suffers from an acute energy shortage. Compelling arguments can be made for nuclear energy to help alleviate its energy insecurity, but large reactor projects are unfeasible because of the proliferation risks, and the long construction horizon does nothing

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<sup>68</sup> Peter Crail, "Six-Party Talks stall over sampling", *Arms Control Today*, January/February 2009.

<sup>69</sup> Crisis Group interview, official, Italian foreign ministry, Seoul, 13 January 2009; Crisis Group interview, Park Yong-min, director, North Korean Nuclear Negotiations Division, foreign and trade ministry, Seoul, 13 January 2009.

<sup>70</sup> Crisis Group interview, Park Yong-min, director, North Korean Nuclear Negotiations Division, foreign and trade ministry, Seoul, 13 January 2009.

<sup>71</sup> Ibid; Crisis Group interview, Canadian foreign and international trade ministry official, Seoul, 13 December 2008.

<sup>72</sup> Crisis Group interview, Ambassador Kim Sook, Special Representative for Korean Peninsula Peace and Security Affairs, Seoul, 13 January 2008.

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<sup>73</sup> North Korea could refurbish the facility and reprocess the spent fuel, but this would be in violation of its Six-Party Talks commitments.

to address short-term supply problems. The dilapidated electric power grid is not capable of delivering the output from a modern commercial nuclear power plant, so the capital investment needed for viable nuclear power is beyond North Korea's current means. Nevertheless, nuclear energy for peaceful purposes should not be dismissed outright.

North Korea's insistence that a light-water reactor project must be part of a denuclearisation settlement is more about national prestige and alternative employment for its nuclear scientists and engineers than solving the country's energy problems. Nuclear energy is suitable for a long-term strategy of managing energy supplies and greenhouse gas emissions, but in the short term it would be more suitable to focus on conventional power plants, renewable energy and refurbishment of the power grid. Nuclear power can be part of the long-term energy strategy once the North fulfils its non-proliferation and safeguards commitments.

In the short-term, the ROK could reaffirm the Roh Moo-hyun government's generous energy assistance offer, while as a first step towards establishment of a peaceful nuclear program, the U.S. or South Korea could offer to replace the IRT-2000 research reactor that was built by the Soviets in the early 1960s. This could be coordinated with the DPRK's rejoining the IAEA to conclude a new safeguards agreement and receive training in nuclear safety and the production of medical isotopes and other peaceful uses.

## E. NPT AND IAEA SAFEGUARDS

According to the Six-Party Statement of Principles, "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". However, the timing for the return and how it will be accomplished is subject to interpretation and negotiation. Of course, the North cannot return to the NPT as a nuclear weapons state, so its non-nuclear status must be verified before it can be considered a full NPT member in good standing.

In 1977, North Korea signed a safeguards agreement with the IAEA for the IRT-2000 research reactor supplied by the Soviet Union.<sup>74</sup> That small research reac-

tor uses uranium fuel enriched to 36 per cent and 80 per cent, but the North is believed to have little fuel left after Russia stopped supplies.<sup>75</sup> As a first step in rejoining the IAEA, it could begin reimplementing of safeguards in a project to convert the IRT-2000 reactor to use low-enriched uranium (LEU). The project could be a confidence-building measure to expand safeguards and verification as North Korea moves towards NPT membership.

North Korea has expressed its interest in the right to the peaceful use of nuclear technology in accordance with Article IV of the NPT. If it returns to the NPT and is in full compliance with IAEA safeguards, this right cannot be denied. North Korean officials and media most often refer to light-water power reactors as the appropriate application, but the IRT-2000 reactor could be the focus of initial efforts to steer the DPRK towards peaceful nuclear activities. A project to convert or upgrade the research reactor could employ the country's scientists and engineers while also building trust and transparency.

## F. KOREAN PENINSULA PEACE REGIME

The Six Parties have pledged to "negotiate a permanent peace regime on the Korean Peninsula ... and to explore ways and means for promoting security cooperation in North East Asia". However, there are very divergent views on how such a peace regime should be structured, and concerns about arrangements that could have a negative impact on the region's security architecture. The issue is complicated by the fact that there was no formal declaration of war during the 1950-1953 conflict, and UN forces under U.S. command fought in support of the South. The conflict never formally ended, but has been suspended by an armistice signed in July 1953. South Korea did not sign the armistice, because President Rhee refused to join any agreement that left Korea divided. Rhee's decision still has implications today, because Pyongyang now argues that Seoul is not a legitimate party to the conflict and should be excluded from any permanent peace treaty. On 27 May 2009, after the South Korean government declared its intention to join the U.S.-originated Proliferation Security Initiative the previous day, the

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<sup>74</sup> "The Text of the Agreement of 20 July 1977 between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Respect of a Research Reactor Facility", IAEA, 14 November 1977, [www.iaea.org/Publications/Documents/Infocircs/Others/infocirc252.pdf](http://www.iaea.org/Publications/Documents/Infocircs/Others/infocirc252.pdf).

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<sup>75</sup> David Albright, "Phased International Cooperation with North Korea's Civil Nuclear Programs", Institute for Science and International Security, 19 March 2007, [www.isis-online.org/publications/dprk/CivilNuclearNK.pdf](http://www.isis-online.org/publications/dprk/CivilNuclearNK.pdf).

[North] Korean People's Army announced that it was no longer bound by the armistice.<sup>76</sup>

Peace on the Korean Peninsula should not be regarded as mutual deterrence and the absence of war. A true peace mechanism will require elimination of the fear and threat of violent conflict. In particular, chemical weapons stocks in North Korea must be declared and destroyed, and suspicions surrounding Pyongyang's biological weapons capabilities must be addressed.<sup>77</sup> Conventional arms control also must be implemented to establish both a true peace mechanism and a more efficient allocation of resources to manage North Korea's human security challenges.

South Korea signed the Chemical Weapons Convention (CWC) when it was opened for signature in 1993, and is in compliance with all its CWC commitments. In 2008, Seoul completed the destruction of its chemical weapons stocks as required under the treaty. However, the ROK has signed a confidentiality agreement with the Organisation for the Prohibition of Chemical Weapons (OPCW) that manages that convention and now neither confirms nor denies the existence of any past CW program. The government is divided on the issue, but the defence ministry insists that the ambiguity provides some type of residual deterrence against North Korea.

Perhaps more practically, Seoul's refusal to acknowledge and disclose information regarding its past CW program is expedient for domestic political reasons, but it reinforces suspicions among policymakers in Pyongyang who may believe the ROK is holding on to a CW capability. Many South Korean officials doubt Pyongyang will reciprocate, but disclosure could be a confidence-building measure in an effort to establish a broader arms control regime. South Korea could also offer technical and other assistance in coordination with the OPCW to encourage North Korea to join the convention.

In sum, a peace regime will require solutions to several seemingly intractable arms control problems. But without a comprehensive solution, everything risks coming unraveled, including North Korea's commitment to nuclear disarmament. However, the complexity of the problem requires disaggregation and focus on separate parts, while being mindful of linkages and the problems associated with priorities and sequencing.

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<sup>76</sup> "KPA Panmunjom mission clarifies revolutionary armed forces' principled stand", KCNA, 27 May 2009. On the Proliferation Security Initiative, see below.

<sup>77</sup> See Crisis Group Report, *North Korea's Chemical and Biological Weapons Programs*, op. cit.

## G. DIPLOMATIC RELATIONS

The U.S. and Japan are committed to working towards the normalisation of diplomatic relations with Pyongyang, but the processes face a number of obstacles. For Washington and Pyongyang, normalisation will require some type of formal written settlement to end the Korean War, which is intertwined with the need to establish a regional peace mechanism. A peace treaty is unlikely because it would face considerable opposition in the U.S. and require a two-thirds vote of ratification in the Senate. On the other hand, it is inconceivable for Washington to normalise diplomatic relations unless Pyongyang not only abandons its nuclear and ballistic missile programs but also accepts broad arms control measures to address other weapons of mass destruction (WMD) and conventional weapons.

Pyongyang will have to address the same arms control concerns with Japan that are required for rapprochement with Washington, so it could get two for one if it embraced arms control and restraint. However, for Tokyo, the abduction issue must also be resolved, and Pyongyang will need Japanese compensation to be forthcoming for the colonial period (1905-1945). When South Korea and Japan normalised relations in 1965, Tokyo provided \$300 million in grants and \$500 million in subsidised loans.<sup>78</sup> North Korea is expected to ask for at least \$10 billion, and Japan reportedly has discussed \$5 billion-\$10 billion in compensation.<sup>79</sup> The details of such a settlement will be difficult to negotiate, and there will need to be assurance that financial resources will not be diverted to military use.

## H. INSPECTION OF U.S. MILITARY BASES IN THE SOUTH

North Korea has insisted denuclearisation of the Korean Peninsula must include the ROK and U.S. military bases there. In September 1991, President George H.W. Bush announced that the U.S. would withdraw its nuclear weapons from the ROK, and in December 1991, President Roh Tae-woo declared there were no nuclear weapons in South Korea.<sup>80</sup> However, the U.S.

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<sup>78</sup> Mark E. Manyin, "North Korea-Japan Relations: The Normalisation Talks and the Compensation/Reparations Issue", Congressional Research Service (CRS), report for Congress, 13 June 2001.

<sup>79</sup> Ibid.

<sup>80</sup> Don Oberdorfer, "U.S. decides to withdraw A-weapons from S. Korea", *The Washington Post*, 19 October 1991; Shigemi Sato, "North Korea snubs South Korea's nuclear-free declaration", *Agence France-Presse*, 20 December 1991.

military maintains a policy of neither confirming nor denying the presence of nuclear weapons on military vessels or aircraft, and it is possible that U.S. nuclear weapons have transited through U.S. military bases in the South.

Japan has a policy of refusing to allow nuclear weapons on its territory but has maintained a policy of “don’t ask, don’t tell” for U.S. military ships and aircraft, and there have been reported cases of U.S. nuclear weapons transiting the country. In the 1980s, New Zealand implemented a policy of granting access to its ports and air bases only if the U.S. would confirm it would bring no nuclear weapons into its territory. The U.S. refused, which caused a rift in bilateral relations that exists to this day but is not critical in the post-Cold War era. Striking a deal to verify the absence of U.S. nuclear weapons at bases in the ROK will be very difficult, as the New Zealand case demonstrates. The Pentagon will be very reluctant to accept an arrangement that could set a precedent for similar demands elsewhere. However, if the Obama administration is serious about nuclear non-proliferation and disarmament, a compromise should be considered.

## VI. INSURING AGAINST TALKS FAILING

### A. DETERRENCE

The ROK and Japan maintain a robust deterrent posture through advanced conventional capabilities and their credible alliances with the U.S. Neither needs nuclear weapons to deter North Korea. Washington’s extended deterrence – both nuclear and conventional capability – is credible and ample. Public opinion polls indicate that the majority of South Koreans support the development of nuclear weapons, but most probably underestimate the costs that would be incurred in international sanctions if Seoul pursued nuclear breakout.<sup>81</sup> Some South Korean political leaders have called for the development of nuclear weapons, but a number of legal, political, economic and diplomatic reasons make this unlikely at least for now.<sup>82</sup>

Both Japan and South Korea will accelerate efforts to deploy missile defences, but the systems are far from perfect, and large-scale ones that integrate capabilities with the U.S. and each other would likely alienate China, especially if they could be configured to protect Taiwan. Japan is more constrained than the ROK in developing counter-strike capabilities because of Article 9 in its constitution and other domestic laws and policies. Revising that constitution and an excessive build-up of offensive weapons could trigger a regional arms race that would leave all countries less secure.

### B. CONTAINMENT

The greatest threat from the North’s program is proliferation rather than use of the weapons. The main response to this in recent years has been the Proliferation Security Initiative (PSI), involving a relatively

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<sup>81</sup>“한국도 핵무기 가져야 62.7%” [“South Korea also needs nuclear weapons 62.7%”], East Asia Institute, 27 April 2009; “South Korean opinion polls: majority favors nuclear weapons; 1980s generation question U.S. ties”, *WMD Insights*, December 2005/January 2006, [www.wmdinsights.com/I1/EA1\\_SouthKoreanOpinion.htm](http://www.wmdinsights.com/I1/EA1_SouthKoreanOpinion.htm).

<sup>82</sup>For example, National Assemblywoman Park Sŏn-yŏng, spokesperson for the conservative minority Liberty Forward Party, told a South Korean radio audience on 27 May that the U.S. commitment to provide a nuclear umbrella was “cold” and that it was time for South Korea to look at the situation objectively and develop its own nuclear weapons. “박선영 ‘우리도 자위용 핵무기 개발해야’” [“Park Sŏn-yŏng: ‘We also must develop nuclear weapons for self-defence’”], Yonhap News Agency, 27 May 2009.

loose grouping of countries that share information and coordinate action to stop proliferation.

PSI aims to prevent and intercept shipments of missiles or WMD and WMD-related systems, components and technologies. South Korea joined the group of 94 countries on 26 May 2009 in response to North Korea's test, but this is more a political than practical statement, as illicit DPRK goods would not be smuggled through South Korea and would be very unlikely to pass through ROK territorial waters. China is probably a main route for some materials, but much of the material and technology is highly portable and could be shipped in diplomatic pouches or by air. The full extent of North Korea's nuclear ties with Pakistan, Iran and Syria are not known, but it will be extremely difficult to disrupt these established links.

Most of the mechanisms are in place to tackle smuggling, purchasing of technology and financing of a nuclear network, but what is often lacking are the resources and commitment of national and international agencies. Putting containment of North Korean technology and weapons at the top of the list of priorities may be essential, particularly if the economic conditions in the country worsen further, and it becomes more reliant on illicit trade.

### C. HUMANITARIAN ASSISTANCE

As well as being a global security concern, North Korea is suffering an enduring humanitarian crisis. A famine in the mid-1990s cost several hundred thousand lives, and most people in the country still have inadequate food and medical care. This is entirely the fault of the government and its policies, but there are strong rationales for maintaining humanitarian support and keeping it separate from negotiations. First, the basic human needs require a compassionate response. Secondly, allowing a steady worsening of the health and welfare of the population would make any future transition even more difficult. Thirdly, food shortages encourage migrants to move into China, raising concerns there and reducing the likelihood that Beijing will put or allow more pressure on the leadership in Pyongyang.

Japan should step up its contributions to humanitarian action in North Korea both to build confidence and for the reasons above, while South Korea should completely depoliticise humanitarian aid. Despite its claim to support humanitarian assistance, the Lee Myung-bak government insists that Pyongyang must formally ask for food and fertiliser before it will be granted. The leadership in Pyongyang probably views this as having to beg and is unlikely to demonstrate such perceived weakness. Innocent North Koreans

suffer the consequences. Beyond continuing supplies of fertiliser and food to sustain the population, there is a need for a coordinated international strategy to enhance food security in North Korea through development and expanding its capacity to pay for imports.<sup>83</sup>

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<sup>83</sup> For details see Hazel Smith, "Food Security: The Case for Multisectoral and Multilateral Cooperation", in Hazel Smith (ed.), *Reconstituting Korean Security: A Policy Primer* (Tokyo, 2007).



## VII. CONCLUSION

Getting North Korea back to serious talks and dismantling its nuclear capacity should be a high priority. For that to happen, the Obama administration is going to have to supplement the Six-Party process with a high-level approach to the North, if and when the prospect appears that Pyongyang may be willing to engage seriously. It will also have to coordinate with the other members of the talks, particularly its allies Japan and South Korea. Both those countries need to set aside immediate bilateral issues and focus on reducing insecurity in North East Asia and wider proliferation issues.

The U.S. needs to take a leading role, both to reach a deal and to enable the Six-Party Talks to emerge as a mechanism for addressing the many security problems in the region. That means a closer focus on the issue in Washington; development of a clear strategy to avoid internal policy divisions; being prepared to appoint a full-time high-level envoy if and when there appears to be a prospect of serious engagement; and a willingness to work more closely and systematically with the North.

Most of North Korea's security anxieties are home-grown – its wretched economy, repressive political system and tensions over who will succeed the ailing Kim Jong-il all create a system that presents unique problems to the outside world. But the eight years of the Bush administration have shown that trying to get the North to become the negotiating partner the outside world wants it to be rather than dealing with the one it is, leads down a path to greater insecurity. Direct talks and policies that are flexible enough to deal with internal North Korean uncertainties may enable the U.S. to reach a deal with North Korea, and the full Six-Party Talks may be able to enforce and enhance that deal.

**Seoul/Brussels, 18 June 2009**

## APPENDIX A

### MAP OF NORTH KOREA

