



U.S.-Korea Relations:

North Korea Disables Facilities, But Resists Declaration

Donald G. Gross, Atlantic Council of the United States
Hannah Oh, Holland and Knight LLP

North Korea followed through on its Oct. 3 commitment to disable its nuclear facilities this quarter, but resisted giving an “complete and correct” declaration of its nuclear programs. While the disabling actions – which would prevent North Korea from producing nuclear material for at least a year – encouraged U.S. officials, Pyongyang’s unwillingness to declare its uranium enrichment program, in particular, created a potentially major obstacle in the Six-Party Talks. At the end of the quarter, the U.S. faced a diplomatic dilemma: how to incentivize Pyongyang to continue the disabling process, while pressuring North Korea to come clean on its past nuclear activities. Pyongyang insisted it had engaged in “sufficient consultation” with the U.S. on the declaration and threatened to slow down the disabling process until it received more compensation.

The election of South Korea’s conservative party candidate, Lee Myung-bak, on Dec. 19 signified that Seoul and Washington will soon likely have a more coordinated policy approach toward North Korea. Lee stressed that he would adopt a “pragmatic” approach and support large-scale South Korean economic assistance to Pyongyang – but only if North Korea first abandons its nuclear program. U.S. and South Korean officials sparred this quarter over Korea’s decision to suspend U.S. beef shipments because of the threat of mad cow disease. They proved unable to resolve this issue, although President Roh Moo-hyun and President-elect Lee pledged to work together to ratify the U.S.-Korea Free Trade Agreement (FTA) at the upcoming session of the National Assembly in February.

Implementing the Oct. 3 agreement

Shortly after reaching the Oct. 3 agreement at the Six-Party Talks, which committed North Korea to disable its existing nuclear facilities and declare its nuclear programs by Dec. 31, the State Department’s Director of Korean Affairs Sung Kim led a group of experts from the U.S., China, and Russia to North Korea on a visit to North Korea. The purpose of the group was to put “the roadmap in place, so that you get from where we are right now to a disabled Yongbyon facility at the end of this year,” according to a State Department spokesman. Under the Oct. 3 agreement, Pyongyang promised to disable its 5-megawatt experimental reactor, its reprocessing plant, and its nuclear fuel-rod fabrication facility in Yongbyon by Dec. 31.

As this visit by the experts got underway, various governments formulated public reactions to the declaration issued by North and South Korea at their Oct. 3-4 summit meeting in Pyongyang. In this declaration, President Roh and North Korea's leader Kim Jong-il reaffirmed prior six-party agreements on the nuclear issue while calling for a declaration "to end the current armistice regime [on the Korean Peninsula] and build a permanent peace regime."

In its reaction, the State Department focused on the nuclear issue and indicated that progress on other aspects of the North-South Declaration would be contingent on whether North Korea carried out its denuclearization pledge saying "...the South Koreans made it very clear that the movement forward on the inter-Korean track was going to be tied to the six-party process. This is another validation of the importance of the six-party mechanism in being able to achieve the outcome that we and others are looking for – the denuclearized Korean Peninsula as well as a changed relationship between North Korea and the rest of the world."

Seemingly to reassure the U.S., South Korea's Foreign Minister Song Min-soon reaffirmed on Oct. 5 that negotiations on permanent peace arrangements in Korea would depend on progress toward denuclearization. "Talks on a peace regime will be in line with denuclearization," he said.

While both the U.S. and South Korea statements on sequencing the two negotiating tracks were consistent, neither statement committed them to a timetable for initiating talks on a permanent peace regime. Later in the quarter, Seoul and Washington appeared to agree that if North Korea followed through on its promise to disable its nuclear facilities and declare its nuclear programs by Dec. 31, negotiations on permanent peace arrangements to replace the 1953 Armistice could begin shortly thereafter.

From North Korea's standpoint, the most important incentive for meeting its commitments was a previous U.S. promise to "begin the process" of removing North Korea from the State Sponsors of Terrorism List "in parallel" with Pyongyang's actions. Removal from the list would allow Pyongyang to receive technical and material assistance from international financial institutions, including the World Bank and International Monetary Fund.

North Korea's ambassador at the Six-Party Talks, Vice Foreign Minister Kim Kye-gwan, interpreted the U.S. to mean that Pyongyang would be removed from the terrorist list by the end of 2007. But the State Department created some flexibility on timing by indicating that the promised U.S. action was contingent on North Korea's "fulfillment of its commitments on providing a declaration and disabling its nuclear facilities."

In late October, U.S. Deputy Secretary of State John Negroponte publicly addressed two important structural negotiating issues for the Korean Peninsula – the potential parties to a peace agreement that would replace the 1953 Armistice and whether the Six-Party Talks should evolve into a permanent multilateral security forum for Northeast Asia. On the first issue, Negroponte affirmed that China and U.S. as well as North and South

Korea should be involved in the discussions: “Clearly the two most important parties are North and South Korea. But both China and the United States were involved in [the Korean War]. And therefore, we think it would make sense for the four parties to discuss the ultimate peace arrangement in the Korean Peninsula.”

On the issue of a more permanent multilateral security forum, Negroponte said the U.S. might like to see this occur, but only after North Korea was denuclearized and entered into new peace arrangements for the Korean Peninsula: “We think it’s an important opportunity and one that we ought to pursue in the months and years ahead...We do not know what form this multilateral arrangement might take, but one idea to which we are giving serious thought is the potential to use the Six-Party Talks, in particular the working group on Northeast Asian peace and security, as the beginning of a more lasting structure for peace and security in Northeast Asia....As we work diplomatically to denuclearize the Korean Peninsula, and if one day we reach a peaceful settlement on the peninsula, that might be the right time to elaborate this idea of a broader, multilateral structure for security in Asia.”

At the beginning of November, a team of experts led by State Department official Sung Kim went to North Korea to continue the process of disabling North Korea’s core nuclear facilities. According to Ambassador Hill, the team’s initial actions involved “cutting some chains” to stop movement of radioactive material in the nuclear fuel reprocessing plant. Hill said that the next pressing item was “cleaning up [radioactivity] for health purposes....And this is not a process that’s going to end in a couple of days or a couple of weeks. It’s going to take a lot longer.”

About the same time, the U.S. Navy, in an unprecedented action, gave medical assistance and other support to the crew of a North Korean vessel that was attacked by pirates off the coast of Somalia. A Navy destroyer, the *USS James E. Williams*, ordered the pirates who hijacked the ship to give up their weapons. After the North Koreans overwhelmed the pirates, the Navy gave medical treatment to several seriously injured crew members aboard the destroyer. A Navy spokesman downplayed the incident, saying “it’s beyond nationality. It really comes down to a fundamental issue: we are responsible for mariners and we help all sorts of people.”

Controversy over a “declaration” to end the Korean War

Some tension arose between the U.S. and South Korea in mid-November over President Roh’s proposal that the U.S., South Korea, North Korea, and China hold a summit in the near future to “declare” an end to the 1953 Armistice (which left Korea technically in a “state of war”) and establish a new peace regime. Roh made his proposal in the context of South Korea’s presidential campaign to assist the liberal presidential candidate he supported, Chung Dong-young.

Roh’s statement ran contrary to the position staked out by U.S. Ambassador to Korea Alexander Vershbow in late October when Vershbow ruled out a declaration of this kind. Vershbow said that only signing a carefully negotiated peace treaty could constitute the

“legal and political end” to the Korean War. Nothing came of Roh’s proposal and it was effectively repudiated by the winning candidate in South Korea’s presidential election, former Seoul Mayor Lee Myung-bak.

Efforts to make Pyongyang’s declaration “complete and accurate”

At the end of November, Ambassador Hill traveled to North Korea to assess the progress in disabling the Yongbyon nuclear facilities and to review a draft declaration of North Korea’s nuclear programs. He reported that the disabling process was moving ahead smoothly but that there were “definitely some differences” over the declaration: “We don’t want to see a declaration in which everyone can immediately see what’s missing. We want to make sure this declaration is as complete and correct as possible.”

Reportedly, Hill found deficiencies in three key areas of the draft declaration: 1) the extent of Pyongyang’s alleged uranium enrichment program for building nuclear weapons; 2) the quantity of plutonium North Korea currently possessed; and 3) the extent to which Pyongyang had assisted Syria with a nuclear weapons program.

To strengthen the U.S. position on North Korea’s declaration, President Bush wrote letters to the leaders of all the participants in the Six-Party Talks in early December, calling for Pyongyang to make a “complete and accurate declaration” of its nuclear programs, consistent with its Oct. 3 commitment. While the letter put pressure on North Korea, it also represented the first time a sitting U.S. president had written directly to a North Korean head of state. The letter gave “face” to North Korean leader Kim Jong-il and showed the remarkable diplomatic shift from the Bush administration’s earlier refusal to deal directly with the Pyongyang regime.

On Dec. 11, Secretary of State Rice reinforced the public perception that the process of disabling North Korea’s Yongbyon facilities was proceeding satisfactorily while Pyongyang was dragging its feet on the declaration of its nuclear programs: “We’ve still got a ways to go [on disabling]. In the meantime, I can say that much of the work has gone rather well....And now we await a complete and accurate declaration from North Korea on all its nuclear activities.”

A day later, the New York Philharmonic Orchestra formally announced that it will perform in North Korea on Feb. 26, 2008, accepting an official invitation it had received months earlier. State Department spokesman Sean McCormack underscored U.S. government support for this event as a means of furthering “a different kind of relationship between...North Korea and the United States.”

Through the rest of the quarter, North Korea proved unwilling to amend the draft declaration of nuclear programs, even as it cooperated with the nuclear disabling process. The major obstacle, according to South Korean Foreign Minister Song, was Pyongyang’s declaration regarding highly enriched uranium. Washington sought a detailed admission from North Korea on the extent of its uranium enrichment program while Pyongyang continued to deny the existence of any such program.

As Dec. 31 came and went without a revised declaration, Ambassador Hill and the State Department took the view that a “complete and correct” declaration was more important than meeting the deadline. This view was premised, in part, on North Korea’s unprecedented cooperation in disabling its nuclear facilities, which also gave Washington a new window into Pyongyang’s nuclear capabilities.

Right after the New Year, Ambassador Hill embarked on a week-long trip of consultations in Tokyo, Seoul, Beijing, and Moscow in preparation for a new round of Six-Party Talks in mid-January. It seemed possible that he would also meet in Beijing with North Korea’s negotiator, Kim Gye-gwan, in an effort to resolve the differences over Pyongyang’s nuclear declaration.

On Jan. 4, North Korea’s Foreign Ministry issued a public statement implying it would not make revisions to the draft declaration it previously provided to the U.S. The statement said North Korea had already conducted “sufficient consultation” on the declaration. Claiming that Pyongyang had disabled the Yongbyon nuclear complex during November and December “within the technologically possible scope as of Dec. 31,” the ministry asserted that promised compensation in the form of fuel oil and steel products “has not been done even 50 percent.”

Consequently, North Korea said it intended to slow down the last stage of disablement – unloading the spent fuel rods from the Yongbyon nuclear reactor – and that this would take an additional 100 days. Summing up, the Foreign Ministry said “we still hope that the Oct. 3 agreement will be implemented smoothly if all countries participating in the Six-Party Talks make sincere efforts based on the principle of action for action.”

Both the White House and State Department played down the statement, indicating that the issue had not yet reached a negotiating impasse. White House spokesman Tony Fratto said ‘the North Koreans know what’s expected of them and what the rest of the parties are looking for, and that is a full and complete and accurate declaration of their nuclear activity.’ State Department spokesman Sean McCormack emphasized the significant progress in disabling the Yongbyon nuclear facility: “We’re breaking new ground here. This hasn’t been done before.”

Election of a conservative president

The election on Dec. 19 of conservative presidential candidate Lee Myung-bak of the Grand National Party appeared likely to align South Korea and the U.S. much closer on policy toward North Korea. The tenure of President Roh, by contrast, has been marked by tension and distrust with the Bush administration on the North Korea issue.

During the presidential campaign and in media interviews after his election, Lee emphasized that North Korea had to abandon its nuclear program as a condition for achieving full-fledged economic exchanges with the South. He stressed that “discarding

the nuclear program is the way for North Korea to step toward prosperity” and pledged to take a tougher but more pragmatic position on Pyongyang than his predecessor.

In a television press conference on Dec. 20, Lee said: “I assure you that there will be a change from the previous government’s practice of avoiding criticism of North Korea and unilaterally flattering it. Criticism that comes with affection can help make North Korean society healthy and improve the lives of its people in the long run.” To demonstrate his positive approach, Lee reiterated that once North Korea abandons its nuclear program, Seoul will provide economic aid over the next 10 years to boost its per capita income to \$3,000 from its current level of about \$1,300.

At the end of the quarter, news media reported that Lee’s transition team was considering allocating \$40 billion for an international cooperative fund to support North Korea’s economic growth. These funds would be provided in tandem with assistance from the World Bank and Asia Development Bank, according to Lee’s plan.

Beef complicates FTA ratification in the U.S.

At the beginning of October, South Korea’s Ministry of Agriculture suspended imports of all U.S. beef after inspectors repeatedly found bone fragments in incoming shipments. Earlier in 2007, the ministry had partially lifted a ban on U.S. beef (originally imposed to prevent the spread of mad cow disease) when it agreed to allow imports of boneless U.S. meat less than 30 months old.

U.S. trade officials reacted angrily to the South Korean action, saying it would scuttle U.S. congressional ratification of the pending Korea-U.S. Free Trade Agreement (FTA). At a meeting in Seoul, chief U.S. negotiator Wendy Cutler warned that “Congress made it clear that it is necessary to reopen the [South Korean] beef market in order to consider the free trade agreement. The sooner we resolve this issue, the faster the ratification.” This controversy remained unresolved throughout the quarter as officials in both governments struggled for an acceptable compromise that would allow U.S. ratification to move forward. In the words of the head of the Livestock Bureau at the South Korean Ministry of Agriculture, Lee Sang-kil: “we are dealing with a highly sensitive issue for South Korea and the United States. It puts a bit burden on both sides.”

At the end of the quarter, President-elect Lee and President Roh agreed to cooperate in seeking ratification of the FTA by the National Assembly. At a Blue House meeting, Lee praised the FTA as a “brilliant performance” by the out-going Roh administration and called for legislative passage during the upcoming parliamentary session in February. Roh responded that “though I’m not certain that I can give any great help, I agree with you and promise to do my best for ratification of the accord.”

U.S.-Korea defense issues

A number of important developments in U.S.-Korea defense relations occurred during this quarter:

- South Korea withdrew its 200-member contingent of noncombatant troops from Afghanistan on Dec. 14. The troops, consisting of engineers and medics, conducted humanitarian work and rehabilitated infrastructure since 2002.
- South Korea's National Assembly extended the deployment in Iraq of the so-called *Zaytun* Division for another year. The troops are assisting coalition forces with reconstruction missions in and around the city of Irbil in northern Iraq.
- At their Security Consultative Meeting (SCM) in early November, U.S. Defense Secretary Robert Gates and South Korea's Defense Minister Kim Jang-soo agreed that South Korea will assume more responsibility for the United Nations Command (UNC) when Seoul takes over wartime operational control of its armed forces from the U.S. in April 2012. The UNC oversees the Demilitarized Zone (DMZ) dividing North and South Korea, including two transportation corridors running through the DMZ.
- In early November, U.S. and South Korean military officials presided over a ground-breaking ceremony for a major new U.S. base in Pyeongtaek, south of Seoul. The long-planned construction had been delayed by a dispute between the two governments over how much each would pay for the \$11 billion project. Military officials recently reached agreement that South Korea would bear \$5.9 billion in construction costs and that the project would be completed by 2012.

Prospects

At the end of the quarter, U.S. officials weighed how to move forward with the Six-Party Talks in the face of contradictory signals from North Korea. On the one hand, Pyongyang gave unprecedented access to its nuclear complex and allowed U.S.-led experts to proceed apace in disabling the country's capacity for producing nuclear weapons. On the other hand, North Korea showed an unwillingness to go beyond the draft declaration of its nuclear programs that it provided to the U.S. in November. While Ambassador Hill pushed for a more "complete and correct declaration," Pyongyang insisted that it had engaged in "sufficient consultations" and would make no further revisions.

U.S. State Department officials handled this situation with impressive sensitivity – pressing Pyongyang for a full declaration while reaping the benefits of Pyongyang's concessions on disabling its nuclear facilities. Clearly, Washington did not want to apply so much pressure that the Oct. 3 deal would collapse and give North Korea an excuse to resume operations at the Yongbyon nuclear complex.

Following the election of conservative presidential candidate Lee Myung-bak, North Korea is well aware that U.S. and South Korean policy on the nuclear issue will likely be better aligned for the foreseeable future. This development forecloses the traditional North Korean strategy of driving a wedge between Seoul and Washington. It should also focus Pyongyang's attention on Lee's pragmatic policy of providing billions of dollars for economic development in North Korea – *if* Pyongyang finally resolves the nuclear issue.

The current situation requires diplomatic patience and an adroit use of leverage (relying on both negotiating sticks and carrots) by the U.S. and its partners at the Six-Party Talks. By keeping an “eye on the prize” of fully disabling North Korea's nuclear complex and obtaining a sufficient declaration in the near term – without worrying unduly about a specific deadline – the U.S. is more likely to achieve the policy goals it seeks on the peninsula. Fortunately, the Rice-Hill-Vershbow team seems up to this task.

Chronology of U.S.-Korea Relations October-December 2007

Oct. 2, 2007: At North-South Summit, Kim Jong-il and President Roh Moo-hyun discuss inter-Korean peace and investment plans.

Oct. 2, 2007: State Department spokesperson announces the U.S. has endorsed the draft joint statement that sets out the second stage of North Korea's denuclearization process.

Oct. 3, 2007: Beijing announces that a joint agreement reached at the Six-Party Talks on disabling North Korea's nuclear facilities and declaration of its nuclear programs by Dec. 31 has been approved by all parties.

Oct. 3, 2007: White House denies that President Bush will meet presidential hopeful Lee Myung-bak, saying that it didn't want to interfere with South Korea's politics.

Oct. 4, 2007: President Roh and North Korea Leader Kim Jong-il sign a declaration for the advancement of inter-Korean relations, peace and prosperity at the close of the inter-Korean summit in Pyongyang.

Oct. 8, 2007: South Korea resumes annual military training exercise *Hwarang*, which was delayed during the October South Korea/North Korea summit.

Oct. 10, 2007: U.S. nuclear disablement team arrives in North Korea to finalize a plan for disablement procedures for North Korean nuclear facilities.

Oct. 11, 2007: U.S. and South Korea conduct talks to resume importation of U.S. beef.

Oct. 11, 2007: South Korea begins environmental cleanup for 32 of 59 U.S. military facilities that will be returned to South Korea as part of 2004 land swap to reposition U.S. forces south of Seoul.

Oct. 16, 2007: U.S. trade officials assert U.S. Congress will not debate KORUS FTA until U.S. beef imports resume to South Korea.

Oct. 20, 2007: Follow-on team comprised of 12 U.S. nuclear experts arrives in Pyongyang to negotiate specific steps in implementing the agreement to disable North Korea's nuclear facilities by the end of the year.

Oct. 23, 2007: President Roh says his government will seek a one-year extension for South Korea troops in Iraq.

Oct. 24, 2007: U.S. calls for talks among the U.S., South Korea, North Korea, and China regarding ending the Korean War.

Oct. 24, 2007: U.S. House of Representatives passes a resolution calling on Chinese government to stop forcible repatriation of North Korea refugees.

Oct. 24, 2007: U.S. says it plans to share advanced surveillance aircraft, the *Global Hawk*, with South Korea by 2011.

Oct. 29, 2007: U.S. and South Korea discuss visa waiver program and South Korea's electronic passport progress.

Oct. 31, 2007: U.S. Navy assists crew of hijacked North Korea ship of the Somali coast.

Nov. 1, 2007: Nine-member U.S. team of nuclear experts arrive in North Korea to begin supervising the disablement of the nuclear facilities at Yongbyon, which is expected to begin within a week.

Nov. 6, 2007: U.S. team begins disabling North Korea's nuclear facilities.

Nov. 6, 2007: President Roh calls for the National Assembly to ratify the KORUS FTA.

Nov. 6-7, 2007: South Korean Foreign Minister Song Min-Soon visits Canada and U.S.

Nov. 7, 2007: President Bush encourages U.S. Congress to pass FTA.

Nov. 8, 2007: North Korea expresses gratitude for U.S. help in ending a high-seas standoff with Somali pirates, describing the maritime collaboration as a "symbol of cooperation" between the two countries "in the struggle against terrorism."

Nov. 12, 2007: South Korea and U.S. conduct ground-breaking ceremony for \$12 billion Yongsan base relocation project in Pyeongtaek, Gyeonggi Province.

Nov. 13, 2007: President Roh proposes immediate four-party talks on peace on the Korean Peninsula.

Nov. 15, 2007: House of Representatives proposes citizenship to Korean War children.

Nov. 28- Dec. 5, 2007: Christopher Hill, assistant secretary of state for East Asian and Pacific affairs, visits China, Japan, South, and North Korea to discuss the North Korea disarmament process.

Dec. 4, 2007: Christopher Hill delivers a personal letter from President Bush to Kim Jong-il that urges North Korea to fully declare their nuclear programs.

Dec. 7, 2007: South Korea withdraws its military forces from Afghanistan.

Dec. 12, 2007: New York Philharmonic Orchestra announces that it will perform in North Korea on Feb. 26, 2008.

Dec. 14, 2007: South Korean news agency *Yonhap* reports that North Korea responded verbally to the personal letter from President Bush to Chairman Kim Jong-il saying the North “appreciates President Bush’s letter, will fulfill its obligations and expects the U.S. to perform what it has to do.” It was unclear whether the North Korean message was from Chairman Kim.

Dec. 19, 2007: Former Seoul Mayor Lee Myung-bak of the conservative Grand National Party is elected president of South Korea.

Dec. 19-21, 2007: Sung Kim, director of the Korea Desk at the U.S. State Department visits North Korea to discuss the declaration of its nuclear programs. According to sources, North Korean officials repeatedly denied the existence of a uranium enrichment program during the visit.

Dec. 24, 2007: President-Elect Lee vows to revise “Sunshine Policy” with North Korea.

Dec. 31, 2007: North Korea fails to meet the Dec. 31 deadline for a complete and correct declaration of its nuclear programs.