



briefing

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Responding to the North Korean bomb

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Scarcely a year before its October 9 test of a nuclear warhead, the Democratic People's Republic of Korea (North Korea or the DPRK) made a commitment, in a joint statement with its partners in the Six-Party Talks, "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." In that same September 19, 2005 statement "the Six Parties unanimously reaffirmed that the goal of the Six-Party Talks is the verifiable denuclearization of the Korean Peninsula in a peaceful manner" (Joint Statement 2005).

The formula roughly followed the October 21, 1994 Agreed Framework between the US and DPRK (Agreed Framework 1994), in which the DPRK agreed to shut down the Yongbyon reactor, the only source of nuclear materials for its weapons program (International Crisis Group 2006), both agreed to pursue the construction of nuclear energy light water reactors under International Atomic Energy Agency (IAEA) safeguards, and the US agreed to provide fuel oil, pending the completion of the light water reactors (in the 2005 agreement the Republic of Korea – South Korea or ROK – agreed to provide electricity). Normalization of political and economic relations was promised, along with ongoing adherence to the Nuclear Non-

Proliferation Treaty (NPT) and to IAEA safeguard requirements.

Both agreements came undone, of course, with the first essentially running to 2002 and the second failing from the start. Kim Jong-il, who presides over a land of extraordinary poverty with a state apparatus of extraordinary repression, predictably plays the one card in his hand, the international law-defying nuclear card, and has been characteristically precipitous and intemperate in his actions. But a wide range of experts and commentators insist with remarkable consistency that Washington shares much of the blame for the failure to resolve this north Asian nuclear crisis. President Jimmy Carter (2006), who negotiated with the North Koreans on behalf of the Clinton Administration and has stayed in touch with them, points to the 2002 statement by President Bush that branded North Korea part of an axis of evil and his administration's termination of bilateral discussions and cooperation in supplying fuel. Carter also links the "severe financial sanctions" imposed in 2005 to Pyongyang's resort to the nuclear option, which this time included the June 2006 missile tests and October warhead test.

Washington analyst Selig Harrison (2006b) also links this year's missile and weapon tests to the September 2005 unilateral US economic sanctions, imposed in response to counterfeiting and money laundering operations by the North

Koreans, and to the accompanying US branding of North Korea as a “criminal state.” He (Harrison 2006a) says that, despite Washington’s denials, it is still “playing games with ‘regime change,’” but this game “has become much too dangerous and should now give way to a sustained diplomatic effort to roll back North Korea’s nuclear weapons program while it is still in its early stages.”

The International Crisis Group (ICG 2006) also points to a combination of US statements and actions in the immediate wake of the September 2005 Joint Statement that reinterpreted the agreement and raised issues and conditions, important in themselves, but extraneous to the agreement. For example, even the “consideration” of providing DPRK with a light water reactor could not begin until after the DPRK had met all conditions. To drive home the point, Washington took steps to terminate the Korean Peninsula Energy Development Organization, an international consortium set up in 1995 to support a light water reactor acquisition. The US negotiator also raised human rights issues not linked to the agreement and, in a perhaps deliberately timed move, forced the Asian bank, Banco Delta Asia, to freeze North Korean assets in an excessive response to money laundering and counterfeiting charges. The ICG says that South Korean officials suspected the US of attempting to sabotage the negotiations.

Elements of a deal

So the main elements of a deal are not a mystery and they were present in both the 1994 “framework agreement” reached with the Clinton Administration, and the September 2005 Joint Statement. UN Security Council Resolution 1718, unanimously adopted on October 14, 2006 in the wake of the warhead test, calls on the DPRK to return to the Six-Party talks and “to work toward the expeditious implementation” of the September 2005 Joint Statement.

The 1994 and 2005 agreements state the deal in positive terms. The DPRK receives economic assistance, especially energy assistance such as fuel oil or electricity, consideration regarding the building of a light water nuclear power plant, a clear recognition of DPRK sovereignty, and security assurances. DPRK in turn commits to a denuclearized Korean Peninsula, the termination of all military nuclear programs, the placement of all civilian nuclear programs and facilities under full IAEA inspections, and its return to the NPT.

Resolution 1718 (UNSC 2006) essentially puts forward the same deal, but in negative terms – that is, until the DPRK meets the central demand to return to the NPT and submit to IAEA safeguards, it will specifically be denied economic cooperation and subjected to a broad range of punitive economic measures. In addition to the requirement of full compliance with the NPT and IAEA safeguards, which by definition prohibits nuclear testing and the pursuit of nuclear technologies for military purposes, the resolution goes further and “demands that the DPRK not conduct any further nuclear test or launch of a ballistic missile.”

The Council’s action is taken under Chapter VII of the UN Charter and thus includes an enforcement mandate, although the specific provision for the “inspection of cargo to and from the DPRK” does not include any international enforcement mechanism and is thus left to national action, “as necessary,” that is consistent with national and international law.

The challenge for the international community is to manage the appropriate mix of threat and incentive, and some observers doubt the effectiveness of redoubled threats. President Carter (2006) reminds us that the North Koreans have been “almost impervious to outside pressure” and China and South Korea have resisted any pressures that put the survival of the regime in the north in question. The resistance to threats is not simply an aversion to being pressured; rather,

threats and punitive sanctions are taken as evidence that the US and other Western powers are not honouring the elements of the September agreement that call for security assurances and normalization of relations.² The north has therefore responded more favourably to positive inducements, says Carter, especially those that are understood to take regime-change strategies off the table.

In other words, besides the implementation of Resolution 1718, the focus must now be to return to the September 19 denuclearization agreement, which, according to Carter (2006), accords with a “simple framework for a step-by-step agreement..., with the United States giving a firm and direct statement of no hostile intent, and moving toward normal relations if North Korea forgoes any further nuclear weapons program and remains at peace with its neighbors. Each element would have to be confirmed by mutual actions combined with unimpeded international inspections.”

Progress on these elements in resumed Six-Party Talks, says Selig Harrison (2006a), will require some initial bilateral talks and commitments between the US and DPRK. The US “should agree to bilateral negotiations. It should press North Korea to suspend further nuclear and missile tests while negotiations on normalization proceed, freeze plutonium production and make a firm, time-bound commitment to return to the six-party talks. In return, the administration should negotiate a compromise on the financial sanctions that would reopen North Korean access to the international banking system, offer large-scale energy co-operation and remove North Korea from the American list of terrorist states, thus opening the way for multilateral aid from the World Bank, the International Monetary Fund and the Asian Development Bank, all of which North Korea is actively seeking to join.”

Maurice Strong (2006), the Canadian entrepreneur and former UN envoy to North Korea, points out

that North Korea is committed to a nuclear-free Korean Peninsula, “but only if the threat they perceive from the world’s superpower, the United States, and its hostile policies toward them are also removed. This would include sanctions and impediments that deny membership to North Korea in international development institutions and access to the international trade, investment and assistance it requires to rebuild its shattered economy.”

Both China and South Korea are obviously keen to see the DPRK comply fully with Resolution 1718, but both are at the same time reluctant to implement it to the extent that it risks either regime collapse or a sudden attack. From China’s perspective, regime collapse could draw it into responding to a rapidly escalating humanitarian disaster that spreads into China and could lead ultimately to the reunification of a Korea that is clearly in a Western rather than Chinese orbit.

In the meantime, the world remains confronted with a full-fledged nuclear crisis in North Asia. Canada is not a central player, yet Canada is a Pacific Power, as Foreign Minister Peter MacKay reminded Canadians (Brewster 2006). Perhaps more to the point, Canada has been and needs to remain, in the context of this crisis, a key proponent of the disarmament and non-proliferation principles established in the NPT and the decisions of its review conferences. Indeed, the goal articulated in the September 19 Joint Statement – that is, “the verifiable denuclearization of the Korean Peninsula in a peaceful manner” – is a succinct expression of what the NPT norms and principles mean in that region. In the context of strong Canadian support for that goal, Canada should insist that the international community cannot accept the DPRK, or any other additional state, among the ranks of nuclear weapon states, that disarmament and non-proliferation standards be universally applied, and that multilateralism offers the best hope for meeting the common objectives.

No more nuclear weapon states

The world cannot afford to acquiesce to North Korea's misguided nuclear ambitions, the way it has to those of India, Israel, and Pakistan. This North Asian nuclear crisis requires timely and sustained attention from the international community to achieve the goal of restoring the DPRK as a non-nuclear weapon state (NNWS) party to the NPT, with all of its nuclear facilities operated for non-military purposes under safeguards agreements with the IAEA – in other words, implementing the agreed September 19, 2005 declaration.

While the defiance of international non-proliferation norms and Treaty obligations by any state is appropriately characterized as a crisis, it doesn't follow that the dangers and consequences of the Korean nuclear crisis are imminent. Although the DPRK has obviously made a major and unacceptable stride towards a nuclear weapons capability, it is still a long way from mating a nuclear warhead to a long-range missile. That further development must certainly not be allowed to happen, and all parties have agreed that the only means of prevention is to roll back and eliminate the DPRK's military nuclear programs. The need for care and caution in the process is obvious, not only because current approaches have demonstrably failed, but also because we have all become long-term stakeholders in the outcome. Measures leading to the regime's collapse would raise "the prospect of loose nukes ending up in the hands of power-mad generals in the midst of a war in Korea, or being spirited out of the country to find their way into the hands of terrorists" (Hayes & Savage 2006).

But there is much more at stake than the threat of loose nukes – notably the threat of escalating nukes within states. The greater danger is that the escalation of nuclear weapons under the control of governments will lead to the unraveling of the nuclear non-proliferation regime itself, undermining restraint and ushering in a new

nuclear arms race. Indeed there are some who are essentially telling the White House that such a nightmare scenario would be a desired outcome. Here is the advice David Frum (2006) gives to his former boss in the White House:

Encourage Japan to renounce the Nuclear Nonproliferation Treaty and create its own nuclear deterrent....A nuclear Japan is the thing China and North Korea dread most....Not only would the nuclearization of Japan be a punishment of China and North Korea, but it would go far to meet our goal of dissuading Iran — it would show Tehran that the United States and its friends will aggressively seek to correct any attempt by rogue states to unsettle any regional nuclear balance. The analogue for Iran, of course, would be the threat of American aid to improve Israel's capacity to hit targets with nuclear weapons.

While we must hope that official Washington is not as breathtakingly irresponsible as Frum, the danger that this crisis will spawn nuclear escalation is dangerously real. Fortunately, there are other voices as well, such as that of George Perkovich (2006) of the Carnegie Centre:

The most important thing is for the United States to take the lead in involving Japan, South Korea and China in very intensive diplomacy about how all of the major powers in Northeast Asia can avoid the temptation to engage in an arms race which will exacerbate fears of a nuclear confrontation in the region. Given that some people perceive that Japan's new leadership might wish to reconsider Japan's nuclear policy, it is vitally important that the United States lead an intense and sustained effort with Japan, South Korea and China to clarify each other's intentions and policies in ways that avoid any nuclear competition.

Affirming a universal standard of non-proliferation

The established disarmament and non-proliferation standards that Canada supports and must insist upon as relevant to the resolution of the current North Korean violation of the non-proliferation regime include ratification of the Comprehensive Test Ban Treaty (CTBT), the negotiation of a treaty to ban fissile material production for weapons purposes (FMCT), negative security assurances (NSAs), adherence to the IAEA Additional Protocol to allow for more effective and intrusive inspections of nuclear facilities, and reductions with a view to the elimination of existing nuclear arsenals.

The UN Security Council is trying to preach temperance from a bar stool. All five permanent members of the Council (P5) are recognized as nuclear weapon states (NWS) under the NPT and are obliged to dismantle their nuclear arsenals according to Article VI of the Treaty and as confirmed in the 1996 World Court opinion.³ China and the United States refuse to ratify the CTBT, even though they obviously want North Korea and all other states to abide by it. They refuse to negotiate an FMCT even though they obviously want North Korea and all other states to end all production of fissile material for nuclear weapons. Despite the Treaty commitment to abolish nuclear weapons – a commitment which they reaffirmed through the “unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament” (NPT 2000) – the P5 remain determined nuclear retentionists. They continue to modernize their arsenals, elaborate nuclear use doctrines, and pursue selective non-proliferation (e.g., accepting nuclear testing in some cases, such as India and Pakistan, but opposing it in others).

Persistent multilateralism

Multilateralism remains the best defence against a continuing double standard and selective non-proliferation. The collapse of talks following the September 19 joint statement was no doubt due to a range of circumstances, with plenty of blame to go around, but Washington’s unilateral imposition of sharpened economic sanctions in relation to issues not directly linked to the talks was a major factor.

The best protection against such diversions comes from a multilateral effort that is based on non-proliferation imperatives that emphasize the universal character of non-proliferation norms and reject the double standard that is now at the heart of US-led non-proliferation efforts.

In this case the DPRK is particularly hostile to multilateral negotiations, preferring bilateral talks with the US. Indeed, it is clear that direct talks and accommodations between the DPRK and the US are a prerequisite to a positive outcome, but such talks should proceed strictly within the multilateral framework of the Six-Party Talks and not undermine the common agenda.

International control of the nuclear fuel cycle

Most versions of the formula for a resolution of the North Asian nuclear crisis include the provision of nuclear reactors to the DPRK. The steps from a nuclear power reactor to a weapons capability are many and complicated, but acquiring civilian reactors is definitely part of the journey. Iran’s efforts to enrich uranium for its planned light water reactors are at the core of the international community’s dispute with Iran. The uranium enrichment process to bring it to the minimal levels required in light water reactors is the same process needed to produce the high levels of enrichment suitable for use in a bomb. If that process is not ultimately brought under strict international control, the international community will inevitably find that uranium enrichment

capability, as well as other advanced nuclear research efforts and technologies, will become widely dispersed with obvious and dangerous non-proliferation implications.

The North Korean and Iranian disputes should be the occasion to develop new standards for the international control of weapons-related technologies and materials that are nevertheless part of the civilian nuclear energy industry. As we have noted in the case of Iran (Regehr 2006), an arrangement by which Iran would end its enrichment and reprocessing efforts in exchange for international commitments to assure it access to nuclear fuel would further efforts toward a system of international or multilateral control of the nuclear fuel cycle. The same basic arrangement should accompany any DPRK acquisition of new nuclear power capabilities. The IAEA and its Director General Mohamed ElBaradei, aided by an experts group study, have considered ways to multinationalize uranium enrichment and plutonium reprocessing facilities so that these sensitive processes that produce weapons-grade materials, even if intended only for electricity generation, do not remain under the control of individual states. Most such proposals include provisions for an international, perhaps IAEA-controlled, fuel bank that would provide fuel to civilian reactors unless ordered not to do so by the Security Council (IAEA 2005).

Ballistic missile defence

From its earliest days the Pentagon's Missile Defense Agency has needed the cooperation of Kim Jong-il to preserve the North Korean threat. A potential North Korea threat has provided the primary rationale for the system to its Congressional advocates, and Mr. Kim has been consistently accommodating. The October 9 nuclear warhead detonation also gave a boost to the BMD lobby in Canada, just days after the Senate Defence Committee recommended, in a report optimistically titled "Managing Turmoil,"

that Canada once again pursue participation in Washington's BMD program.

The Senate argued for BMD because "it is not offensive and not a threat to any other nation," at the same time that American advocates like Frank Gaffney Jr. (2006) and David Frum (2006) argue for it precisely because it is threatening – especially to China. Thus Kim Jong-il and North American BMD advocates have found common cause for the moment. Eventually more prudent minds will prevail – even *The Globe and Mail's* John Ibbitson (2006), a consistent supporter of BMD, seemed to reluctantly agree that, despite the hype in the context of the current Korean nuclear crisis, Canada, including the current Government, is not in a mood for another go at BMD. Serious strategists, after all, recognize that any possible protection that BMD could offer from a North Korean missile would be immediately undercut by manifold increases in the Chinese nuclear threat.

If the current crisis is finally resolved, as it must be, along the lines of the September 2005 Six-Party Joint Statement, the denuclearization of the Korean Peninsula will have the happy result of denying the North American BMD lobby one of its valued allies.

Conclusion: remembering humanity

Immediately after the North Korean nuclear test, the UN Office for the Coordination of Humanitarian Affairs (2006) warned of the inevitable deterioration of humanitarian conditions for a Korean population already enduring extreme suffering. The UN World Food Program is currently able to support only one million of the six million people in need. Floods this past summer have exacerbated the situation and some of the newly displaced are currently being sheltered in abandoned mines. The UN now warns that "if China and South Korea, which in recent years have been the leading providers of economic and food aid to the North, respond to the nuclear tests with an embargo, day-to-day living

conditions for the North Korean people will deteriorate rapidly, which in turn may lead to increased internal displacement and refugee flows.”

In their famous 1955 manifesto, Bertrand Russell and Albert Einstein called on the world to abolish nuclear weapons and pursue peaceful means of settling disputes, and enjoined us all to “remember your humanity, and forget the rest.” Especially now, we need to recall that plea on behalf of the citizens of North Korea, when their own government remembers the rest but forgets their humanity, and when the rest of the world contemplates responses that could very well visit further acts of inhumanity on them.

Notes

1. The Six-Party Talks involve the DPRK, China, Republic of Korea (South Korea), Japan, Russia, the United States.
2. The Joint Statement (2005) includes the following two declarations: “The United States affirmed that it has no nuclear weapons on the Korean Peninsula and has no intention to attack or invade the DPRK with nuclear or conventional weapons.” “The DPRK and the United States undertook to respect each other's sovereignty, exist peacefully together, and take steps to normalize their relations subject to their respective bilateral policies.”
3. On July 8, 1996, the International Court of Justice (ICJ), the judicial branch of the United Nations, issued its advisory opinion, *Legality of the Threat or Use of Nuclear Weapons*. The ICJ (1996) found 1) that the threat or use of nuclear weapons “would generally be contrary” to humanitarian and other international law regulating the conduct of warfare, and 2) that under Article VI of the Nuclear Non-Proliferation Treaty and other international law states are obligated to “bring to a conclusion negotiations

leading to nuclear disarmament in all its aspects under strict and effective international control.”

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