

U.S.-Korea Relations:

The Nuclear Issue Sputters Along

Donald G. Gross
Senior Counsel
Akin, Gump, Strauss, Hauer & Feld

The “nuclear issue” with North Korea continued to dominate U.S.-Korea relations this quarter, although it appeared no closer to resolution at the end than the beginning. When China, the U.S., and North Korea met together in April for their first “multilateral” dialogue, North Korea continued its strategy of making nuclear-related threats while offering to dismantle its nuclear facilities in exchange for U.S. concessions. Refusing to negotiate under Pyongyang’s gun, the U.S. pursued a policy of enlisting its allies to ratchet up diplomatic pressure on North Korea. The Bush-Roh summit in mid-May aimed to strengthen the U.S.-Korea alliance, and while affirming the need for a peaceful resolution of the nuclear issue, committed both countries to consider taking unspecified (and impliedly coercive) “further steps” against Pyongyang. At the end of the quarter, diplomats pushed for a new round of multilateral talks with North Korea, with the U.S. threatening to seek condemnation of Pyongyang at the UN Security Council if North Korea rejected U.S. negotiating demands.

In early June, Washington and Seoul agreed on major realignments and redeployments of U.S. forces in South Korea over the next several years. U.S. troops will be withdrawn from the Demilitarized Zone (DMZ) and from Seoul’s Yongsan garrison, to be redeployed south of Seoul. The redeployment followed mainly from the Pentagon’s view that it was no longer necessary to maintain a military “tripwire” on the DMZ in view of new U.S. warfighting capabilities. Finally, a trade conflict over Korean sales of memory chips in the U.S. simmered throughout the quarter, after the U.S. imposed heavy punitive tariffs on Hynix corporation. The Korean government vowed to contest these penalties at the World Trade Organization (WTO).

Multilateral Dialogue in Beijing

Early in the quarter, as the U.S. continued combat operations in Iraq, it was not clear whether North Korea would accept Washington’s proposal for a multilateral dialogue to address the nuclear issue. North Korea demanded bilateral negotiations with the U.S. and Washington adamantly refused until Pyongyang first agreed to dismantle its nuclear program. The U.S. instead sought multilateral talks with North Korea, in part to internationalize the issue of Pyongyang’s weapons of mass destruction (WMD) and, in part, to further isolate the country.

A breakthrough occurred April 12 when a North Korean Foreign Ministry spokesman said: “The type of dialogue will not matter if the U.S. is ready to change its policy regarding the settlement of the nuclear issue.” This new attitude led both Washington and Pyongyang to accept China’s offer of three-way talks scheduled to take place in Beijing later in April.

China played a key role in breaking this initial impasse over the question of a bilateral vs. multilateral forum for talks on nuclear matters. Prior to North Korea’s statement, Chinese Vice Foreign Minister Wang Yi pushed Pyongyang both to stop its military provocations and to be flexible on the format of dialogue. Former Foreign Minister Qian Qichen reportedly visited North Korea in March for the same purpose.

While China continued to support North Korea’s position against the imposition of UN economic sanctions, Beijing reportedly shut down its oil supplies to North Korea for three days in late March – right after Pyongyang test-fired a missile into the waters between South Korea and Japan. Although Beijing cited “technical” problems as the cause of the oil cut-off, U.S. officials saw it as a fruit of their urging Beijing to “get tough” with Pyongyang.

In any case, China’s successful effort to broker a three-way meeting on the nuclear issue was uncharacteristically forward-leaning. Overriding Beijing’s normal preference for a more passive diplomatic approach was the fear that North Korea’s provocations could lead to a U.S. strike on nuclear facilities in North Korea, which would then escalate into a general war. This would, in turn, cause large and unwanted refugee flows into northeastern China.

Announcement of the three-way dialogue led to severe domestic criticism of the South Korean government for permitting the exclusion of Seoul from the talks. The Foreign Ministry’s argument that it was more important to get North Korea to the table than fight for South Korea’s immediate participation fell on deaf ears. South Korean opinion-makers said it was a matter of “national pride” for Seoul to participate and urged the government to make good on its commitment to play a “leading role” in solving the nuclear problem.

Two days before the Beijing meeting, new evidence emerged of the conflict between “moderates” and “hardliners” (or “hardliners” and “superhardliners,” as one pundit put it) within the Bush administration on policy toward North Korea. Seemingly in order to sabotage the Beijing meeting, an administration official leaked to *The New York Times* the contents of a secret Defense Department memorandum calling for “regime change” in North Korea. The memo served to undercut previous assurances to Pyongyang that U.S. policy did not aim to remove North Korean leader Kim Jong-il.

At the Beijing talks, the U.S. and North Korea reportedly reiterated their basic negotiating positions without making any specific progress toward an agreement. The U.S. stressed that Pyongyang had to agree to permanently dismantle its nuclear program

as the first step toward achieving “greater stability on the Peninsula.” North Korea reportedly put forth a proposal to accept international inspections of its nuclear facilities if the U.S. resumed shipments of heavy fuel and provided security guarantees. North Korea further indicated it would begin dismantling its nuclear facilities based on U.S. normalization of diplomatic relations with Pyongyang.

Some reports of the Beijing meeting implied that North Korea “admitted” for the first time that it had produced several nuclear weapons from plutonium at its nuclear facilities in 1989-90. Some commentators noted that this admission would make North Korea a “declared” nuclear weapons state, although others suggested that Pyongyang was merely bluffing. North Korean diplomats also allegedly hinted at the Beijing meeting that Pyongyang might export nuclear material to third countries if the U.S. did not agree to a diplomatic settlement.

To some extent, the Beijing talks demonstrated the contrasting, culturally bound, attitudes that U.S. and North Korea negotiators brought to the discussions. North Korea argued that once the U.S. changed its hostile attitude, all the practical issues could be resolved. Approaching the negotiations with a 180-degree difference in perspective, U.S. negotiators insisted on concrete steps toward resolving the fundamental issues of disagreement before the U.S. could change its attitude toward Pyongyang and begin normalization of relations.

While there was no breakdown in relations at the Beijing talks, they clearly did little to improve either the substance or atmosphere of diplomacy between Washington and Pyongyang. Following the meeting, Secretary of State Colin Powell rejected North Korea’s proposal to dismantle its nuclear program in exchange for material assistance, security guarantees, and diplomatic normalization. Powell further suggested that the U.S. might take the issue of North Korea’s nuclear program to the UN Security Council. In response, Pyongyang issued several threatening statements, including one to “take self-defensive measures, regarding it as a green light to war” if the U.S. administration were to seek economic sanctions at the United Nations.

The Bush-Roh Summit Meeting

Leading up to the mid-May summit meeting between President Bush and President Roh Moo-hyun, both U.S. and South Korean officials labored to ensure the success of the summit. They purposely kept expectations low so that any apparent differences in outlook toward North Korea would not mar the summit’s reaffirmation of the importance of the U.S.-Korea security alliance. In fact, President Roh made a determined effort before the summit to praise the alliance and quell anti-American attitudes that have increasingly appeared in the South Korean public.

The pre-summit period was critical to both the U.S. and South Korean governments in either mitigating or resolving differences over a variety of issues. Especially on questions of negotiating with North Korea and instituting U.S. troop redeployments in South Korea, the two governments had clashed privately during previous months.

Because diplomats on both sides desired, first and foremost, to strengthen the alliance relationship, they were able to either put to rest, or put aside, most outstanding differences between them.

At the summit, the chemistry between the two leaders appeared good, and it was positively reported in both the U.S. and South Korean press. The joint statement stressed six major points: 1) the U.S. and South Korea will not tolerate nuclear weapons in North Korea; 2) the two nations will seek elimination of North Korea's nuclear weapons program through peaceful means; 3) the two allies will work closely to modernize the U.S.-Korea alliance; 4) they will pursue relocation of the U.S. bases north of the Han River, taking careful account of the political, economic, and security situation on the Peninsula and northeast Asia; 5) humanitarian assistance will be provided to North Korea without linkage to political developments; and 6) the two nations will work together to achieve a successful conclusion of the Doha Development Agenda. They will also strengthen cooperation in the Asia Pacific Economic Cooperation (APEC) forum.

Perhaps the most important specific language of the joint statement concerned the nuclear issue. It set forth U.S. and South Korean agreement that "increased [North Korean] threats to peace and stability on the Peninsula would require consideration of *further steps*" (emphasis added). Moreover, for the first time, South Korea expressed its intention to condition economic assistance to North Korea on its behavior concerning the nuclear issue: "Roh stressed that future inter-Korean exchanges and cooperation will be conducted in light of developments on the North Korean nuclear issue."

The inclusion of the language on "further steps" meant that Roh dropped his previous insistence that the U.S. rule out economic sanctions or military force as countermeasures against North Korea. But the term was sufficiently vague as to merely suggest that the U.S. and South Korea would keep all options open without laying out what those options might be.

President Roh's Economic Diplomacy

From the South Korean standpoint, a critical goal of Roh's summit visit was to "sell Korea" as a destination for profitable U.S. investments. Foreign investment from the United States has dropped considerably over the past year, while South Korea's economy suffered severely from falling production, slow growth, and lowered consumer confidence.

In New York, Washington, and San Francisco, Roh met with U.S. business leaders, emphasizing his agenda of opening the South Korean economy through further deregulation, privatization, and increased flexibility in the labor market. He sought to dispel doubts about his alleged "anti-business" reputation by bringing 30 top Korean business leaders with him on his summit visit.

Roh successfully persuaded the Bush administration to endorse, in the joint summit statement, South Korea's effort to make the country a "business hub" for U.S. and multinational corporations in Asia. Roh stressed that utilizing South Korea as a northeast Asian business hub would provide many opportunities for U.S. corporations in the region.

Continued Debate over the Multilateral Forum for Negotiations

North Korea and the U.S. jockeyed diplomatically on the question of multilateral negotiations for the rest of the quarter. In late May, Pyongyang said it would accept an expanded multilateral forum (to include both South Korea and Japan) *after* it conducted direct talks with the U.S. In so doing, North Korea slightly modified its earlier insistence on negotiating the nuclear issue bilaterally and exclusively with the U.S.

For its part, the U.S. continued to reject North Korea's demand. At the Trilateral Coordination and Oversight Group (TCOG) meeting on June 12, South Korea and Japan joined the U.S. in supporting the concept of multilateral talks. The U.S. also moved at an international meeting in Madrid, Spain, to galvanize support for stronger international measures to stop countries, including North Korea, from exporting missiles or WMD.

The U.S. diplomatic push was accompanied by a report in *The New York Times* that the U.S. was embarking on a campaign of "selective interdiction" to track and halt any suspicious shipments out of North Korea. The objects of U.S. and allied efforts were intended to be illegal drugs as well as weapons, in order to cut off sources of hard currency available to the Pyongyang regime.

In mid-June, North Korea reversed its position on multilateral talks, rejecting them as "camouflage" for an overall U.S. effort to isolate North Korea. A Foreign Ministry statement threatened "retaliation" for any "hostile acts" taken against Pyongyang. Seemingly in response, the U.S. increased pressure on North Korea at the ASEAN Regional Forum (ARF) ministerial meeting by reportedly obtaining agreement from China, South Korea, and Japan that the UN Security Council should take up the nuclear issue if North Korea did not accept multilateral talks. South Korea and the U.S. apparently disagreed on the timing of such UN action, with Washington seeking near-term consideration and Seoul and Beijing willing to put off Security Council debate on the issue.

Finally, at the end of the quarter, as an additional means of putting pressure on North Korea, the U.S. sought to halt construction of two light-water reactors that were the *quid pro quo* for Pyongyang's freeze on its nuclear activities in the 1994 Geneva Agreement. South Korea, which stood to lose approximately \$900 million in previous investment in the project, urged continuation of minimal construction, even though the U.S. indicated it would hold up delivery of key components (i.e., water supply tanks) for the reactors.

Redeployment of U.S. Troops in South Korea

In early June, the U.S. and South Korea agreed to withdraw all U.S. troops from the DMZ in a phased redeployment over several years. The action followed from Defense Secretary Donald Rumsfeld's decision to revamp U.S. military deployments throughout the world.

According to public reports, the overall change will take four to five years and be conducted in two stages. In the first stage, U.S. bases north of the Han River and close to the DMZ will be consolidated at Camp Casey in Tongduchon and Camp Red Cloud in Uijongbu, north of Seoul. During the second stage, U.S. forces at these bases would move to two hubs south of the Han River at Osan-Pyeongtaek and in Taegu-Pusan.

In Seoul, approximately 6,000 of the 7,000 troops at the Yongsan Garrison, headquarters of the 8th U.S. Army in downtown Seoul, will be relocated to Pyongtaek beginning in 2003, although the headquarters itself will remain in Seoul as part of the Combined Forces Command. Gen. Leon LaPorte, commander of U.S. Forces Korea, has indicated that the Defense Department is willing to invest approximately \$220 million in the Pyongtaek area, if South Korea procures land for U.S. troops there.

In the period leading up to the announcement of the U.S. troop redeployment, South Korea initially sought a delay in order to retain the so-called "tripwire" north of the Han River. The presence of U.S. forces at the DMZ ensured immediate U.S. military involvement in the event North Korea attacked South Korea.

But U.S. strategic planners have come to see the "tripwire" as increasingly anachronistic at a time when U.S. military power revolves more significantly around air power, precision-guided weapons, and high-tech communications. Some U.S. officials also view the troops at the DMZ as "hostages" to North Korea in the event of conflict. Large numbers of U.S. forces based in Seoul, stationed on prime real estate, have become a focal point for anti-American demonstrations over the last year as well.

U.S. and South Korean defense planners agreed in early June on the goal of completing detailed plans on the realignment of U.S. forces and related issues by the time of their next Security Consultative Meeting in late September, just prior to the 50th anniversary of the U.S.-Korea Alliance in October.

U.S. Imposition of Trade Penalties Sparks Conflict

In early April, the U.S. Department of Commerce imposed punitive "countervailing duties" on South Korea's Hynix Corporation, a leading producer of dynamic random access memory (DRAM) chips, claiming they caused material injury to the U.S. semiconductor industry. The U.S. International Trade Commission is set to rule July 29 on the merits of this decision.

In imposing stiff tariffs of 57.37 percent (later reduced to 44.71 percent in June) of the DRAM export prices, the Department of Commerce acted at the behest of U.S.-based Micron Technology Corporation. The Commerce Department apparently agreed with Micron's arguments that loans to Hynix by state-run Korean banks amounted to illegal subsidies. Hynix countered that the loans were extended on a commercial basis as part of a financial reform program endorsed by the International Monetary Fund following Korea's 1997-98 financial crisis.

South Korea's Foreign Ministry expressed regret at the U.S. decision and said it would seek a ruling from the WTO that the Commerce Department action was unfair. Hynix's shipments of DRAM chips to the U.S. market in 2002 amounted to about \$460 million.

About the same time as the Commerce Department decision, the U.S. Trade Representative issued its annual "National Trade Estimate," which criticized South Korea's trade barriers in a number of sectors. Aside from semiconductors, the report highlighted problems in areas including automobiles, intellectual property rights, agriculture, and pharmaceuticals. In response to the report, South Korean officials expressed concern that the U.S. would step up trade pressure against South Korea during the second half of 2003.

One other sticking point on trade was South Korea's "screen quota," which requires theaters to show domestic films for a minimum of 146 days each year. The reluctance of South Korea to allow more access for Hollywood films has held up conclusion of a bilateral investment treaty (BIT) between the two countries, which has been under negotiation for the last five years. From South Korea's standpoint, concluding a BIT would encourage more direct U.S. investment by providing greater legal protections to foreign investors in a more transparent investing environment.

In May, the South Korean Ministry of Finance and Economy (MOFE) began lobbying the local film industry for its agreement to liberalize the existing screen quota system and thus facilitate a U.S.-Korea BIT. The MOFE effort stemmed from a research institute finding that a BIT would attract U.S. investment of over \$4 billion to South Korea. While the film industry is expected to fight to retain the screen quota, MOFE may succeed in phasing out the system over several years, as requested by the U.S.

Prospects

By the end of this quarter, the Bush administration appeared successful in persuading both Seoul and Tokyo to adopt a harder line policy against North Korea on the nuclear issue. While continuing to reject Pyongyang's demand for bilateral talks, the U.S. pushed for a new round of multilateral negotiations and initiated an allied effort to intercept North Korea's missile exports and illegal drug shipments. The Bush administration apparently adopted the view that only sustained international pressure would cause Pyongyang to accept U.S. demands, and offered no material incentives for fear of seeming to "appease" North Korea.

A stable negotiating track, much less a diplomatic solution, is not yet in sight between the U.S. and North Korea. Distrust and enmity on both sides remains at a high level. Bush administration officials seem to feel that time is on the U.S. side if it gradually ratchets up international pressure against Pyongyang, without putting any incentives on the table. For its part, North Korea appears content to continue threats of its own against the U.S., South Korea, and Japan without yet firmly committing to a long-term multilateral negotiation on security issues.

It may be that China, which successfully facilitated the first multilateral negotiation with North Korea in April, will have to exert a major effort to keep the diplomatic track intact. China has strong reasons to avoid a new military conflict on the Korean Peninsula and appears likely to strive, over the coming months, to actively broker a diplomatic solution to achieve its own regional policy objectives.

Chronology of U.S.-Korea Relations April-June 2003

April 1, 2003: National Assembly approves dispatch of Korean troops to Iraq as part of U.S. coalition. U.S. Commerce Department imposes high punitive duty of 57.37 percent on Hynix Corporation for alleged Korean government subsidies of memory-chip exports.

April 10, 2003: U.S. and South Korea agree to relocate U.S. military headquarters from Yongsan Army Base in Seoul to Osan, south of Seoul, by 2004.

April 12, 2003: North Korea says it will accept multilateral dialogue with the U.S. President Roh says South Korea will cooperate closely with U.S. to resolve nuclear crisis peacefully through dialogue with North Korea.

April 20, 2003: Leaked U.S. Defense Department memo calls for a U.S. policy of regime change in North Korea.

April 21, 2003: North Korea issues revised public statement to indicate it has not yet started to reprocess spent nuclear fuel rods.

April 23, 2003: North Korean, Chinese, and U.S. diplomats meet in Beijing to conduct multilateral dialogue on North Korean nuclear program.

April 29, 2003: North Korea says it will “take self-defensive measures” if U.S. seeks economic sanctions at the United Nations.

May 1, 2003: South Korea says it will ask the WTO to rule against U.S. imposition of punitive tariffs on Hynix memory chips.

May 3, 2003: North Korea accuses U.S. of building up military forces on Korean Peninsula and threatens a “merciless and exterminatory” counterstrike. WTO rules that U.S. tariffs on imported steel, including steel from South Korea, are a violation of global trade rules.

May 14, 2003: At Washington summit, President Bush and President Roh agree to pursue peaceful resolution of nuclear issue with North Korea while noting that “further steps” may be necessary in the face of an increased North Korean threat.

May 19, 2003: North Korea condemns South Korea’s joint statement with U.S. at summit, saying “the South will suffer from numerous casualties,” but calls for actively conducting “reconciliation and cooperation projects.”

May 22, 2003: North Korea retracts threat to South Korea at inter-Korean talks and the South agrees to provide 400,000 tons of rice in humanitarian assistance.

May 26, 2003: North Korea says it will accept U.S. proposal of multilateral talks on the nuclear issue, so long as the U.S. agrees to talk directly with the North as well.

May 28, 2003: Seoul explicitly states its support for multilateral talks with North Korea.

May 29, 2003: DPRK accuses ROK of sending warships across the disputed Yellow Sea border, warns of “irrevocable serious consequences.”

May 31, 2003: Three U.S. members of Congress, led by Rep. Curt Weldon, leave Pyongyang after a three-day visit; South Korean Navy fires warning shots at North Korean fishing boats.

June 1-2, 2003: Deputy Defense Secretary Wolfowitz urges South Korea to increase defense spending during visit to Seoul.

June 5, 2003: U.S. and ROK officials agree on two-phase, multi-year consolidation of U.S. troops around “key hubs” south of Seoul and plans to invest \$11 billion in new capabilities for ROK military.

June 10, 2003: U.S. Forces Korea issues statement apologizing for deaths of two school girls in spring, 2002; U.S. reportedly embarks on program of “selective interdiction” to stop suspicious shipments out of North Korea.

June 12-13, 2003: TCOG meeting in Honolulu. U.S., South Korea, and Japan agree to push for multilateral talks with North Korea on nuclear issue.

June 15, 2003: President Roh says South Korea will strive to increase cooperation and exchanges with North Korea.

June 17, 2003: North Korea rejects multilateral talks on its nuclear program, saying U.S. true intention is to isolate North Korean regime.

June 18, 2003: At an ASEAN meeting, members call for North Korea to admit IAEA inspectors and comply with the NPT. U.S., South Korea, China, and Japan reportedly agree to UN Security Council consideration of the nuclear issue with Pyongyang.

June 23, 2003: U.S. states it may seek a presidential statement from the UN Security Council, condemning Pyongyang's nuclear activities.