

U.S.-Korea Relations:

The Ups and Downs of Multilateral Diplomacy

Donald G. Gross

Akin, Gump, Strauss, Hauer & Feld

After a period of diplomatic limbo and uncertainty in July, China brokered the first round of six-party talks on the North Korean nuclear issue during this quarter. North Korea used the late August multilateral talks to rattle its nuclear saber and otherwise threaten the U.S. On the margins of the general meeting, North Korean diplomats met bilaterally with U.S. officials, but their discussion did not foster any apparent progress. The main achievement of the talks was a tentative, as yet unconfirmed, agreement to meet for a second negotiating round in the fall.

U.S. and South Korean military officials continued during the quarter to fine-tune the redeployment of U.S. troops away from the Demilitarized Zone (DMZ) and from Yongsan Army Base in downtown Seoul. The talks were characterized by mutual agreement on the redeployment plan and transfer of military missions to South Korea but differences over its timing. Finally, South Korea challenged the U.S. decision to impose high tariff penalties on Hynix Corporation for its export of semiconductor chips to the United States. South Korea will appeal the U.S. decision at the World Trade Organization (WTO) and attempt to reverse it.

Harsh Rhetoric and Jitters on the Ground

As the quarter opened, the U.S. and North Korea sparred over the nuclear issue, while diplomats groped for a formula that would lay the basis for new multilateral talks. In early July, Pyongyang claimed that it had reprocessed 8,000 nuclear fuel rods and re-started its 4-megawatt nuclear reactor. If in fact carried out, the reprocessing would give North Korea the fissile material that is required to build a significant number of nuclear weapons. Shortly after Pyongyang made this claim, South Korea's Foreign Minister Young-kwan Yoon asserted that South Korea did not have sufficient evidence to substantiate it.

On July 9, North Korean vessels again violated South Korea's Northern Line Limit (NLL), causing border patrol boats to scramble. A few days later, North Korea said it would regard any naval blockade by the U.S. as an "act of war." In part, Pyongyang may have intended these provocations as a reaction to what it considered threatening U.S. moves: Washington's announcement that it would end the construction of a light-water reactor carried out through the Korean Energy Development Organization (KEDO); and

its ongoing threat to interdict North Korean ships involved in illicit missile exports or narcotics trafficking.

As for the KEDO project, the U.S. informed South Korea and Japan in early July that it would withhold a key component for on-going construction of the reactor, as of August, based on North Korea's violations of the Geneva Agreement. Regarding interdiction, the U.S. continued in the early part of the quarter to make progress on its so-called "Proliferation Security Initiative," designed to engender naval cooperation by U.S. allies to inhibit the ability of North Korea and other designated states to produce or export weapons of mass destruction.

Reflecting the unsettled state of U.S.-North Korean relations, former Defense Secretary William Perry wrote in the *Washington Post* on July 15 that the two countries were drifting toward war. Perry was particularly concerned that Pyongyang's apparent efforts to carry out reprocessing of spent nuclear fuel would lay the groundwork for manufacturing more nuclear devices and call for a harsh U.S. response.

A day later, Secretary of State Colin Powell reaffirmed that the diplomatic track with North Korea was "alive and well" thanks, in part, to China's efforts to broker a diplomatic compromise. In spite of Powell's reassurance, a rare exchange of rifle fire broke out between South and North Korean units along the DMZ and raised the level of tension on the Peninsula.

Near the end of July, with the prospects for multilateral talks still unclear, U.S. Under Secretary of State for Arms Control and International Security Affairs John Bolton visited Seoul for consultations. His visit was most noteworthy for the personal attack he publicly leveled at North Korean leader Kim Jong-il. In large part, Bolton gave voice to the views of many Bush administration conservatives about the North Korean head of state. These conservatives often criticized the Clinton administration for playing up to Kim Jong-il as part of their negotiating approach, despite his record as a ruthless dictator. On a tactical level, Bolton's personal attacks may also have been intended to so anger the North Korean leader that he would refuse to enter into multilateral talks.

When North Korea finally announced on July 30 that it would join another round of multilateral negotiations, it soon coupled that acceptance with a refusal to meet with any delegation that included Bolton. Pyongyang called Bolton "human scum" in distinguishing him and his administration supporters from the U.S. faction that sought to negotiate a diplomatic resolution to the nuclear crisis.

China's Important Diplomatic Role

China played a critical role in clearing away the last hurdle for another round of multilateral talks. On the one hand, Beijing cogently stressed to Pyongyang that it had far more to gain than lose by participating in these diplomatic negotiations. China presumably promised to give a significant measure of support to North Korea at the bargaining table in the course of playing its "honest broker" role. On the other hand,

China persuaded the U.S. to drop its opposition to a bilateral meeting with North Korea by arguing that any bilateral contact would take place within the multilateral framework that the U.S. had long sought. The Bush administration could still claim, China reportedly pointed out, that the president's singular focus on establishing a multilateral approach had been successful.

China's motivation for playing an honest broker role to facilitate and effectively lead the multilateral talks in Beijing was the subject of much speculation during the quarter. China's strong leadership was uncharacteristic for a country that in recent years has preferred to act passively and keep a low profile on most international diplomatic issues. It appeared that China's decision to actively seek a diplomatic solution to the nuclear issue was based on concerns that:

- The U.S. and North Korea were locked into "absolutist" negotiating positions and relations between the two countries could deteriorate rapidly.
- A conflict that might include a nuclear exchange could eventually break out on China's northeast border. This would likely cause destabilizing refugee flows into Northeast China and in an overall sense, jeopardize China's pursuit of economic development.
- Japan would react to North Korea's testing or further acquisition of nuclear weapons by "going nuclear" on its own account, thereby setting off a new arms race in Asia.
- China needed to assert itself in international diplomacy if it hoped to play a "great power" role on Northeast Asia security issues in the future.

U.S. and South Korean Reactions

From the U.S. standpoint, the first round of six-party talks on the North Korean nuclear issue was a fruit of the Bush administration's efforts to isolate and pressure Pyongyang. Washington long figured that it could exert more leverage on North Korea in a multilateral diplomatic context than it could through bilateral negotiations. This calculation fit well with conservatives' long-time critique of the Clinton administration's bilateral approach to dealing with Pyongyang. Conservatives argued that a bilateral approach unduly limited U.S. ability to put international pressure on North Korea and instead emphasized the range of material incentives that the U.S. would have to trade for North Korean concessions on security issues. The result of this diplomatic dynamic, in the view of the administration's hard line faction, was "appeasement." Moreover, the conservatives argued, North Korean promises in a bilateral context were worthless, as proven by Pyongyang's apparent pursuit of a covert uranium enrichment program in contravention of its obligations under the 1994 Geneva Agreement.

From a domestic political standpoint, President Bush could also champion the multilateral approach as a unique policy of *his* administration. In pursuing a policy toward North Korea that fit the political requirement of "anything but Clinton," the president acquired a personal and political stake in the success of the multilateral framework.

South Korea seemed pleased with the multilateral framework that the U.S. sought and China helped to implement. At the time of the previous multilateral talks between the U.S., North Korea, and China in early April 2003, domestic newspapers and political commentators severely criticized the government for agreeing to a diplomatic formula that excluded South Korea. Despite the South Korean Foreign Ministry's sincere argument that getting North Korea into negotiations was the highest immediate concern, and South Korea could join later, influential opinion-makers voiced anger and resentment at the country's exclusion. A six-country diplomatic framework, on the other hand, allowed South Korea to protect its interests and to further its policy of promoting South-North reconciliation while addressing key security issues.

Preparation for the Multilateral Talks

In the weeks leading up to the Aug. 27-29 multilateral talks, several countries signaled their negotiating positions and probed for flexibility. North Korea once again called for a legally binding nonaggression pact with the United States, which U.S. negotiators had formally rejected in the past. U.S. sources indicated that despite opposition to a nonaggression pact, the U.S. was looking for a way to provide a "security assurance" to North Korea. The interplay on this issue recalled the fall 2000 U.S. promise of "no hostile intent" in a joint-communiqué issued during the visit of North Korean Gen. Jo Myong-Rok.

South Korea focused in the pre-meeting diplomacy on lowering expectations. Various foreign policy and national security advisers stressed the difficulty of resolving the nuclear issue and the fact that the late August meeting was only the beginning of a long diplomatic effort. South Korean diplomats argued, in effect, that simply establishing an ongoing negotiating process to address the nuclear issue and related concerns was a success in itself.

Proceedings at the Multilateral Talks

When the six-party talks opened on Aug. 27, the various delegations stated their known positions on the resolution of the nuclear issue. North Korea expressed its hope for a nuclear-free Korean Peninsula, but justified its sovereign right to develop a nuclear deterrent force to protect the country's security. North Korea indicated its willingness to enter into negotiations on the dismantlement of its nuclear program, if its security concerns were met.

For its part, the United States called for North Korea to eliminate its nuclear program in a "complete, verifiable, and irreversible manner" and open itself to inspections for the purpose of verification. The U.S. held out the possibility of normalized diplomatic relations and even material assistance, if North Korea first acted to end its nuclear threat.

The only diplomatic breakthrough on the first day of the talks, albeit procedural in nature, was the bilateral meeting between the U.S. and North Korean delegations. This meeting represented the first time that the two countries had entered high-level bilateral

discussions since the fall of 2002, when North Korea allegedly admitted the existence of a uranium enrichment program to U.S. diplomats visiting Pyongyang. The North had pushed for months for a resumption of bilateral contacts, while the U.S. resisted and called for a multilateral format for talks.

According to news reports, North Korea used this bilateral meeting to warn the U.S. delegates that it might test a nuclear weapon to demonstrate its military capabilities and to become a declared nuclear weapons state. During the plenary session of the second day of multilateral talks, Pyongyang made the same threat to the assembled delegates.

As the talks ended, China expressed satisfaction that all the parties had agreed to continue the multilateral talks at a second round. Merely continuing the process of negotiation represented for China and South Korea, in particular, a diplomatic success, since it allayed the worst-case fears in both countries that the nuclear issue could deteriorate into military confrontation between North Korea and the United States.

Yet even this minimally successful outcome was thrown into doubt after the meeting ended, by remarks of the North Korean delegation as it was leaving Beijing airport and heading back to Pyongyang. The leader of the North Korean delegation read a statement denouncing the talks as worthless and said his delegation would not return for another round. The delegation said the U.S. negotiating position was just a “trick” to get North Korea to disarm and that even a “child” would not fall into this trap.

For the following few days, confusion reigned, as some commentators took the North Korean public remarks at face value and others said they amounted to no more than “posturing” and an attempt to gain a tactical negotiating advantage. Shortly after Chinese Vice Foreign Minister Wang Yi criticized *both* the U.S. and North Korean delegation for taking inflexible negotiating positions, North Korea announced that it would probably return for another round of multilateral talks.

On the assumption that a second round of multilateral talks occurs, the first round *does* signify diplomatic progress toward resolving the nuclear issue. The U.S. and China succeeded in bringing all relevant states to the negotiating table and they established a process for moving forward. The talks channel the respective policies of the U.S. and North Korea into a recognized and legitimate diplomatic arena for the immediate future, and give hope that a diplomatic solution to the problem may be achieved.

The multilateral talks are also precedent-setting, in the sense that they bring together all the relevant state-parties in the Northeast Asia region for the purpose of resolving, or at least managing, a critical security issue of concern to all. For years, one or more of these states have rejected just such a forum for discussing security issues. Their negative attitudes have given rise to pessimism that a regional security organization could ever arise to fill a power vacuum in Northeast Asia.

The multilateral forum affords the United States, in particular, room for maneuver that it would lack in bilateral negotiations with North Korea. For one thing, it permits the U.S.

to use its good relations with states other than North Korea to diplomatically isolate Pyongyang. Additionally, even though the U.S. refuses to provide material incentives to North Korea until North Korea dismantles its nuclear program, other states present at the negotiating table could provide such incentives. (Indeed, South Korea has already offered to give significant assistance to Pyongyang if it merely embarks on a course of dismantling its nuclear facilities). The presence of Russia could be especially helpful in supplying expertise to North Korea on nuclear dismantlement that it might otherwise refuse to accept from the United States or the IAEA.

One overriding U.S. concern is that North Korea might use the negotiations to play for time while developing its nuclear program. To deal with this problem, the U.S. may request North Korea to freeze its program for the duration of the negotiations. In return, the U.S. might offer to freeze the current level of its military deployments on the Peninsula.

U.S. Troop Redeployments in South Korea

At meetings in late July and early September, the U.S. and South Korea fine-tuned their plan to transfer guard duty on the DMZ to South Korea and generally redeploy U.S. troops southward. In late 2004 or early 2005, South Korean forces will replace the approximately 250 U.S. troops at the DMZ truce village of Panmunjom, although the United Nations Command (in which the U.S. plays a leading role) will maintain command and control over the Panmunjom area. By 2006, the U.S. garrison at Yongsan Army Base in downtown Seoul will be reduced to no more than 1,000 troops, with the balance relocated south of the Han River.

South Korea also agreed to the U.S. request that South Korea take over some critical military missions from U.S. forces. These missions include countering North Korean artillery, laying minefields, conducting decontamination operations against chemical or biological attack, and deterring North Korean naval infiltration. The time-table for transferring these responsibilities remains to be decided, with South Korea preferring a shift in 2009 and the U.S. arguing for mission transfers as early as 2006.

In the overall context of negotiations for South Korea to assume military roles and responsibilities from U.S. forces, President Roh called for South Korea to achieve a “self-reliant national defense within the next 10 years,” in his Armed Forces Day speech on September 30. He argued that a self-reliant national defense would remedy a long-time and inherent problem in South Korea’s security - that “we have not been able to assume the role of main actor in our own security matters and instead were swayed by developments in the external environment.”

Roh further cited South Korea’s greater role in international peace-keeping, its strong economy, and its need “to hold its own in the international community” as reasons for seeking a new defense capability. Roh said that his administration had increased the national defense budget by 8.1 percent for next year though he was aware that “this amount will not be sufficient.”

South Korea Appeals U.S. Tariff Decision

In late July, the South Korean government announced that it would appeal to the WTO the U.S. decision to impose penalties on the exports of Hynix Corporation's semiconductor chips to the United States. The U.S. International Trade Commission previously determined that the U.S. dynamic random access memory (DRAM) chip industry suffered "material injury" from Hynix's chip exports. Therefore, the ITC imposed "countervailing duties" of 44.71 percent on Hynix's DRAM exports for the next five years.

The strong and immediate South Korean action to challenge the U.S. decision stemmed from fears that such large penalties could drive Hynix out of the semiconductor business altogether and cause the loss of thousands of jobs. South Korea intends to argue that Hynix did not receive illicit government subsidies for semiconductor exports, as the U.S. alleged, but rather accepted government assistance to carry out necessary corporate restructuring.

Public Controversy over Dispatch of Troops to Iraq

At the end of the quarter, public debate mounted in South Korea over a U.S. request for South Korean combat troops to assist with U.S.-led reconstruction efforts in Iraq. Critics argued that the deployment would be costly, both in terms of lives and money, and that South Korea could subject itself to terrorist attacks by joining the coalition. It appeared that the South Korean government would respond positively to the U.S. request, however, to maintain its overall position within the U.S.-Korea alliance. Officials feared that the U.S. administration would react negatively to a rejection of the troop request and consequently, South Korea would lose leverage on critical security issues with North Korea.

Prospects

Despite a rocky start, the six-party multilateral talks on the North Korea nuclear issue seem headed for a second round in late October or early November. It is too soon to tell whether the talks will make significant progress but developments indicate the rise of a new diplomatic dynamic in the region.

With the support of the United States, China is now taking the leading role in furthering a diplomatic solution to the crisis with North Korea. China now has the ultimate responsibility for delivering a North Korean decision to dismantle its nuclear program. But unless China ensures that North Korea receives sufficient diplomatic benefits and material incentives from any agreement, it will likely lose its normal diplomatic leverage with Pyongyang.

Perhaps to guard against this possibility, China reportedly moved 150,000 troops to its border with North Korea in September to take over guard responsibilities from regular police units. As in late February when Beijing cut off oil supplies to North Korea for

several days, China appeared once again to be reminding Pyongyang that it could also impose significant pressure if North Korea does not show sufficient flexibility in diplomatic negotiations.

Chronology of U.S.-Korea Relations July-September 2003

July 1, 2003: North Korea warns it will take retaliatory measures if the U.S. imposes sanctions or a blockade.

July 2, 2003: Ambassador Thomas Hubbard says it will be difficult for U.S. to move forward with KEDO project due to North Korean violations.

July 2-3, 2003: At the Trilateral Coordination and Oversight Group (TCOG) meeting, U.S., Japan, and South Korea reaffirm multilateral negotiating strategy with North Korea.

July 7, 2003: U.S. endorses joint South Korea-China statement calling on North Korea to agree to multilateral talks on the nuclear issue.

July 8, 2003: North Korea claims in working-level talks with the U.S. that it has reprocessed 8,000 nuclear fuel rods and begun operation of a 4-megawatt reactor.

July 9, 2003: North Korean patrol boat briefly violates northern line limit (NLL).

July 9, 2003: ROK National Intelligence Service (NIS) reportedly testifies that the DPRK has reprocessed some number of its spent fuel rods and has tested devices used to trigger atomic explosions.

July 10, 2003: WTO declares that U.S. steel safeguard measures imposing tariffs on imported Korean and other steel violate WTO rules.

July 13, 2003: North Korea says it would regard a U.S. naval blockade as an act of war; South Korean FM Yoon discounts North Korea's claim of reprocessing fuel rods.

July 15, 2003: Former Defense Secretary William Perry says U.S. and North Korea are drifting toward war.

July 16, 2003: Secretary of State Colin Powell says diplomatic track with North Korea is "alive and well" following China's efforts to broker a negotiating compromise; North and South Korean soldiers exchange rifle fire at the DMZ.

July 19, 2003: *The New York Times* reports North Korea has built a second clandestine nuclear plant to reprocess fuel rods.

July 20, 2003: South Korean Commerce Ministry reports South Korea's trade surplus with the U.S. fell 35 percent in the first six months of 2003.

July 21, 2003: North Korea demands the U.S. drops its “hostile policy” and legally commit itself to a nonaggression pact.

July 22, 2003: South Korean health minister signs memorandum of understanding with U.S. Secretary of Department of Health and Human Services to coordinate health programs and research.

July 23, 2003: South Korea announces it will challenge U.S. ruling imposing punitive tariffs on Hynix Corporation at the World Trade Organization.

July 24, 2003: Presidents Bush and Roh agree by phone to keep pushing for multilateral talks on DPRK’s nuclear program.

July 24, 2003: U.S. and South Korea agree on transferring Panmunjom military mission to South Korea and on relocating U.S. troops south from Yongsan Army Base in Seoul.

July 27, 2003: President Roh says North Korea can get a “security guarantee” from the U.S. in future multilateral negotiations on the nuclear issue.

July 29-31, 2003: Under Secretary of State John Bolton visits South Korea.

July 29, 2003: U.S. Forces Korea agrees to pay about \$600,000 in disputed water bills to the Korean government.

July 30, 2003: North Korea agrees to accept six-way multilateral talks with South Korea, the U.S., Japan, China, and Russia.

Aug. 5, 2003: U.S. imposes punitive countervailing tariffs as high as 38.74 percent on imports of polyvinyl alcohol from South Korea.

Aug. 7, 2003: Radical Korean students disrupt U.S. military exercise on a shooting range near the DMZ.

Aug. 10, 2003: South Korean Prime Minister Goh Kun promises to reinforce security around U.S. military installations.

Aug. 12, 2003: North Korea demands a legally binding nonaggression pact from the United States.

Aug. 14, 2003: South Korean, Japanese, and U.S. officials meet in Washington to plan strategy for multilateral talks; South Korea files complaint with WTO regarding U.S. decision to impose duties on Hynix Corporation

Aug. 27-29, 2003: Multilateral talks in Beijing end with apparent agreement on new round of talks and on not taking actions to aggravate the pending nuclear crisis.

Aug. 30, 2003: Leaving Beijing, the North Korean delegate announces it has no need for “these kind of talks” and will not attend in the future.

Sept. 2, 2003: U.S. State Department spokesman expresses satisfaction with the progress made at the multilateral talks with North Korea.

Sept. 3, 2003: President Bush tells FM Yoon that that he strongly supports multilateral talks with North Korea; South Korea and U.S. finish meeting in Seoul on the relocation of U.S. forces.

Sept. 4, 2003: Deputy Assistant Secretary of Defense Lawless asks South Korea to send combat troops to Iraq to assist with maintaining security in the country.

Sept. 10, 2003: A South Korean activist commits suicide in anti-capitalism protest at WTO meeting.

Sept. 23, 2003: Secretary Rumsfeld addresses U.S. and ROK business leaders at the U.S./Korean Business Council Luncheon.

Sept. 25, 2003: Representatives of U.S., China, Russia, South Korea, and Japan meet at United Nations to discuss six-party talks with North Korea; FM Yoon calls for next U.S. proposal at six-party talks to address North Korea’s security concerns.

Sept. 27, 2003: DPRK describes Secretary Rumsfeld as “politically illiterate” and a “psychopath.”

Sept. 29-30, 2003: Officials from the U.S., Japan, and South Korea meet in Tokyo for trilateral meeting on North Korea nuclear issue.