



RESEARCH PAPER 07/03
10 JANUARY 2007

North Korea: The Nuclear Issue and Prospects for Change

In July 2006 North Korea test fired seven ballistic missiles. This led to the imposition of targeted UN sanctions. Then, on 9 October 2006, North Korea conducted its first ever nuclear weapons test, provoking virtually unanimous international condemnation and the imposition of additional UN sanctions. The scene seemed set for escalating confrontation. However, in December 2006 North Korea returned to the Six-Party Talks, which had been stalled for over a year.

This Research Paper surveys the chequered course over the past 15 years of negotiations designed to end North Korea's nuclear weapons programme, including the Six-Party Talks. Looking to the longer-term, the Paper also briefly assesses the likelihood of three different scenarios for change in North Korea: sustained reform; 'stop-start' reform; and regime collapse.

[This Paper replaces SN/IA/3814. See also SN/IA/3817, *State Possession of Nuclear Weapons*.]

Jon Lunn

INTERNATIONAL AFFAIRS AND DEFENCE SECTION

HOUSE OF COMMONS LIBRARY

Recent Library Research Papers include:

List of 15 most recent RPs

06/53	The Future of the British Nuclear Deterrent	03.11.06
06/54	Democracy and the Middle East: Egypt, the Palestinian territories and Saudi Arabia	08.11.06
06/55	Unemployment by Constituency, October 2006	15.11.06
06/56	The <i>Northern Ireland (St Andrews Agreement) Bill 2006-07</i> [Bill 7 of 2006-07]	17.11.06
06/57	The <i>Fraud (Trials without a Jury) Bill 2006-07</i> [Bill 6 of 2006-07]	23.11.06
06/58	Investment Exchanges & Clearing Houses Bill [Bill 4 of 2006-07]	23.11.06
06/59	Economic Indicators, December 2006	01.12.06
06/60	The <i>Greater London Authority Bill</i> [Bill 11 of 2006-07]	07.12.06
06/61	The <i>Greater London Authority Bill</i> Parts 7 and 8 – Planning and Environmental Functions [Bill 11 of 2006-07]	07.12.06
06/62	The <i>Offender Management Bill</i> [Bill 9 of 2006-07]	06.12.06
06/63	The <i>Justice and Security (Northern Ireland) Bill</i> [Bill 10 of 2006-07]	07.12.06
06/64	The <i>Digital Switchover (Disclosure of Information) Bill</i> [Bill 3 of 2006-07]	13.12.06
06/65	Unemployment by Constituency, November 2006	13.12.06
07/01	The <i>Local Government and Public Involvement in Health Bill</i>	09.01.07
07/02	Social Indicators [includes articles: Research and development in the UK; Prison population – summary]	10.01.07

Research Papers are available as PDF files:

- to members of the general public on the Parliamentary web site, URL: <http://www.parliament.uk>
- within Parliament to users of the Parliamentary Intranet, URL: <http://hcl1.hclibrary.parliament.uk>

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We welcome comments on our papers; these should be sent to the Research Publications Officer, Room 407, 1 Derby Gate, London, SW1A 2DG or e-mailed to PAPERS@parliament.uk

Summary of main points

In July 2006 North Korea test fired seven ballistic missiles. This led to the imposition of targeted UN sanctions. Then, on 9 October 2006, North Korea conducted its first ever nuclear weapons test, provoking virtually unanimous international condemnation and the imposition of additional UN sanctions. The scene seemed set for escalating confrontation. However, in December 2006 North Korea returned to the Six-Party Talks, which had been stalled for over a year. Little progress was made at the talks. In recent days there have been conflicting signals. There have been reports that a second nuclear weapons test could be imminent. However, US officials have also expressed hope that the talks will resume later in January 2007.

This Research Paper surveys the chequered course over the past 15 years of negotiations designed to end North Korea's nuclear weapons programme, including the Six-Party Talks. The Paper also briefly assesses the likelihood of three different scenarios for change in North Korea: sustained reform; 'stop-start' reform; and regime collapse.

On the **nuclear issue**, many in the West believe that the role of China is crucial. There was hope that North Korea's defiance of China over its nuclear weapons test in October 2006 would lead it to call time on the regime. However, while it certainly led to the strongest action yet by China against its unpredictable neighbour, it is important to bear in mind the limits of Chinese influence as well as its undoubted leverage and China's longer-term strategic interests in the Korean peninsula. North Korea believes that the current international consensus for action against it remains fragile and limited. Some observers have criticised the US for following an inconsistent policy on North Korea in recent years, imposing 'financial sanctions' against the regime's leadership at the very moment that it and the other countries participating in the Six-Party Talks had agreed a Statement of Principles in September 2005 that set out the parameters of a possible deal on the nuclear issue. Others are convinced that North Korea has little real commitment to the Statement of Principles. The current US administration remains ambivalent about a negotiated settlement in which North Korea appears to reap rewards for intransigence. In the final resort, even if the incentives attached to a future deal are considerable, the North Korean leadership may believe that the best guarantee of its survival is to remain a nuclear weapons state. The most likely outcome at the Six-Party Talks during 2007 is further impasse. There are fears that, if the talks appear to be foundering again, North Korea will be tempted to return to brinkmanship – perhaps including a second nuclear weapons test. This would lead to a deepening international crisis.

On the **wider prospects for change** in North Korea, although regime collapse cannot be ruled out, the most likely scenario in the short- to medium-term appears to be 'stop-start reform'. Sustained economic reform, even in the absence of political reform, poses many risks for the North Korean leadership. However, entirely abandoning the economic reforms initiated in 2002 would also be a hazardous undertaking. Parts of the leadership have done very well out of these reforms. 'Stop-start reform' would reflect an attempt to negotiate such tensions, although it carries its own dangers. It would probably be the minimum that would be acceptable to China and South Korea, whose support is crucial in propping up the North. Both fear regime collapse and a chaotic process of reunification sufficiently not to push the North Korean leadership too hard to implement ambitious programmes of economic or political change.

CONTENTS

I	Background	7
II	The Nuclear Issue	11
	A. The Agreed Framework, 1994-2002	12
	B. The Six-Party Talks, 2003–5	13
	1. Round One	14
	2. Round Two	14
	3. Round Three	15
	4. Round Four	15
	5. Round Five	18
	C. Developments during 2006	20
	1. The financial noose tightens	20
	2. July 2006: the ballistic missile test	22
	3. October 2006: the nuclear weapons test	23
	4. UN Security Council Resolution 1718 and its aftermath	25
	5. North Korea agrees to return to the Six-Party Talks	27
	D. What happens next? Looking Ahead to 2007	28
III	Wider Prospects for Change	33
	A. Sustained reform	33
	B. ‘Stop-start’ reform	35
	C. Collapse	35
Appendix 1	Brief Chronology	38
Appendix 2	UN Security Council Resolution 1695	39
Appendix 3	UN Security Council Resolution 1718	41
Appendix 4	EU Common Position on North Korea (20 November 2006)	45

I Background

The population of the Korean peninsula, which is highly homogeneous in terms of ethnic origin, stands at around 70 million (23 million in the North, 48 million in the South). The North has the bulk of the peninsula's valuable natural resources (high quality timber, iron deposits).¹

Korea has experienced long periods of independent centralised rule across much of the peninsula over the last 2000 years, although its rulers were perpetually engaged in a struggle to manage Chinese power and influence. By the late-16th century Japan had begun to compete with China. In 1905, following successive Japanese victories in wars with China and Russia, Korea became a Japanese Protectorate. Five years later it was formally annexed, becoming a Japanese colony.

Japanese colonialism was extremely repressive and exploitative, although some scholars have argued that some of the changes it wrought nonetheless established some of the preconditions for the post-1960 rapid economic development.² Certainly, the 1930s were a period of significant industrial growth, as Japan used Korea to support its military campaigns. The education system was also modernised.

Nonetheless, Korean opposition to Japanese colonial rule remained strong. Following Japan's defeat at the end of the Second World War, Korea was divided into two zones. North of the 38th parallel, the Union of Soviet Socialist Republics (USSR) held sway. South of the parallel, the US ruled. While all sides initially agreed that the ultimate objective was a united, independent Korea, escalating cold war tensions meant that this never occurred. With Kim Il Sung as its client, the USSR proceeded from 1947 onwards to create a centralised communist state in the North. Kim Il Sung progressively eliminated his enemies within the broader communist and nationalist movements in the North. In 1948, the Democratic People's Republic of Korea (DPRK – or North Korea) was proclaimed. In the same year, the Republic of Korea (South Korea) was inaugurated and US occupation came to an end.

In June 1950 a North Korean force of over 60,000 tanks crossed the 38th parallel, leading to the Korean War (1950-53). It rapidly captured Seoul, the capital of South Korea. The United Nations (UN) sanctioned a military response under the command of the United States (US). Within a matter of months, the North Korean forces had been rolled back and Pyongyang was captured. This in turn triggered Chinese intervention. By the end of the war, the respective armies were largely arranged along the 38th parallel. This became the basis for a ceasefire in 1953 and has subsequently acted as the border between the two Koreas, with a narrow demilitarised zone separating them.

After the communists were banned in the South in early 1948, most moved to the North. The merger of the communist parties from the two zones led to the creation of the Korean Workers' Party. It was not until the late 1950s that Kim Il Sung succeeded in establishing complete supremacy over both party and state, laying the basis for what

¹ *The Far East and Australasia*, Europa Regional Survey 2004 (London: Taylor and Francis), p. 468

² M. Woo-Cumings (ed), *The Developmental State* (Ithaca, New York: Cornell University Press, 1999)

came to be the one of the most extreme personality cults ever created around a modern leader. His economic policies, which focused on the development of heavy industry and the collectivisation of agriculture, drew heavily on Stalinist Russian models. Growth rates were initially high and North Korea became an urbanised society. It remains so today. Relations with the South during this period remained unremittingly hostile.³

North Korea made efforts in the 1960s and 1970s to end its international pariah status. Despite the fact that the UN had declared the government of South Korea as the only lawful government on the peninsula, in 1973 North Korea gained observer status there. In 1975, it was accepted into the Non-Aligned Movement. At the same time, Kim Il Sung further strengthened his hold on power through the promotion of a new ideology of extreme self-reliance, *Juche* thought, of which he was the sole originator. In 1978, it was declared that workers should study *Juche* thought for eight hours a day.

By the early 1980s, the question of the succession came to the fore, causing turbulence within the ruling elite. This coincided with outbreaks of worker unrest in the country. There was a brief period of reform, in which joint ventures were sought with Western countries and the bars on private economic activity were relaxed. In 1985, North Korea signed the Nuclear Non-Proliferation Treaty (NPT). At the same time, the succession issue was resolved. Kim Il Sung's son, Kim Jong Il, was announced as his successor. Following the death of Kim Il Sung in 1994, Kim Jong Il gradually assumed the reins of power. The party leadership became increasingly militarised as senior army officers allied to Kim Jong Il were promoted. There is ongoing debate amongst analysts about which of Kim Jong Il's sons, Kim Jong Nam and Kim Jong Chol, would most likely be his successor. Kim Jong Il is 64 years old.

The performance of the economy, while always difficult to assess due to the almost total unavailability of reliable statistics, began to deteriorate markedly in the 1980s. The collapse of the Soviet Union in 1991 was a hammer blow to North Korea. Before departing the political stage, Mikhail Gorbachev established diplomatic relations with South Korea and stipulated that trade between the Soviet Union and North Korea would in future be conducted in convertible currencies at world market prices. References to Marxism-Leninism in North Korea quickly ceased, but the economy continued to operate on a largely unchanged basis. The hardships experienced by ordinary North Koreans mounted during the 1990s. In 1995, floods in the west of the country affected food production so severely that North Korea was forced to appeal for assistance from the international community. Since then, the country has continued to experience serious food shortages. Estimates of the death toll from famine during the 1990s have been as high as 10 per cent of the population.

In 2000 North Korea began a cautious opening up to the outside world, including South Korea, with which (along with the US) it is still officially at war. South Korean investment in North Korea has slowly increased. Travel across the demilitarised zone has also increased, providing opportunities for families divided by the border to meet again. But the nuclear issue, along with continuing erratic behaviour by North Korea, has limited the

³ While growth rates in the North were higher than those in South Korea in the 1950s and 1960s, since the mid-1970s South Korea has far outperformed its neighbour economically.

extent of these rapprochements (see Part II below). The US considers North Korea to be a state-sponsor of terrorism and in January 2002 President Bush declared North Korea to be part of the “axis of evil”. Relations with Japan have been complicated by North Korea’s belated admission in 2002 that it kidnapped a number of Japanese nationals in the 1970s and 1980s. Kim Jong Il visited China, by now its sole remaining close ally, in 2001 and declared himself impressed by the economic reform process underway there. Quite possibly at China’s urging, liberalising changes to the economic system were announced in 2002. Subsidies were dramatically reduced and many prices were allowed to be set by the market. Private farming began to be encouraged in a controlled way and three new special economic zones were created. As in the first phase of reform in China, the military became a significant economic actor in North Korea.

North Korea’s recent liberalisation agenda has not extended to the political sphere. The country’s human rights record is still heavily criticised by organisations such as Amnesty International and Human Rights Watch. On 29 August 2005, the UN Special Rapporteur on the Situation of Human Rights in the DPRK, Vitit Muntarbhorn, published a report which detailed violations of

...the right to food and the right to life; the right to security of the person, humane treatment, non-discrimination and access to justice; the right to freedom of movement, asylum and protection of persons linked with displacement; the right to the highest attainable standard of health and the right to education; the right to self-determination/political participation, access to information, freedom of expression/belief/opinion, association and religion; and the rights of specific persons/groups, including women and children.⁴

Nor has the liberalisation agenda had any appreciable effect on North Korea’s level of military spending. North Korea has long had a “Military First” policy. As the International Crisis Group (ICG) describes:

In 2003, North Korea was the biggest military spender in the world by percentage of GDP, allocating roughly 25 per cent of its output to the military. It has equalled or exceeded that percentage every year since the 1950s, and has created one of the largest standing armies in the world – over 1 million troops – the majority of whom are stationed along the northern side of the Demilitarized Zone (DMZ), less than 100 km from Seoul.⁵

Over a decade of economic crisis has left North Korea with a set of increasingly dire human development indicators. Over a third of children are estimated to be experiencing stunted growth due to chronic malnutrition. In January 2005, the daily food ration provided through the state-run Public Distribution System was cut to the point where it constituted approximately half the daily energy requirement.

⁴ *The situation of human rights in the Democratic People’s Republic of Korea* (UN Doc A/60/306, 29 August 2005. Available at: <http://daccessdds.un.org/UNDOC/GEN/NO5/474/77/PDF/NO547477.pdf?OpenElement>

⁵ International Crisis Group (ICG), *Where Next for the Nuclear Talks?*, Asia Report No. 87, 15 November 2004, p. 12
Available at <http://www.crisisgroup.org/home/index.cfm?id=3101&l=1>

Events during late 2005 suggested that the programme of economic liberalisation undertaken since 2002 could be reaching its limits.⁶ Claiming that there was a bumper harvest of rice and corn crops, the government announced that the country would no longer accept foreign food aid. The World Food Programme (WFP) was ordered to switch to providing development aid and all foreign personnel working in the country for Non-Governmental Organisations were asked to leave by the end of the year. Since then its humanitarian aid has had to be disguised as development assistance. While North Korea continued to accept food aid from China and South Korea, a representative of the WFP stated in late 2005 that North Korea would be unable to meet the food needs of its people in 2006.

It was also reported in October 2005 that the authorities had stopped the sale of cereals through markets and had reinstated the monopoly of the state-controlled Public Distribution System over grain distribution to the people. To quote from the *Sunday Times*:

Travellers from the North's countryside tell of soldiers guarding grain and searching vehicles around collective farms to stop peasants selling the harvest. This month the state resumed control of grain sales, reversing reforms that had allowed private food markets to develop.⁷

On 7 July 2006 South Korea suspended food aid to North Korea in protest at ballistic missile tests conducted by North Korea (see Part II below).⁸ China's food donations are reported to have sharply reduced over the past year, perhaps by as much as two-thirds. The WFP reportedly received only a small percentage of its budgetary needs for North Korea for 2006.⁹ Some believe that there is once again a threat of famine.¹⁰

⁶ For a recent summary of economic data on North Korea, see the report published in June 2006 by the Washington, DC based Korea Economic Institute. Available at: <http://www.keia.org/4-Current/8>

⁷ "Kim prepares to anoint mistress's son as heir", *Sunday Times*, 9 October 2005

⁸ For a fuller discussion of North Korea's ballistic missile capability, see US Congressional Research Service, *North Korean Ballistic Missile Threat to the US*, RS21473, 6 July 2006. Available at: <http://fpc.state.gov/fpc/70077.htm>

⁹ "Food aid sanctions could be 'lethal' for North Koreans", *Financial Times*, 12 October 2006

¹⁰ For an interesting discussion of the current humanitarian and human rights situation in North Korea, see the October 2006 report by DLA Piper and the US Committee for Human Rights in North Korea, commissioned by Magne Bondevik, Václav Havel and Elie Wiesel, *The Failure to Protect. A Call for Action by the UN Security Council on North Korea* Available at: <http://www.dlapiper.com/files/upload/North%20Korea%20Report.pdf>

II The Nuclear Issue

In 1953 the US and South Korea agreed a Mutual Security Treaty, under which the US pledged to come to the defence of South Korea in the event of a future military attack. The Treaty remains in force. In 1961 China and North Korea agreed a Friendship Treaty which contains a similar pledge of support from China for North Korea in the event that it comes under attack. It too remains in force. Neither Treaty explicitly rules out the use of nuclear weapons by the US or China in defence of its ally.

Between 1958 – in the aftermath of the Korean War – and 1992, the US stationed tactical and battlefield nuclear weapons on South Korean soil.¹¹ Since 1992 South Korea has remained under the protection of the US ‘nuclear umbrella’. The US has Intercontinental Ballistic Missiles and nuclear-capable cruise missiles that can reach North Korea. It also has nuclear-capable aircraft on its Pacific aircraft carriers. The redeployment of tactical nuclear weapons in South Korea has not been ruled out if circumstances are deemed to justify it. China and North Korea have both regularly called upon the US to declare a “no first use” policy in the Korean Peninsula on the use of nuclear weapons. China, which has been a nuclear weapons state since 1964, can reach both the US and South Korea with its own nuclear-capable ballistic missile systems.¹²

North Korea obtained a small nuclear reactor from the Soviet Union in 1962 for research purposes.¹³ In 1987, North Korea opened a five-megawatt nuclear reactor at Yongbyon, utilising the country’s substantial deposits of uranium. North Korea claimed that the reactor had been built to help meet its energy needs. Work on a 50-megawatt nuclear reactor began but was shelved, although there are reports that it may resume.

Between 1989 and 1991, North Korea removed spent fuel from its reactor at Yongbyon and began work on a reprocessing facility. By the early 1990s some within US intelligence circles were concluding that “the North had successfully separated enough weapons-grade plutonium for at least one or possibly two nuclear weapons”.¹⁴ North Korea denied that it had a nuclear weapons programme. In 1992 North and South Korea issued a *Joint Declaration of Denuclearisation* under which both agreed not to produce nuclear weapons.

At the same time as the US withdrew its tactical and battlefield nuclear weapons from South Korea in 1992, it began calling on North Korea to allow in the International Atomic Energy Agency (IAEA) to inspect Yongbyon and supervise the cessation of its nuclear weapons programme. In late 1992, North Korea agreed to allow in the IAEA and provided an initial declaration of its nuclear materials, which confirmed that some reprocessing of plutonium had taken place. However, it quickly became clear to the IAEA

¹¹ B. Cumings, *North Korea: Another Country* (New York, 2004), pp. 53-55.

¹² S. Harrison, “The Forgotten Bargain: Nonproliferation and Nuclear Disarmament”, *World Policy Journal*, Vol. 23, No. 3, Fall 2006, p. 10

¹³ *Ibid*, p. 58. Estimates for the megawattage of this reactor vary from 4 to 5 megawatts.

¹⁴ ICG, *Where Next for the Nuclear Talks?*, Asia Report No. 87, 15 November 2004, p. 2

that not all reprocessing had been declared. When the IAEA accused North Korea of this in February 1993, it threatened to withdraw from the NPT.

A. The Agreed Framework, 1994-2002

High-level bilateral talks between the US under the Clinton administration and North Korea led to the threat of withdrawal from the NPT being withdrawn. Talks continued between June 1993 and October 1994 in search of an agreement that would end North Korea's nuclear weapons programme in return for pledges of economic assistance. At various points the talks looked close to collapse – not least in May 1994, when North Korea removed more spent fuel from its Yongbyon reactor – but an agreement was finally achieved on 21 October 1994. Known as the Agreed Framework, its provisions are summarised below in an extract from a 2004 ICG report:

Washington agreed to organise an international consortium to build two light water reactor (LWR) nuclear power plants by a target date of 2003 and supply annually 500,000 tons of heavy fuel oil until completion of the first power plant. This consortium later assumed shape as the Korean Peninsula Energy Development Organisation (KEDO). In return, Pyongyang agreed to continue to freeze activity at its graphite-moderated reactors and related facilities, including Yongbyon. North Korea further agreed to allow the IAEA to monitor this freeze and to inspect its nuclear waste site to determine if it had fissile material.

When the detailed and complicated provisions on nuclear disarmament were fully completed, North Korea's nuclear weaponry would be completely dismantled and relations between the U.S. and North Korea normalised. The text -- neither a treaty nor a legally binding agreement -- became formally known as the Agreed Framework. For eight years the Agreed Framework achieved its primary purpose of freezing the North's plutonium production program.¹⁵

However, by 2002 the Agreed Framework had collapsed. The ICG set out its view as to why this happened:

In the final evaluation, neither North Korea nor the United States complied fully with the exact terms of the Agreed Framework. Severe financial, political and logistical problems inhibited the construction of the light water reactors.¹⁶ Also, shipments of heavy fuel oil fell slightly behind schedule, and moves toward the normalisation of economic and diplomatic relations were stymied by Congress and others in Washington who believed that North Korea might collapse at any moment and therefore long-term efforts at a rapprochement were not needed. North Korea, for its part, refused to allow the IAEA to perform ad hoc or routine inspections at all facilities not subject to the freeze that were listed on its initial declaration, directly violating the Agreed Framework. It never implemented the 1992 Denuclearisation Declaration, only haltingly engaged in dialogue with South Korea, and took no steps towards opening a liaison office in Washington D.C. Nevertheless, the Agreed Framework weathered an array of North Korean provocations, economic crises and political

¹⁵ ICG, *Where Next for the Nuclear Talks?*, Asia Report No. 87, 15 November 2004, pp. 2-3

¹⁶ The ICG describes the light water reactor project as "half-finished" in another report. See *North Korea: Can the Iron Fist accept the Invisible Hand?*, Asia Report No. 96, 25 April 2005, p. 25
Available at <http://www.crisisgroup.org/home/index.cfm?id=3388&CFID=9397331&CFTOKEN=47976730>

changes in the South. It formed the cornerstone of North Korea's engagement with the world.¹⁷

In January 2002, President George W. Bush made his "Axis of Evil" speech to Congress, specifically assigning membership of that axis to North Korea. In October 2002, the Bush administration announced that it had evidence that North Korea had violated the terms of the Agreed Framework by secretly developing a programme to build a capacity to produce highly enriched uranium (HEU). If acquired, this would dramatically increase North Korea's ability to produce more nuclear weapons.

Following a joint decision by the US, Japan and South Korea to suspend shipments of fuel oil to the North, North Korea declared the Agreed Framework 'dead' in December 2002 and stated that it would now restart its nuclear weapons programme.

B. The Six-Party Talks, 2003–5

On 10 January 2003, North Korea renounced the NPT and expelled the IAEA. The Bush administration, while highly suspicious of North Korean intentions and wary of rewarding bad behaviour, gradually moved away from threats of sanctions and back towards talks, with the encouragement of China, which was by now playing an increasingly important role as interlocutor between the two sides.¹⁸ While official language remained forthright, the US also stated that it had no intentions to use military force against North Korea. In April 2003, US and North Korean officials travelled to Beijing for 'talks about talks'. By the summer, a new framework for negotiations had been agreed. This time, talks would not just involve the US and North Korea, but other interested parties in the region – South Korea, Japan, China and Russia. These became known as the Six-Party Talks.

The sense of urgency on the US side rose when it became known in late 2003 that A.Q. Khan, the founder of Pakistan's nuclear programme, had sold parts and plans for an HEU programme to North Korea. However, it is widely believed that North Korea is still trying to obtain key components for such a programme.¹⁹ North Korea has never officially admitted that it is trying to develop a HEU programme. While it has never been caught directly doing so, the IAEA has uncovered information that strongly suggests that North Korea has been an active player in the illicit market for the supply of nuclear items. For example, it supplied Libya with a consignment of uranium hexafluoride, the gaseous form of uranium required for centrifuges in HEU production. It has certainly been one of the main exporters of missile technology over the past two decades. This has been an invaluable source of foreign exchange for North Korea.²⁰

¹⁷ *Ibid*, p. 3. The 1992 Denuclearisation Declaration was a joint declaration between North and South Korea to the effect that the Korean peninsula should be nuclear weapons free. For the full text of the Declaration, see:

<http://www.state.gov/t/ac/rls/or/2004/31011.htm>

¹⁸ It should be noted that the US has operated sanctions against North Korea since the Korean War.

¹⁹ International Institute for Strategic Studies (IISS), *North Korea's Weapons Programmes: A Net Assessment* (London, 2004), p. 42, 46

²⁰ ICG, *Where Next for the Nuclear Talks?*, Asia Briefing No. 87, 15 November 2004, p. 5

Between August 2003 and November 2005 there were five rounds of the Six-Party Talks. Below is a summary of the issues raised, progress made and problems encountered at each of the five rounds:²¹

1. Round One

Round One began in August 2003. During the first round, the US and North Korea simply set out their initial positions. The US demanded that North Korea end its nuclear weapons programme and submit to IAEA inspections before any reciprocal offers were made. North Korea proposed a solution based on reciprocal and "simultaneous steps" by the two sides:

1) the U.S. would resume heavy fuel oil and food aid while North Korea would agree in principle to scrap its nuclear program; 2) the U.S. would agree in principle to conclude a bilateral nonaggression pact and compensate North Korea for the loss of electric power, while North Korea would institute a freeze of its "nuclear facility and nuclear substance" and accept inspectors to monitor that freeze; 3) the U.S. and Japan would normalise relations with North Korea, in exchange for which North Korea would conclude a treaty to halt its missile production and sales; 4) North Korea would dismantle its nuclear facilities upon the completion of the light-water reactors promised under the 1994 Agreed Framework.²²

Expectations were low at this stage but all sides agreed to continue the negotiations process.

2. Round Two

Round two began in February 2004. Discussions focused on procedure. Neither the US nor North Korea changed their negotiating positions. However, by their end all sides agreed that a basis for substantive progress had been achieved:

...the round ended with a statement by the Chinese Chairman Wang Yi, stating that the meeting had been "in-depth, pragmatic and conducive", characterised by "three features and five advancements". The "features" were that the meeting launched discussions on substantive issues, signalling the process of talks was going forward; the parties retained a sober and constructive attitude, symbolising a more mature meeting; and the forms of the meetings were more open and flexible than previously. The "advancements" were that the talks included more discussion of substantive issues; reaffirmed the need for coordinated steps to solve issues; issued the first statement since the launch of the talks; defined the time and place for a third round; and agreed to set up working groups to prepare for the next talks.²³

²¹ For the first three rounds, we have drawn heavily upon the ICG report of 15 November 2004

²² ICG, *Where Next for the Nuclear Talks?*, Asia Briefing No. 87, 15 November 2004, p. 6

²³ *Ibid*, p. 7

3. Round Three

Round Three began in June 2004. This time, senior US and North Korean officials met directly for the first time since the negotiating process had begun. In these meetings, US officials set out in greater detail than before how North Korea would be rewarded if it ended its nuclear weapons programme. They did so with the support of the other four parties to the talks:

The U.S. proposal was for the complete dismantlement and elimination of North Korea's nuclear program in two stages. First, during a three-month "preparatory period" a general freeze should be implemented, meaning seals, disabling mechanisms, and non-intrusive monitoring capability (i.e., cameras, locks and keys, but not necessarily inspectors on the ground). North Korea would prepare in this period a Declaration of Nuclear Program Dismantlement/ Elimination, which in a second stage then would be completely implemented, with the elimination and removal outside North Korea of weapons, equipment and associated technology. These actions would be subject to verification by an international body (the composition of which has not yet been proposed or seriously discussed at the talks). The process would have to include existing weapons, the plutonium program, the uranium enrichment program and all civil nuclear facilities. Upon agreement on the process, non-U.S. parties would provide heavy fuel oil to North Korea.

When the Declaration's stipulations were completed, and accepted as being so by all six parties, there would be multilateral security assurances, including a statement by the U.S. and others not to invade or attack, and to respect the territorial integrity of all parties; and also a multilateral energy survey of North Korea's needs, and the formulation of a plan to address them, including the infrastructure needed for energy investment and grid overhaul. North Korea would be shown a route through which it could be removed from the U.S. list of State Sponsors of Terrorism, and achieve the gradual removal of sanctions. As the North carried out its commitments, the parties "would take some corresponding steps" of a provisional and temporary nature, with lasting benefits held over until after the dismantlement of the nuclear programs was completed.²⁴

North Korea stated that, while it was prepared to show flexibility, it could not accept the US proposal because it was not based on the principle of "simultaneous steps". Analysts argued that North Korea was also looking for a more detailed offer in terms of energy assistance. It also sought to add new issues to the talks, such as South Korea's own uranium enrichment programme. With the presidential election looming in the US, momentum in the talks stalled.

4. Round Four

On 15 February 2005, the talks were dealt a potentially fatal blow when North Korea officially announced what it had on numerous previous occasions hinted at: that it possessed nuclear weapons. It also announced that it was withdrawing from the talks. For a while, it seemed as if the basis for negotiations had entirely disappeared. However, in truth, the announcement about nuclear weapons was simply confirmation of

²⁴ ICG, *Where Next for the Nuclear Talks?*, Asia Briefing No. 87, 15 November 2004, p. 7

something that all parties had informally factored into their calculations.²⁵ With the passage of time and a gradual cooling of tempers, resuming the talks returned onto the agenda. But expectations were very low on the US side and many commentators believed that any further setbacks would kill the negotiations process for good.

Round Four began in July 2005. For much of the fourth round, the pessimists appeared likely to be vindicated. Efforts to agree a Statement of Principles made little progress over the first two weeks of the talks and they were adjourned for three weeks on 7 August. When they reconvened on 13 September, once again little progress appeared to be made. Yet, just at the point when observers were preparing to declare the talks a failure, agreement on a Statement of Principles was reached.

The following text was issued on 19 September 2005:²⁶

The Fourth Round of the Six-Party Talks was held in Beijing, China among the People's Republic of China, the Democratic People's Republic of Korea, Japan, the Republic of Korea, the Russian Federation, and the United States of America from July 26th to August 7th, and from September 13th to 19th, 2005.

Mr. Wu Dawei, Vice Minister of Foreign Affairs of the PRC, Mr. Kim Gye Gwan, Vice Minister of Foreign Affairs of the DPRK; Mr. Kenichiro Sasae, Director-General for Asian and Oceanian Affairs, Ministry of Foreign Affairs of Japan; Mr. Song Min-soon, Deputy Minister of Foreign Affairs and Trade of the ROK; Mr. Alekseyev, Deputy Minister of Foreign Affairs of the Russian Federation; and Mr. Christopher Hill, Assistant Secretary of State for East Asian and Pacific Affairs of the United States attended the talks as heads of their respective delegations.

Vice Foreign Minister Wu Dawei chaired the talks.

For the cause of peace and stability on the Korean Peninsula and in Northeast Asia at large, the Six Parties held, in the spirit of mutual respect and equality, serious and practical talks concerning the denuclearization of the Korean Peninsula on the basis of the common understanding of the previous three rounds of talks, and agreed, in this context, to the following:

1. 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.

The DPRK committed to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the Treaty on the Non-Proliferation of Nuclear Weapons and to IAEA safeguards.

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 ROK reaffirmed its commitment not to receive or deploy nuclear weapons in accordance with the 1992 Joint Declaration of the Denuclearization of the Korean Peninsula, while affirming that there exist no nuclear weapons within its territory.

The 1992 Joint Declaration of the Denuclearization of the Korean Peninsula should be observed and implemented.

²⁵ Nobody is sure of the exact number of nuclear weapons currently possessed by North Korea, but it appears to be generally agreed that it is at least 10. According to one analyst, the Yongbon reactor now produces enough plutonium to make one or two additional bombs per year. M. B Reiss, "A nuclear-armed North Korea: Accepting the unacceptable?", *Survival*, Winter 2006-7, p. 100

²⁶ Available at: <http://www.fmprc.gov.cn/eng/zxxx/t212707.htm>

The DPRK stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss, at an appropriate time, the subject of the provision of light water reactor to the DPRK.

2. The Six Parties undertook, in their relations, to abide by the purposes and principles of the Charter of the United Nations and recognized norms of international relations.

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.

The DPRK and Japan undertook to take steps to normalize their relations in accordance with the Pyongyang Declaration, on the basis of the settlement of unfortunate past and the outstanding issues of concern.

3. The Six Parties undertook to promote economic cooperation in the fields of energy, trade and investment, bilaterally and/or multilaterally.

China, Japan, ROK, Russia and the US stated their willingness to provide energy assistance to the DPRK.

The ROK reaffirmed its proposal of July 12th 2005 concerning the provision of 2 million kilowatts of electric power to the DPRK.

4. The Six Parties committed to joint efforts for lasting peace and stability in Northeast Asia.

The directly related parties will negotiate a permanent peace regime on the Korean Peninsula at an appropriate separate forum.

The Six Parties agreed to explore ways and means for promoting security cooperation in Northeast Asia.

5. The Six Parties agreed to take coordinated steps to implement the aforementioned consensus in a phased manner in line with the principle of "commitment for commitment, action for action".

6. The Six Parties agreed to hold the Fifth Round of the Six-Party Talks in Beijing in early November 2005 at a date to be determined through consultations.

While the statement was welcomed by all sides, its contents were highly ambiguous in a host of important respects. For example, no specific mention was made of the North Korean HEU programme which the US and others believed now existed. It was also vague on issues of timing and sequencing. Within 24 hours, this threatened to unstitch the agreement as the US declared that discussions about helping North Korea to build a civilian light water reactor could only begin once North Korea had completely dismantled its nuclear weapons and weapons facilities. North Korea replied by insisting that it must have a light water reactor up and running *before* beginning nuclear disarmament. Although a breakdown in negotiations was averted, the dispute was a clear indication of just how much remained to be resolved. In addition, there is no clarity about who would pay for North Korea's disarmament or how the process would be monitored and verified. Finally, while the statement talked about a return to the NPT and a regime of IAEA safeguards, not everybody was confident that this would involve North Korean acceptance of IAEA inspections.²⁷

²⁷ For general background on the NPT see House of Commons Library Standard Note SN/18/491, *Treaty on the Non-Proliferation of Nuclear Weapons*

5. Round Five

The fifth round of talks began on 9 November 2005. The purpose of this round was to clarify what had been agreed and move towards establishing a programme for implementation. However, within three days the talks had adjourned inconclusively. The US initially expressed satisfaction with the way the talks had gone and there were reports that China was seeking to reconvene the talks in the third week of January 2006.²⁸

However, some observers remained sceptical that further progress could be made.²⁹ Gareth Evans, President of the ICG, stated on the eve of the fifth round:

Unfortunately, most of the cards are in the hands of the North Koreans at the moment. So long as they stall, so long as they protract these negotiations, they can go on improving their own nuclear weapons capability... I think the Chinese have been very helpful in putting a degree of pressure on them, as have the other regular regional partners. But at the end of the day, it really does depend on the US being willing to put an appropriate deal on the table. At the moment, there are some carrots there, but they are not big enough and not juicy enough for the North Koreans to take a bite.³⁰

There were growing reports that North Korea's interest had shifted away from the Six-Party Talks and back towards a preference for direct bilateral negotiations between it and the US. But the US rejected such proposals.

Gareth Evans's pessimism appeared to be borne out by subsequent events. One vital factor was growing North Korean anger about alleged US 'financial sanctions' imposed in September 2005 against the Banco Delta Asia (BDA) in Macao. When the US regulatory authorities threatened to suspend the BDA's access to US financial markets under Section 311 of the Patriot Act on the grounds that it was a financial institution of "primary money laundering concern", the Macao Government took over the BDA and froze North Korean bank accounts worth \$24 million. The accounts affected reportedly included those belonging to 20 North Korean banks, 11 trading companies and nine individual accounts.³¹ According to the US State Department, North Korea was earning approximately \$500m. per year from counterfeiting and other illicit activities, amounting to up to 35-40 per cent of North Korean exports.³²

The US move against the BDA quickly had knock-on effects. Other banks in the region also halted dealings with North Korea. As one commentator has written:

²⁸ NAPSNET Daily Report, 15 November 2005

Available at: www.nautilus.org/napsnet/dr/2005/nov/ndr15nov05.html

²⁹ For a viewpoint that is sceptical of US intentions, see L. Segal, "The Cabal is alive and well", *Policy Forum Online*, 29 November 2005. Available at: www.nautilus.org/fora/security/0595Sigal.html

³⁰ ICG *Weekly Update*, 7 November 2005. The Evans quote is taken from *World News Tonight*, Sky News, 8 November 2005

³¹ "Price of a broken deal", *Guardian*, 14 October 2006. The article in the *Guardian* draws extensively upon an earlier piece in the *Wall Street Journal*, "Banks cut ties to North Korea – US threat toward one lender has surprisingly big ripple effect", 14 February 2006

³² "Sanctions against North Korea. The US turns the screw", International Institute for Strategic Studies, *Strategic Comments*, Vol. 12, Issue 3, April 2006

Within weeks much of North Korea's legitimate international trade had ground to a halt and the country was scrambling to secure foreign credit and loans [...] US treasury investigators were meanwhile touring Asia warning banks and financial institutions about the dangers of being associated with North Korea's suspect activities. Intentionally or not, the US had dealt the Pyongyang regime a major blow that years of bilateral aid, trade and export sanctions had failed to achieve. "We knew there was a lot going on but we didn't expect to hit a major artery like we did, a US official told Fairclough [a *Wall Street Journal* reporter]. Apparently facing financial strangulation, Pyongyang's leadership resorted to the only diplomatic weapon that it had. The foreign ministry said North Korea would boycott further talks on relinquishing its nuclear activities until the threat of US financial sanctions was lifted.³³

It is now widely acknowledged that the BDA has been an important means through which the North Korean leadership manages its assets.³⁴ North Korea has refused to accept that these measures are unrelated to the Six-Party Talks and has accused the US of blocking the negotiating process. US officials described their action as a legitimate law enforcement and financial regulatory initiative against a Bank that has provided financial services for many years to a number of North Korean entities engaged in illicit activities, including drug trafficking, smuggling counterfeit tobacco products and distributing counterfeit US currency. They argued that these measures were unrelated to the Six-Party Talks and will only be lifted once co-operation with the Macao authorities has led to improved control and supervision over the BDA.³⁵

Then in December 2005 came another major blow to the Six-Party Talks. The US formally withdrew from the Korean Peninsula Energy Development Organisation (KEDO), the inter-governmental consortium set up following the 1994 Agreed Framework to build two civilian light water reactors for North Korea. With the US, Japan, South Korea and the European Union on its management board, it was due to have completed its work by 2003. However, by the time of the US announcement, the first reactor was reportedly no more than one-third completed.³⁶ The consortium was only finally fully wound up in June 2006, once South Korea – its strongest advocate – had accepted that it could not be revived.³⁷

³³ "Sanctions against North Korea. The US turns the screw", International Institute for Strategic Studies, *Strategic Comments*, Vol. 12, Issue 3, April 2006

³⁴ There are claims that these accounts are in fact those of Kim Jong-Il and his family.

³⁵ Christopher Hill, "Recent developments in US-DPRK relations", Statement to the Senate Foreign Relations Committee, Sub-Committee on East Asian and Pacific Affairs, Washington DC, 20 July 2006. Available at: <http://www.state.gov/p/eap/rls/rm/69259.htm>

³⁶ "A white elephant that defused a nuclear crisis", *Straits Times*, 3 June 2006

³⁷ "Seoul a winner in failed project", *South China Morning Post*, 2 June 2006

C. Developments during 2006

1. The financial noose tightens

The first six months of 2006 saw a stalemate. Chinese efforts to create the conditions for a resumption of the Six-Party Talks made no headway. The war of words between North Korea and the US continued unabated, with North Korea continuing to express its anger at US 'financial sanctions'.

However, behind the scenes the US was tightening the financial noose on North Korea. It encouraged other countries to follow its lead in freezing North Korean assets held in banks within their jurisdiction. According to unconfirmed South Korean media reports, other Asian and European banks to have subsequently frozen North Korean accounts include the Bank of China and the United Overseas Bank of Singapore. The Bank of China is said to have taken this action because North Korea had also been counterfeiting Chinese currency.³⁸ Reports indicate that North Korea has opened at least three new bank accounts – at Sberbank of Russia, Vietcombank of Vietnam and Golomt Bank of Mongolia – since the accounts at BDA were frozen. The US has put pressure on these banks to close these accounts too.³⁹ In December 2006, another Vietnamese bank, East Asia Commercial Bank, also froze all accounts linked to the North Korean leadership.⁴⁰

One commentator, Aidan Foster-Carter, has been critical of the impact of the new US policy towards North Korea's financial interests abroad:

A year ago, engagers in the State Department briefly won the upper hand. A new negotiator, Mr Christopher Hill, breathed fresh life into the six-way talks, even producing an agreement - if only on principles, and at once glossed over in contradictory ways by Washington and Pyongyang.

Yet this gain was promptly lost by the US Treasury Department's indictment of the Macau-based Banco Delta Asia (BDA) for allegedly facilitating North Korean financial crimes, including counterfeiting US currency. To save itself, BDA cut all its ties to Pyongyang. A year on, some 40 North Korean accounts totalling a reported US\$24 million (S\$38 million) remain frozen there.

While the US has every right to pursue counterfeiters of its currency, as a superpower it has a special duty to ensure consistency - and to prioritise. North Korea's counterfeiting, though a disgrace, was old news and small beer. Targeting this now just gave Pyongyang a fresh excuse to boycott the six-way talks; the more so if, as rumoured, Mr Kim's own slush funds were hit by the freeze.

And not only his. No smart bomb, the US squeeze is a blunt instrument hitting innocent and guilty alike. Daedong Credit Bank - a British-run joint venture which for a decade has tried to bring global norms to Pyongyang, and is the sole link to the international banking system for the foreign business community - has US\$6

³⁸ ICG, *After North Korea's Missile Launch, are the Six-Party Talks Dead?*, Asia Briefing No. 52, 9 August 2006, p. 4. Available at: <http://www.crisisgroup.org/home/index.cfm?id=4332&l=1>. However, the Japanese media later reported that the Bank of China suspended cash transfers to North Korea following its October 2006 nuclear weapons test. "Bank of China suspends cash transfers to N. Korea", *Daily Yomiuri*, 18 October 2006

³⁹ "Pyongyang opened 3 bank accounts", *Korea Times*, 17 October 2006

⁴⁰ "Vietnam bank tightens screw on Pyongyang", *Financial Times*, 28 December 2006

million of its US\$10 million in assets frozen in Macau. Half of this amount belongs to British American Tobacco, which has a factory in North Korea.

With large-scale cigarette counterfeiting among the charges levelled at Mr Kim's regime, it is hard to see how penalising legitimate business helps anyone but the criminals. Daedong's new owners - Colin McAskill's London-based Koryo Asia, whose Chosun Fund seeks to raise US\$100 million to invest in North Korean mines and other assets - are challenging the US Treasury Department to scour Daedong's books for any evidence of malfeasance.

They may get short shrift, as the US is on a roll. With schoolboy glee, having at last found a sharp stick that actually hurts North Korea, the US is jabbing away regardless.

Mr Stuart Levey, Undersecretary for Terrorism and Financial Intelligence, has toured Asia in a bid to shut down all North Korean bank accounts.

Claiming that the distinction between Pyongyang's licit and illicit funds is all but invisible, Mr Levey was quoted on Aug 17 as saying that 'the US continues to encourage financial institutions to carefully assess the risk of holding any North Korea-related accounts'.

This bullying blanket ban makes no policy sense. Getting North Korea out of the crime and arms business means ensuring these do not pay. But that entails offering alternative, legitimate ways to earn a living: to boost Pyongyang's reformers, and give Mr Kim an exit strategy.

South Korea, on the frontline as it is, grasps this. At its Kaesong cross-border industrial park, Seoul's SMEs employ 8,000 North Koreans (so far) to make clothing and the like for export. Schemes such as this show Pyongyang that win-win cooperation works, and that there are safer ways to turn a better profit than forging greenbacks or flogging missiles.

In Seoul's free trade agreements, it wants Kaesong-made goods treated as South Korean. All partners so far have agreed, but the US adamantly opposes this in ongoing FTA talks. The latest round, held in Seattle on Sept 6-9, made little headway.

Then, on Sept 14, South Korea's President Roh Moo Hyun met Mr Bush in Washington. On past form, the famously blunt Mr Roh might well have asked his host what exactly he wanted of Kim Jong Il - that he go straight, or go to the wall? Instead, seeking to paper over cracks in the alliance, Mr Roh stressed that South Korea too was in effect sanctioning the North by withholding food aid. That may have played well in Washington, but it perplexed his supporters in Seoul - and predictably infuriated Pyongyang.

But Mr Bush sounded conciliatory, saying 'the incentive is for Kim Jong Il to understand there is a better way to improve the lives of his people than being isolated'.

Yet the walk belies the talk. Reports suggest the US may soon impose further sanctions, perhaps jointly with Japan - which on Sept 19 announced its own tighter squeeze, as did Australia.

A hard line by Tokyo, likely to stiffen further under new leader Shinzo Abe, will play badly in Seoul. The net result will only be to deepen disarray among Pyongyang's various interlocutors.

While Mr Kim has been largely unmoved by the carrots intermittently dangled before him, all evidence suggests he is even more impervious to sticks, which are downright dangerous.

Mr Levey's campaign bears out Pyongyang's charge that the US seeks to 'stifle' it. If Mr Kim does raise the stakes by testing a bomb, balefully confirming North

Korea as the nuclear power it boasts of being, this will be because crassly confused US policy has painted him into a corner. As in Iraq, Mr Bush's inept handling of threats serves only to enhance them.⁴¹

Recent investigations of the role of the BDA in sustaining North Korea's economy have further underscored its importance.⁴²

2. July 2006: the ballistic missile test

A further sign that North Korea was growing increasingly angry about the widening campaign to freeze its financial assets abroad came in July 2006. On 4 July 2006 North Korea, ignoring warnings from the international community, test-fired six ballistic missiles, including one long-range Taepodong-2 capable of reaching the US (although it failed soon after launch).⁴³ There was a seventh missile test on the following day. This was North Korea's first ballistic missile test since 1998, having declared a unilateral moratorium on testing in 1999. On 7 July South Korea suspended food aid to North Korea in protest at the missile tests.

One commentator gave an assessment of the ballistic missile threat from North Korea:

Last week, the semiofficial Yonhap news agency raised the alarm about a new report on North Korea's missile threat compiled by a researcher at a foreign ministry think tank called the Institute of Foreign Affairs and National Security. According to the author, Yun Deok Min, the July 4 missile tests that caused an international furor were just part of a major expansion of Kim Jong Il's capacity to menace his neighbors. All along its east coast, the report noted, North Korea is building underground missile bases and silos.

As the geography suggests, the main target is Japan, including American military bases there. Yun claimed that 200 Rodong missiles (with a range of up to 2,100 kilometers, or 1,300 miles, enough to reach anywhere in Japan) and 50 SSN-6 missiles (range of up to 4,000 kilometers) are already in place. Two new bases under construction in the northeastern part of the country are thought to be for the Taepodong-2, a long-range intercontinental ballistic missile, which in theory could reach Alaska (although the July 4 test was, fortunately, pretty much a flop).

Lest South Koreans feel left out, the Dear Leader has not forgotten them. The report indicated that about 600 short-range Scud missiles are based just 50 kilometers north of the paradoxically named demilitarized zone and aimed at all of South Korea's strategic targets and industrial complexes. That's on top of 11,200 artillery pieces, some apparently outfitted with chemical shells, ever ready to pulverize greater Seoul and its 20 million inhabitants.⁴⁴

⁴¹ "Throwing sticks a risky pursuit", *Straits Times*, 22 September 2006

⁴² "North Korea passed tens of millions via Macao bank", *Financial Times*, 18 December 2006

⁴³ Preparations for the missile tests began in May. ICG, *After North Korea's Missile Launch, are the Six-Party Talks Dead?*, Asia Briefing No. 52, 9 August 2006, p. 4.

Available at: <http://www.crisisgroup.org/home/index.cfm?id=4332&l=1>

⁴⁴ "Here there be monsters South Korea", *International Herald Tribune*, 12 August 2006. For a fuller discussion of North Korea's ballistic missile capability, see US Congressional Research Service, *North Korean Ballistic Missile Threat to the US*, RS21473, 6 July 2006. Available at: <http://fpc.state.gov/fpc/70077.htm>

On 15 July the UN Security Council – including China and Russia – unanimously agreed Security Council Resolution 1695, which condemned the missile tests, called on North Korea to suspend all activity on its ballistic missile programme and required all member states to prevent missile and missile-related items, materials, goods, technology and financial resources from being transferred to or from North Korea. While earlier drafts had contained a reference to Chapter VII of the UN Charter, the final text of the resolution did not do so.⁴⁵

3. October 2006: the nuclear weapons test

Undeterred, on 3 October 2006 North Korea announced that it intended to carry out its first nuclear test. Once again ignoring international calls not to do so, it undertook the nuclear test on 9 October in the north of the country, about 120 Km. south of the border with China.

On announcing that the nuclear weapons test had taken place, North Korea stated defiantly: “It will contribute to defending the peace and stability on the Korean peninsula and in the area around it.”⁴⁶

It was virtually alone in this view. Even its closest ally, China, condemned the action of North Korea:

[North Korea] has ignored the widespread opposition of the international community and conducted a nuclear test brazenly on 9 October... The Chinese government is firmly opposed to this... The Chinese side strongly demands the North Korean side abide by its pledges on denuclearisation and to stop any action that would worsen the situation.⁴⁷

The British Prime Minister, Tony Blair, said:

I condemn this completely irresponsible act by the government of the DPRK (Democratic Peoples' Republic of Korea). The international community has repeatedly urged them to refrain from both missile testing and nuclear testing. This further act of defiance shows North Korea's disregard for the concerns of its neighbours and the wider international community and contravenes DPRK's commitments under the Non-Proliferation Treaty and UN Security Council Resolution 1695.⁴⁸

The Royal United Services Institute issued this commentary in the immediate aftermath of North Korea's nuclear test:

⁴⁵ For the full text of Resolution 1695, see Appendix 2

⁴⁶ “Text of N Korea’s announcement”, *BBC News Online*, 9 October 2006. Available at: <http://news.bbc.co.uk/1/hi/world/asia-pacific/6032597.stm>

⁴⁷ “Reactions to the test”, *BBC News Online*, 9 October 2006. Available at: <http://news.bbc.co.uk/1/hi/world/asia-pacific/6032577.stm>

⁴⁸ Original available at: <http://www.number-10.gov.uk/output/Page10164.asp>. The FCO issued a parliamentary written statement on 10 October 2006 (HC Deb c167-17WS) and there was a brief debate in the House on the same day (HC Deb c163-71)

After several weeks of speculation and a public statement of intent by the North Korean regime last week on the anniversary of South Korea's foundation, the DPRK has detonated a low-yield nuclear device in its Mountainous North East region, close to its borders with China and Russia. This brazen bout of attention-seeking means that Kim Jong-il has exhausted his room for manoeuvre and the DPRK will face a new phase of isolation by the international community. The deep freeze on the Korean peninsula has moved closer to becoming a hot confrontation with a mafia-like family regime now a member of the exclusive nuclear club.

Worryingly, this test has come in the immediate wake of the DPRK's announcement of intention to test a nuclear device, suggesting that Kim Jong-il is more desperate for attention than previously imagined.⁴⁹ If this is so, it could be that Kim perceives his leadership to be in question, creating a tinder box situation across the Demilitarized Zone (DMZ), the no man's land separating the massed troops of North and South Korea and the line splitting the peninsula in half.

The Six Party Talks (6PT) framework, designed to resolve simmering tension in the Korean peninsula with member states including North and South Korea, Japan, Russia, China and the United States are now officially dead. It seems that the West has overestimated China's ability to rein in the Great Leader since for the first time, China has expressed anger towards Kim's actions. The test marks a departure from the DPRK's reliance on strategic ambiguity and represents a direct attempt to up the ante in the face of US refusal to engage in bilateral discussions with North Korea. Kim has managed to manipulate deftly all members of the 6PT.

From Kim's point of view, the test is a progression towards a fully blown nuclear deterrent against the United States and its ally Japan and is an attempt to dictate the future of the Korean peninsula on his own terms. Of more immediate concern is the now apparently personal nature of Kim's stand-off with the United States, who managed to freeze his family assets held offshore in Macau earlier this year. North Korea's missile tests were conducted on 4 July and it seems Kim perceives George Bush's Administration to have purposely sabotaged the bilateral negotiations established under Clinton. Kim now wishes to monopolize George Bush's unpopularity in the Muslim world to justify his actions. This will likely entail more urgency to the nuclear dilemma in Iran. If the stand-off has become a truly personal vendetta then the Korean peninsula, like the Middle East, has become a very volatile part of the world.⁵⁰

Subsequently, there was debate about whether the North Korean nuclear weapons test had been wholly successful. There have been reports that its power ranged from 500 tonnes (very small) to 15 megatons (about the size of the Nagasaki bomb in 1945). A North Korean official acknowledged on 10 October that the nuclear weapon test was "smaller in scale than expected." If the North Koreans were able to seal the test underground, as claimed, then conventional means of confirming that one had taken place – samples of air and water from the region which are then tested for traces of

⁴⁹ A South Korean parliamentary report later suggested that the nuclear test had been primarily designed to win the support of the armed forces for the eventual succession of one of Kim Jong-il's sons. "US and N Korea discuss sanctions", *BBC News Online*, 19 December 2006

⁵⁰ Royal United Services Institute, "Kim Jong-Il plays nuclear card to seek attention"
Available at: <http://www.rusi.org/research/studies/asia/commentary/ref:C452A2EE661B39/>

radioactive isotopes – may prove ineffective.⁵¹ Seismologists also checked for signs that the shockwaves after the test emerged from a single point, which would be evidence of a nuclear device.⁵² On 14 October it was reported that US scientists had decided, on the basis of traces of radioactive gas in the air near the test site, that a nuclear weapons test had definitely been attempted.⁵³ US scientists stated that the explosion yield was less than a Kiloton (1,000 tonnes) and identified that the test used plutonium of the kind produced at the Yongbyon nuclear reactor. Some argued that this confirmed that the test had been only partially successful, although others disagreed.⁵⁴ There was also speculation that the use of plutonium in the test confirmed that North Korea does not yet have a viable nuclear weapons programme based on enriched uranium.⁵⁵

4. UN Security Council Resolution 1718 and its aftermath

The UN Security Council met on 9 October and issued an immediate unanimous condemnation of North Korea. Negotiations on a Security Council Resolution began within hours. While there was unanimity that further sanctions should be imposed, there was disagreement over how severe they should be and whether they should be imposed under Chapter VII of the UN Charter, which would allow for the possibility of military action if North Korea was subsequently found to be in breach of the Resolution.

The first draft, sponsored by the US, was under Chapter VII and proposed full rights of inspection of vessels to prevent nuclear-related or ‘dual use’ materials from either entering or leaving North Korea, a trade ban on all military and luxury items, the freezing of assets connected with its nuclear weapons and missile programmes and a travel ban on those working on these programmes.⁵⁶ It was supported by EU states and Japan. A British official was cited as stating: “The real risk [...] is of onward proliferation from North Korea to other countries of concern.”⁵⁷ The US has led the formation of an *ad hoc* coalition of countries that monitors the potential movement of weapons of mass destruction in their coastal waters and on vessels sailing under their flags. Called the Proliferation Security Initiative, the US may have hoped that it could be given the explicit backing of the UN Security Council in the case of North Korea.⁵⁸

China initially opposed inspections, fearing that they would provoke a renewed confrontation with North Korea and expressed reservations about adopting a resolution under Chapter VII, despite reassurances from the US that it had no plans to attack North Korea. Humanitarian groups also urged the Security Council not to ban food aid.⁵⁹ The

⁵¹ Containing all the radiation underground would be difficult to do but theoretically possible, according to experts. “Diplomat says test was smaller than expected”, *Guardian*, 11 October 2006

⁵² *Ibid*

⁵³ “US test ‘confirms’ N Korea claim”, *BBC News Online*, 14 October 2006

⁵⁴ “Success of North Korean test blast re-evaluated”, *San Francisco Chronicle*, 16 November 2006

⁵⁵ “Rice trip to push full sanctions for N. Korea”, *Washington Post*, 17 October 2006; “North Korean fuel identified as plutonium”, *New York Times*, 17 October 2006

⁵⁶ “Text of draft UN resolution on North Korea”, *Times Online*, 10 October 2006

Available at: <http://www.timesonline.co.uk/article/0,,3-2397543,00.html>

⁵⁷ “UN resolution focuses on naval searches as route to containment”, *Financial Times*, 11 October 2006

⁵⁸ *Ibid*

⁵⁹ “Food aid sanctions could be ‘lethal’ for North Koreans”, *Financial Times*, 12 October 2006

then UN Secretary-General Kofi Annan also called for the US to agree to bilateral negotiations with North Korea, a call which President Bush rejected.⁶⁰

The US tabled a revised version of the draft resolution on 12 October. Resolution 1718 was unanimously adopted on 14 October. While it invoked Chapter VII, it stated that any further action (including military action) would require the adoption of a further resolution. The extent of sanctions against conventional weapons was limited to large-scale weapons such as tanks, combat vehicles, combat aircraft, attack helicopters or warships. All the other elements of the first draft of the resolution, including inspections, were retained – although China interpreted the Resolution as not making them mandatory. It also called for North Korea to return to the Six-Party Talks without delay, confirming that the talks were not considered ‘dead’.⁶¹ Within 24 hours of the resolution being adopted, China indicated that it still had reservations about carrying out the cargo inspections called for. The US called upon China to play a full role in the inspections process and stressed the importance of Chinese pressure on North Korea.⁶² Discussions began soon after the resolution was adopted about which countries could contribute to the inspection effort. On 17 October it was reported that China had begun to inspect cargo being carried by vehicles at its border with North Korea. But there was little likelihood of either it or Russia participating in inspections at sea that would involve intercepting vessels, using force to do so if necessary. The same applied to South Korea. There was debate in Japan about how it could do so without violating its ‘pacifist’ Constitution.⁶³

In the immediate aftermath of the nuclear weapons test, the Governments of Japan and South Korea were quick to insist that neither intended to revise their prior commitments not to acquire nuclear weapons of their own.⁶⁴ In terms of bilateral measures against North Korea, Japan was quickest off the mark following the nuclear weapons test, banning all North Korean imports and prohibiting its ships from entering Japanese ports. Most North Korean nationals were also banned from visiting Japan. Japan is the third largest importer of North Korean goods after China and South Korea.⁶⁵ In South Korea, which is also effectively covered by the US nuclear umbrella, critics of the Government’s policy of constructive engagement (known as the ‘Sunshine policy’) argued vociferously that the nuclear weapons test symbolised the complete failure of the policy. However, the South Korean Government indicated that, despite calls from the US for it to do so, it was unlikely to scale back the economic development projects in North Korea that have come to symbolise that policy in recent years.⁶⁶ However, it did immediately halt delivery of an emergency assistance package to help the North deal with recent floods.⁶⁷ Within a few weeks of the test, it also announced that it would impose a travel ban against some North Korean officials and would vet all financial transactions relating to inter-Korean trade. There would also be more rigorous customs checks of North Korean ships docked

⁶⁰ “North Korea threatens more nuclear tests”, *Daily Telegraph*, 12 October 2006

⁶¹ For the full text of Resolution 1718, see Appendix 3

⁶² “Australia to ban N Korean ships”, *BBC News Online*, 16 October 2006

⁶³ “US says China inspecting cargo at N. Korea border”, *Turkish Daily News*, 17 October 2006

⁶⁴ “South Korea, Japan and Taiwan not rushing to join nuclear club”, *Financial Times*, 11 October 2006

⁶⁵ “Japan imposes tough sanctions on North Korea”, *Financial Times*, 12 October 2006

⁶⁶ “US says it is up to China to pressure Pyongyang”, *Guardian*, 16 October 2006. Hyundai has invested particularly heavily in the North. It owns the Mount Kumgang tourism project and has supported projects at the Kaesong Industrial Complex

⁶⁷ “North Korea’s political, economic gamble”, *Washington Post*, 10 October 2006

in South Korean ports.⁶⁸ Responding to the adoption of Resolution 1718, on 16 October Australia announced that it would ban North Korean ships from entering its ports.⁶⁹ For its part, China apparently remained unwilling to implement its own ‘nuclear option’ on North Korea: total suspension of oil and food supplies.

5. North Korea agrees to return to the Six-Party Talks

While negotiations about a resolution continued in the Security Council, North Korea warned that the imposition of further sanctions would be considered a “declaration of war”, pointing to the very different response of the US to India’s nuclear weapons programme after it held a test in 1998.⁷⁰ It also threatened to carry out more nuclear weapons tests.⁷¹ Reports that it had carried out a second test on 11 October were quickly discredited.⁷² It reacted to the adoption of Resolution 1718 by accusing the Security Council of “gangster-like” behaviour.⁷³ Yet within a matter of weeks, North Korea had softened its position. On 29-30 October 2006 China hosted informal talks in Beijing with the US and North Korea that unexpectedly produced an agreement to resume the Six-Party Talks.

Analysts claimed that North Korea had been persuaded to shift its stance by a combination of factors: agreement by the US that ‘financial sanctions’ could be discussed; the fact that US officials had been willing to hold bilateral talks with North Korean officials in Beijing; and Chinese pressure. Significantly, unconfirmed reports began to emerge that China had, contrary to expectations, temporarily ceased crude oil exports to North Korea during September 2006.⁷⁴

In late November the US announced specific sanctions under Resolution 1718 that, amongst other things, targeted luxury goods thought to be particularly enjoyed by Kim Jong-il.⁷⁵ On 20 November 2006, the EU issued its Common Position on North Korea. A Council Regulation incorporating the sanctions contained in UN Resolutions 1695 and 1718 into EU law is due to follow.⁷⁶

If North Korea’s decision to rejoin the Six-Party Talks was designed to defuse criticism, it certainly had some success. Fault-lines within the shallow international consensus on

⁶⁸ “S Korea lists steps against North”, *BBC News Online*, 26 October 2006

⁶⁹ “Australia to ban N Korean ships”, *BBC News Online*, 16 October 2006

⁷⁰ The US and North Korea are in fact technically still at war, given that the Korean War ended only with an armistice

⁷¹ “North Korea threatens more nuclear tests”, *Daily Telegraph*, 12 October 2006

⁷² “North Korea warns against US pressure”, *Financial Times*, 11 October 2006

⁷³ “Security Council imposes sanctions on DPR Korea after its claimed nuclear test”, *UN News Service*, 16 October 2006. Available at: <http://www.un.org/apps/news/printnews.asp?nid=20261>

⁷⁴ “China wins plaudits for success over North Korea”, *Financial Times*, 2 November 2006

⁷⁵ “Sanctions target Dear Leader’s taste for bling”, *Guardian*, 30 November 2006. For the most up-to-date survey of sanctions imposed against North Korea, with a strong focus on the US, see the report by *The National Committee on North Korea*, “North Korea: Economic Sanctions and US Department of Treasury Actions, 1955-September 2006”, updated 18 October 2006

Available at: <http://www.nautilus.org/fora/security/0687ChoiLee.pdf>

⁷⁶ European Council Common Position 2006/795/CFSP, 20 November 2006, *Official Journal of the European Union*, L322/32, 22 November 2006. Available at:

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_322/l_32220061122en00320035.pdf. For the full text, see Appendix 4

North Korea were illustrated at the Asia-Pacific Economic Co-operation (APEC) summit in Vietnam in late November 2006, when the member states were unable to agree a statement condemning North Korea's nuclear test.⁷⁷ However, the US and Japan agreed to bring forward the deployment of a missile defence system in Japan in response to the growing nuclear threat from North Korea.⁷⁸ Japan called on North Korea to reiterate its commitment to the September 2005 Statement of Principles before it can rejoin the Six-Party Talks. Debate continued about whether Japan should now acquire nuclear weapons of its own, causing significant divisions within the ruling Liberal Democratic Party (LDP). North Korea responded by calling for Japan's exclusion from the talks on the grounds that it is a "client state" of the US.⁷⁹

China stated that its goal was to resume the fifth round of the Six-Party Talks, which had been adjourned in November 2005, before the end of December 2006. At first this looked unlikely as the parties haggled over the terms for resumption. North Korea once again ruled out renouncing nuclear weapons unless it was given firm security guarantees.⁸⁰ However, Chinese officials eventually announced that the fifth round would resume in Beijing on 18 December.⁸¹ At the talks, middle-level US Treasury and North Korean officials met to discuss the issue of 'financial sanctions' but little concrete was achieved.⁸² It was reported that the US had offered North Korea incentives if it halted its nuclear weapons programme and allowed IAEA inspectors to verify such a cessation, but details were sparse and, in the absence of progress towards removing US 'financial sanctions', North Korea seemed uninterested. The talks ended on 22 December with nothing more than a re-statement of the commitment on all sides to the implementation of the September 2005 Declaration of Principles. Chinese officials stated that the Six-Party Talks would "reconvene at the earliest opportunity".⁸³ In recent days there have been conflicting signals. There have been unconfirmed reports that a second nuclear weapons test by North Korea is imminent. However, US officials have expressed hope that the talks will resume by the end of January 2007, while warning North Korea of severe consequences should a second test be held. There have also been hints that the US is preparing to offer North Korea stronger incentives to co-operate in its nuclear disarmament.⁸⁴

D. What happens next? Looking Ahead to 2007

The Six-Party Talks have resumed. The new UN Secretary-General, the South Korean Ban Ki-moon, has said that he intends to appoint a new Special Envoy to North Korea. There has been no Special Envoy since April 2005. Ban Ki-moon has also stated that he

⁷⁷ "The pressure mounts on Bush as Asia frets over a nuclear future", *Times*, 20 November 2006

⁷⁸ "Us and Japan rush to deploy missile defence", *Irish Examiner*, 16 November 2006

⁷⁹ "North Korea urged to reiterate non-nuclear status", *Financial Times*, 6 November 2006

⁸⁰ "US still hopeful on N Korea talks", *BBC News Online*, 30 November 2006

⁸¹ "N Korea talks to resume", *BBC News Online*, 11 December 2006

⁸² Stuart Levey, US Under-Secretary of the Treasury – the official leading policy on financial measures against North Korea – did not attend

⁸³ "N Korea talks end 'without deal'", *BBC News Online*, 22 December 2006

⁸⁴ "N Korea 'all set for second nuke test'", *Chosun Ilbo*, 6 January 2007; "N Korea talks 'could resume soon', *BBC News Online*, 5 January 2007

is ready to visit Pyongyang to help break the log-jam.⁸⁵ Such initiatives may prove helpful. However, it is the actions of China and the US which are likely to be of decisive importance if the resumed negotiations are to bear fruit.⁸⁶

Many in the West have long believed that the role of China is crucial. There was hope that North Korea's defiance of China over its nuclear weapons test in October 2006 would lead it to call time on the North Korean regime. It certainly produced the strongest action by China yet against its unpredictable neighbour. In addition, North Korea is increasingly dependent upon its economic ties with China.⁸⁷ But it is important to bear in mind the limits of Chinese influence as well as its leverage and China's longer-term strategic interests in the Korean peninsula. The International Crisis Group summed both up in a February 2006 report:

China's influence on North Korea is more than it is willing to admit but far less than outsiders tend to believe. Although it shares the international community's denuclearisation goal, it has its own concept of how to achieve it. It will not tolerate erratic and dangerous behaviour if it poses a risk of conflict but neither will it endorse or implement policies that it believes will create instability or threaten its influence in both Pyongyang and Seoul. The advantages afforded by China's close relationship with the North can only be harnessed if better assessments of its priorities and limitations are integrated into international strategies. Waiting for China to compel North Korean compliance will only give Pyongyang more time to develop its nuclear arsenal.

China's priorities with regard to North Korea are:

- avoiding the economic costs of an explosion on the Korean Peninsula;
- preventing the U.S. from dominating a unified Korea;
- securing the stability of its three economically weak north eastern provinces by incorporating North Korea into their development plans;
- reducing the financial burden of the bilateral relationship by replacing aid with trade and investment;
- winning credit at home, in the region and in the U.S. for being engaged in achieving denuclearisation;
- sustaining the two-Korea status quo so long as it can maintain influence in both and use the North as leverage with Washington on the Taiwan issue; and

avoiding a situation where a nuclear North Korea leads Japan and/or Taiwan to become nuclear powers [...]

The bilateral relationship affords China little non-coercive influence over Pyongyang. Viewing it as one sustained by history and ideology ignores powerful dynamics of strategic mistrust, fractured leadership ties and ideological differences. Pyongyang knows Beijing might not come to its defence again in war and fears that it would trade it off if it felt its national interest could benefit.

⁸⁵ "UN chief to pick N Korea envoy", *Australian*, 18 October 2006

⁸⁶ The European Union's role has been largely passive on the nuclear issue, although it has been more active on the humanitarian front. One European Parliamentarian, Glyn Ford, has called for the EU to become much more engaged on the nuclear issue. "Dead talks walking: North Korea and removing the bomb", *Policy Forum Online*, 14 December 2006. Available at: <http://www.nautilus.org/fora/security/06104Ford.html#sect2>

⁸⁷ For a recent analysis of China-North Korea trade relations, see N. Aden, "North Korean Trade with China as Reported in Chinese Customs Statistics", August 2006 Available at: <http://www.nautilus.org/fora/security/0679Aden.pdf>

One factor shaping China's preference for the status quo in North Korea is the presence of two million ethnic Koreans in the country including an estimated 10,000 to 100,000 refugees and migrants at any one time. Although refugee flows are perceived to present one of the greatest threats to China in case of political or economic collapse in the North, most Chinese analysts and officials are unconcerned about the short-term threat posed by border crossers. Meanwhile, genuine political refugees are now quietly leaving China and being resettled in South Korea without Chinese opposition – sometimes even with its assistance – so long as they depart without causing embarrassment.

Chinese President Hu Jintao's visit to Pyongyang in October 2005 and Kim Jong-il's return visit in January 2006 underscored deepening economic relations. China is undertaking a range of infrastructure projects in and around North Korea and now accounts for 40 per cent of its foreign trade. Since 2003, over 150 Chinese firms have begun operating in or trading with North Korea. As much as 80 per cent of the consumer goods found in the country's markets are made in China, which will keep trying gradually to normalise the economy, with the long-term goal of a reformed, China-friendly North Korea.

Although it cannot deliver a rapid end to Pyongyang's weapons program, China must still be an integral component of any strategy with a chance of reducing the threat of a nuclear North Korea. No other country has the interest and political position in North Korea to facilitate and mediate negotiations. It is also the key to preventing transfers of the North's nuclear materials and other illicit goods, although its ability to do this is limited by logistical and intelligence weaknesses, and unwillingness to curb border trade. Over the long-term, Chinese economic interaction with the North may be the best hope for sparking deeper systemic reform and liberalisation there.⁸⁸

As already stated, China has taken some steps to support the new regime of sanctions established under Resolution 1718. But neither it nor South Korea will be willing to support the interception or interdiction of North Korean vessels. The US has chosen not to criticise publicly other countries which interpret Resolution 1718 in different ways. This may be wise in diplomatic terms, but it limits the value of the resolution in terms of countering nuclear proliferation.⁸⁹

Some analysts claim that Japanese and South Korean 'nuclear abstinence' may not be sustainable indefinitely if North Korea takes further steps towards a fully functioning nuclear weapons capability. One way of addressing the situation for Japan during 2007 would be to accelerate its co-operation with the US on joint missile defence, which has gathered momentum since 2003. This would place Japan more securely under the US nuclear umbrella. But there is also some evidence to suggest that Japan could become a nuclear weapons state in its own right within months of deciding to do so.⁹⁰

⁸⁸ ICG, *China and North Korea: Comrades Forever?*, Asia Report No. 112, 1 February 2006, Executive Summary. Available at: <http://www.crisisgroup.org/home/index.cfm?id=3920&l=1>

⁸⁹ S. Jager, "Time to end the Korean War: The Korean nuclear crisis in the era of unification", *Policy Forum Online*, 2 November 2006. Available at: <http://www.nautilus.org/fora/security/0693MiyoshiJager.html>. There is disagreement about whether North Korea also has a chemical and biological weapons programme

⁹⁰ See Memorandum submitted to the Defence Select Committee by Dr Andrew Dorman of Kings College, London, SND 63, 8 March 2006, p.4. Available at: <http://www.parliament.the-stationery-office.co.uk/pa/cm200506/cmselect/cmdfence/uc986-iii/ucm302.htm>

The ICG has criticised the US for adopting an inconsistent policy on North Korea in recent years. It claims that the US attempted in late 2005 to “squeeze North Korea into capitulation or collapse by wielding economic sanctions at the moment when negotiations were beginning to bear fruit [...]”.⁹¹ The ICG has called upon the US to distinguish more effectively between ‘dirty’ and ‘clean’ North Korean money when pushing banks to take action, arguing that international banking records can confirm legitimate transactions.⁹² Given that the US is North Korea’s major security concern, it has also urged the US to hold bilateral meetings with North Korea alongside the Six-Party Talks.⁹³

An American commentator has written in the following pessimistic tones:

Only the most myopic or naïve observer could believe that we now have North Korea ‘right where we want it’ [...] It continues to advance its strategic position without paying a significant price. The strategic positions of the other parties to the Six-Party Talks, on the other hand, continue to erode. None is safer or better off than it was a few years ago.⁹⁴

A former Deputy Secretary of State during President Bush’s first term, Richard Armitage, is also pessimistic. Speaking in April 2006, he argued that it is going to be

[...] very hard to dislodge North Korea from their nuclear weapons. From their point of view, the only reason the US has anything to do with them, [and] the main reason other countries are providing food and energy, is because they have nuclear weapons. North Korea is not an insane nation. It is not a crazy nation. One could argue that Kim Jong-Il has played a low hand very skilfully.⁹⁵

North Korea believes that the international consensus for action against it remains fragile and that there are divisions that it can exploit. Mohamed El Baradei, the head of the IAEA, has called for incentives to be offered to North Korea, arguing that sanctions alone will not resolve the nuclear issue.⁹⁶ This is also the view of the South Korean Government. The issue which is most important to the North Korean leadership at the moment are the ‘financial sanctions’ now in place against assets held abroad and the embargo on luxury goods. The leadership will undoubtedly be searching for ways around these sanctions while they remain in place.⁹⁷ One analyst has claimed that “the US could solve the North Korean issue if it wanted to very quickly. The North Koreans are willing to be bought out on this issue [...]”. He went on to argue that the only conclusion to be

⁹¹ ICG, *After North Korea’s Missile Launch, are the Six-Party Talks Dead?*, Asia Briefing No. 52, 9 August 2006, Overview. Available at: <http://www.crisisgroup.org/home/index.cfm?id=4332&l=1>

⁹² *ibid*, p. 11

⁹³ ICG, *North Korea’s Nuclear Test: The Fallout*, Asia Briefing No. 56, 13 November 2006, p. 1, 16. Available at: <http://www.crisisgroup.org/home/index.cfm?id=4502&l=1>

⁹⁴ M. B Reiss, “A nuclear-armed North Korea: Accepting the unacceptable?”, *Survival*, Winter 2006-7, p. 108

⁹⁵ “US ex-official urges talks with Iran”, *Financial Times*, 13 April 2006

⁹⁶ “El Baradei calls for ‘incentives’ for North Korea”, *Irish Examiner*, 1 December 2006

⁹⁷ “Kim Jong Il looks to London to circumvent sanctions”, *The Times*, 29 December 2006. It has been claimed that, even if the US decided to withdraw its ‘financial sanctions’, the Macao Government might continue to free the assets of the BDA. See: “Macao has no plans to unfreeze N. Korean assets”, *Chosun Ilbo*, 28 December 2006

drawn is that the US has been unwilling to pay the price.⁹⁸ If this remains so, the most likely outcome at the Six-Party Talks is further impasse.⁹⁹

If the Six-Party Talks go nowhere during early 2007, there are fears that North Korea will return to brinkmanship. This could include a second nuclear weapons test or a decision (or threat) to sell nuclear material to another country or to a non-state actor.¹⁰⁰ Both would inevitably lead to even tougher international action against the country. There have also been reports that North Korea is preparing to resume construction of its long shelved 50-megawatt nuclear reactor at the Yongbyon site. This would significantly increase its capacity to produce plutonium. However, it is open to question whether North Korea has the resources or knowledge to finish construction.¹⁰¹ According to press reports, the mixed outcome of both the July 2006 missile tests and the October 2006 nuclear weapons test has led US intelligence to conclude that North Korea could be as much as 10 years away from being able to launch a miniaturised nuclear warhead on a viable missile delivery system.¹⁰² But the problem is that North Korea's secrecy and isolation means that nobody knows for sure where its nuclear weapons programme stands. As for the US, a Chinese academic has speculated that its patience, if there is not significant progress through the negotiating process, is likely to run out during 2008. At that point it could resort to military action against North Korea's nuclear weapons programme.¹⁰³

None of the parties want war. As the ICG argues, every time the stakes are raised, the possibility of a "deadly miscalculation" increases.¹⁰⁴

⁹⁸ Foreign Affairs Select Committee, *East Asia*, HC 860-I, Seventh Report of Session 2005-6, para 208

⁹⁹ One observer has proposed a different 'Six-Party' approach to the nuclear issue on the Korean Peninsula, calling for agreement of a Nuclear-Free Zone under which the US, China, Russia and Japan would rule out the use or deployment of nuclear, chemical and biological weapons in Korea, while the two Koreas would agree not to development or deploy such weapons and to allow full IAEA verification. A necessary by-product would be a US-China deal on 'no first use'. It is argued that, ideally, such a Nuclear-Free Zone would pave the way for one that covers all of North-East Asia. S. Harrison, "The Forgotten Bargain: Nonproliferation and Nuclear Disarmament", *World Policy Journal*, Vol. 23, No. 3, Fall 2006, p. 10

¹⁰⁰ US General Burwell Bell, Commander of US forces in South Korea, has predicted that North Korea will test a further nuclear device in future, as well as its ballistic missiles. "US expects fresh N Korean test", *BBC News Online*, 30 October 2006. For an interesting survey of what might happen if North Korea did so, see: "What if N. Korea conducts a second nuke test?", *Chosun Ilbo*, 4 January 2007

¹⁰¹ For a recent evaluation of North Korea's nuclear capabilities, see S. Hecker, "Report on North Korean nuclear programme", *Policy Forum Online*, 15 November 2006
Available at: <http://www.nautilus.org/fora/security/0697Hecker.html>

¹⁰² "North Korean fuel identified as plutonium", *New York Times*, 17 October 2006

¹⁰³ "North heading for clash: China expert", *Dong-A Ilbo Daily*, 3 January 2007

¹⁰⁴ ICG, *North Korea's Nuclear Test: The Fallout*, p. 16

III Wider Prospects for Change

Today, North Korea's status as an international pariah state is as firmly entrenched as ever. Domestically, the economy is in a parlous condition. There are fears of renewed famine. Political repression remains unrelenting. Many outside observers understandably wonder just how much longer this situation can be sustained.

There has been a long-running debate amongst experts about the wider prospects for change in North Korea. They have revolved around the likelihood and desirability of three main scenarios:

- Sustained reform
- 'Stop-start' reform
- Collapse

In doing so, the debate has also addressed the relative importance of internal and external factors in bringing about each of these scenarios. For example, what is the potential for domestic unrest and opposition? What would be the impact of sanctions?¹⁰⁵ In addition, often unspoken, but nonetheless on the minds of many involved in the debate, are the issues of reunification and 'regime change'.

The three scenarios are not inherently incompatible. Combinations of the three over time are perfectly possible. However, for the sake of clarity, they will be discussed separately.

A. Sustained reform

This scenario draws considerable inspiration from the example of neighbouring China. It tends to focus, at least initially, on economic reform rather than its political counterpart. The theory is that gradual liberalisation of the North Korean economy over a prolonged period will ultimately restore growth levels and raise living standards. In time, it may even encourage moves towards greater political openness – of the kind and extent seen in China and Vietnam. Some observers go even further and speculate that the 'normalisation' of North Korea along these lines may create the conditions for "slow-motion reunification".¹⁰⁶ The South Korean government's current 'softly softly' approach to relations with the North may well be informed by such unspoken hopes.

As we have seen, since 2002 there has been an economic reform process in North Korea.¹⁰⁷ The degree of interaction between the two Koreas has progressively increased – and not just on the economic front. For example, on 1 November 2005, it was

¹⁰⁵ No analysts are currently calling for military action in the event of non-cooperation on the nuclear issue. North Korea's announcement that it already has nuclear weapons has significantly raised the level of risk involved in such a response.

¹⁰⁶ J. Feffer, "Korea's slow-motion reunification", *Policy Forum Online*, 28 June 2005
Available at: www.nautilus.org/fora/security/0553Feffer.html

¹⁰⁷ For a positive interpretation by a Chinese academic of the economic reform process, see L. Dunqiu, "DPRK's Reform and Sino-DPRK Economic Cooperation", *Policy Forum Online*, 23 August 2006

announced that the two Koreas would combine to send a joint team to the Beijing Olympics in 2008.¹⁰⁸

Nevertheless, there are a number of reasons for thinking that this scenario may prove over-optimistic. Firstly, the economic reform process may have already reached its limits. While this may disappoint those who have supported it, it would not be entirely unexpected.¹⁰⁹ Reform by definition involves a loosening of state control over society. While China and Vietnam may appear at present to be managing this relatively successfully, the example of the former Soviet Union also looms large in the memory. Furthermore, introducing markets can have costs as well as benefits, particularly in the short- to medium-term: urban workers usually pay more for their food; inequality often increases, which can lead to social tensions; industries sometimes die rather than revive. These considerations make reform a hazardous undertaking. To date China has seemed unwilling to put heavy pressure on its North Korean comrades to persist with sustained reform. For its part, the North Korean leadership does not yet appear ready to accede to such pressure.¹¹⁰

Secondly, it is far from certain that the North Korean leadership's conversion to economic reform was borne of a genuine rethinking, rather than considerations of tactical or personal advantage. There can be no doubt that its moves towards economic reform encouraged those abroad who were arguing for a more emollient negotiating strategy on the nuclear issue. The arrival of aid was crucial in stabilising North Korea after the economic crisis of the mid-1990s. Some argue that the main beneficiaries of economic liberalisation have been the *nomenklatura*, including the security services, rather than ordinary North Koreans and that corruption has been fuelled by reform.¹¹¹ Furthermore, the leadership remains strongly wedded to nationalistic principles of self-reliance and still mistrusts outsiders.

The likelihood of sustained reform would be significantly increased if North Korea fully cooperated with the Six-Party Talks and if a durable settlement was agreed. This would likely lead eventually to the removal of UN-mandated sanctions and open the way for donors and international investors to engage on a greater scale.¹¹² However, as we have seen, the North Korean leadership will do nothing that it perceives will weaken its bargaining power. As things stand, it may well still feel that it has more to lose than gain from genuine co-operation at the talks.

¹⁰⁸ "Koreas to unify Olympic teams", *BBC News Online*, 1 November 2005

¹⁰⁹ For an interesting discussion of whether the economic reform process has indeed stalled, see R. Frank, "North Korean markets and the reactivation of the public distribution system: Dialogue between a pessimist and an optimist", *Policy Forum Online*, 6 October 2005
Available at: <http://www.nautilus.org/fora/security/0581Frank.html>

¹¹⁰ One analyst has gone as far as to assert that the North Korean leadership, fearful of the consequences of reform, has been bent on "re-Stalinizing" the country since late 2004. He argues that current aid to the country is effectively subsidising this process. See A. Lankov, "North Korea turns back the clock", *Policy Forum Online*, 21 December 2006
Available at: <http://www.nautilus.org/fora/security/06107Lankov.html>

¹¹¹ ICG, *North Korea: Can the Iron Fist accept the Invisible Hand?*, Asia Report No. 96, 25 April 2005, p. 16

¹¹² For a discussion of whether and how international aid might be mobilised in such a scenario, see B. Babson, "Visualising a North Korean 'Bold Switchover': International Financial Institutions and Economic Development in the DPRK", *Asia Policy*, No. 2, July 2006
Available at: <http://www.nautilus.org/fora/security/0673Babson.pdf>

B. ‘Stop-start’ reform

Another possible – on the basis of past performance, perhaps the most likely – scenario for the next five years is ‘stop-start’ reform. Such a strategy could bring benefits for the North Korean leadership in that it will make it more difficult for coalitions to form and be sustained within the international community over policy towards North Korea. It may also help the North Korean leadership to retain control domestically. Not least, it is probably the minimum that will be acceptable to China if it is to continue to support North Korea on a significant scale financially and diplomatically. While not South Korea’s favoured scenario, it would probably not permit such a situation to derail relations.

However, it is also possible that this scenario may unfold in a relatively uncontrolled way – less part of a strategy and more a result of internal conflicts within the leadership between traditionalists and reformers. Either way, the ICG argues that “muddling through” is a recipe for continued decline, even if it makes sudden collapse less likely.¹¹³ It would certainly not do much to increase the resources available to the state for building domestic support or ‘buying off’ discontent. It would probably also mean that the current steady flow of defectors and refugees would further increase. A danger for the leadership is that a period of ‘stop-start’ reform will not deliver enough to its subjects to prevent presently weak oppositional currents at home from strengthening, even if the coercive power of the state remains strong. If domestic and external opponents were to begin combining more effectively, the Korean Workers’ Party might find its authority for the first time under significant threat from its own people.

It is difficult to assess with confidence how developments on the nuclear issue would affect this scenario. The imposition of further sanctions would be unlikely to lead to a switch towards more sustained reform. Governments as a rule harden their diplomatic stance in response to sanctions, rather than soften it – at least initially.¹¹⁴ The most likely outcome could be an entrenching of the ‘stop-start’ reform trajectory, with a narrower North Korean objective of keeping China and South Korea ‘onside’ and half-hearted about implementing sanctions rigorously.

C. Collapse

It is, of course, possible that there may be ‘regime collapse’ in North Korea. Stakeholders have differed strongly over whether a collapse would be desirable. Important sections of the US government between 2002 and 2004 favoured a scenario in which the regime

¹¹³ ICG, *North Korea: Can the Iron Fist accept the Invisible Hand?*, Asia Report No. 96, 25 April 2005, p. 25

¹¹⁴ For a pessimistic analysis of the impact of sanctions on North Korea, see R. Frank, “The Political Economy of Sanctions against North Korea”, *Asian Perspective*, Vol. 30, No. 3, 2006
Available at: <http://www.nautilus.org/fora/security/06100Franks.pdf>

collapsed suddenly and dramatically.¹¹⁵ North Korea's neighbours and European governments have always feared such a scenario, given its undoubted potential to destabilise the region. In particular, South Korea dreads a process of reunification that is unexpected and uncontrolled. One analyst has claimed:

As South Koreans have learned about the North's massive famine and about the international expectations for Korean unification by absorption, they have become increasingly worried that their own lives would change for the worse and increasingly outspoken against unification by absorption. More and more South Koreans expect their government to prefer some kind of division between North and South even after unification, until the economic level of the North is raised [...] a collapsing North Korea and a southward flood of several million poverty-stricken refugees seems a sure recipe for another fratricidal civil war, or even the end of Korean democracy.¹¹⁶

Might China lose patience with the North Korean leadership and engineer the installation of a new leadership, or even a military coup? There are no signs so far that this is likely, despite North Korea's recent provocations. The risks to China would be great. Its role as 'neutral interlocutor' between the US and North Korea in the Six-Party Talks has brought with it some diplomatic leverage with the US and EU on other issues. It is possible that China might not be overly concerned if the nuclear issue dragged on without resolution, provided that talks did not entirely breakdown and its own prestige was unharmed. However, North Korea's nuclear weapons test certainly damaged China's pride and produced an unprecedented response.

Since North Korea confirmed in February 2005 that it had nuclear weapons, the US has also modified its position and no longer talks explicitly about regime change. Threats of sanctions have become increasingly linked to the nuclear issue, despite continued warnings to North Korea about its human rights record. But it does not rule out the possibility of sudden collapse. It is currently reviewing its contingency plans, in partnership with Japan and South Korea, for such an eventuality.¹¹⁷

Could the determined imposition of wider economic sanctions over the nuclear issue, particularly by China and South Korea, propel North Korea towards regime collapse? Writing in April 2005, the ICG doubted that they would be effective, arguing that North Korea is still "among the most closed economies in the world". It added:

Although its high dependence on foreign fuel and food means there is greater opportunity for leverage than its low aggregate trade figures suggest, cutting

¹¹⁵ As already noted, in January 2002 President George W. Bush made his famous "Axis of Evil" speech, which included North Korea, along with Iran and Iraq. In 2003, the US Congress passed S. 1903, the North Korean Freedom Act. This legislation was explicitly designed with a view to promoting regime change. In 2004, it was replaced by HR 4011, the North Korean Human Rights Act, which focused on human rights, refugee protection and humanitarian transparency but without linking them to regime change. For a discussion of the differences between the two pieces of legislation, see K.J. Lee, "The North Korean Human Rights Act and other Congressional Agendas", *Policy Forum Online*, 7 October 2004

Available at www.nautilus.org/fora/security/0439A_Lee.html

¹¹⁶ S. Kim, "The Mirage of a United Korea", *Far Eastern Economic Review*, November 2006, pp. 11-12

¹¹⁷ "Seoul, Washington, Tokyo rush plans to cope with the N.K. crisis", *Korea Herald*, 8 January 2007

these supplies would impact catastrophically on industry, agriculture, the population, and the nascent market economy, but probably do very little to unsettle the leadership.¹¹⁸

If there was conflict within the North Korean leadership, this assessment might have to be revised. Several analysts have speculated that we may be entering a period characterised by leadership conflict.¹¹⁹ ‘Smart sanctions’ targeted at the leadership can have considerable impact, as the impact of US Treasury’s action against the Banco Delta Asia (BDA) in Macao has demonstrated, but there are no guarantees that they will change behaviour for the better. It could be argued that the freezing of North Korean accounts held by the BDA since September 2005 has so far increased unity at leadership level.

It could also be argued that the idea of regime change – if not sudden and dramatic collapse – remains implicit in the calculations of most of those who have been pursuing constructive engagement on the nuclear issue and encouraging domestic reform. For example, the ICG writes about a “long-term transition” but ended a 2005 report in the following rather equivocal way:

The regime has proven since 2002 that gradual and cumulative change is possible. Given all that is at stake, the time to react is not at that indefinite point when the regime falls – a week, a year, a decade, a generation hence – but now.¹²⁰

A leading commentator on North Korea, Aidan Foster-Carter, has argued in the following rather more forthright terms:

It is crucial to see the big picture and take the long view. The key North Korea question is how and when – not whether – this ghastly failed regime will cease to be. Just possibly it might manage to morph into something more sensible, like China and Vietnam. But that looks a long shot. It is only prudent to guard against and plan for much bumpier landings... That is the real issue in Korea now; not just nukes, still less the fate of a hexagonal table [at the Six-Party Talks] in Beijing.¹²¹

One of the few analysts who explicitly rejects such arguments is the historian Bruce Cumings, who endorses the view of the president of CNN International in 1999, Eason Jordon:

When you hear about starvation in North Korea, a lot of very level-headed people think, ‘There is no way a country like that can survive’. Well, I can guarantee you this: I’m here to tell you that with absolute certainty these guys will tough it out for centuries just the way they are.¹²²

¹¹⁸ ICG, *Can the Iron Fist accept the Invisible Hand?*, Asia Report No. 96, 25 April 2005, p. 18

¹¹⁹ A. Foster-Carter, “The Six Party Failure”, *Policy Forum Online*, 17 February 2005
Available at www.nautilus.org/fora/security/0516A_Carter.html

¹²⁰ ICG, *Can the Iron Fist accept the Invisible Hand?*, Asia Report No. 96, 25 April 2005, pp. 22 and 25

¹²¹ A. Foster-Carter, “The Six Party Failure”, *Policy Forum Online*, 17 February 2005

¹²² Cumings, *Another Country*, p. 207

Appendix 1 Brief Chronology

1905	Korea becomes a Japanese Protectorate
1910	Korea becomes a Japanese colony
1945	Korea liberated from Japanese colonial rule and divided into two zones along the 38 th parallel
1948	The Democratic People's Republic of Korea established in the north; the Republic of Korea established in the south
1950	Korean war begins
1953	Korean war ends with the signing of an armistice
1973	North Korea gains observer status at the UN
1975	North Korea joins the Non-Aligned Movement
1985	North Korea Signs the Nuclear Non-Proliferation Treaty (NPT)
1993	North Korea threatens to withdraw from the NPT; negotiations begin with the US
1994	The Agreed Framework offers economic support and Light-Water Reactors in return for North Korean promises not to develop nuclear weapons; death of Kim Il Sung
1995	Major floods in west of North Korea lead to massive food crisis and appeals for international assistance
January 2002	President George W. Bush includes North Korea in his "Axis of Evil" speech; North Korea begins an economic reform programme
November 2002	North Korea declares the Agreed Framework dead
January 2003	North Korea withdraws from the NPT and expels the IAEA
August 2003	Six-Party Talks begin in Beijing (USA, North Korea, South Korea, China, Japan, Russia)
February 2004	Second round of Six-Party Talks
June 2004	Third round of Six-Party Talks
15 February 2005	North Korea announces it has nuclear weapons and says that it is abandoning the Six-Party Talks and withdrawing from the NPT
July-Sept 2005	Fourth Round of Six-Party Talks; a Statement of Principles is agreed on 19 September
September 2005	Financial measures imposed by the US regulatory authorities against Banco Delta Asia in Macao under the Patriot Act
October 2005	Media reports suggest that the economic reform programme is stalling
November 2005	Fifth round of Six-Party Talks begins
4-5 July 2006	North Korea test fires seven ballistic missiles despite international opposition
15 July 2006	Passage of UN Security Council Resolution 1695
9 October 2006	North Korea conducts its first ever nuclear weapons test
14 October 2006	Passage of UN Security Council Resolution 1718
30 October 2006	North Korea agrees to return to the Six-Party Talks
December 2006	Fifth round of Six-Party Talks resumes

Appendix 2

UN Security Council Resolution 1695¹²³

The Security Council,

Reaffirming its resolutions 825 (1993) of 11 May 1993 and 1540 (2004) of 28 April 2004,

Bearing in mind the importance of maintaining peace and stability on the Korean peninsula and in north-east Asia at large,

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Expressing grave concern at the launch of ballistic missiles by the Democratic People's Republic of Korea (DPRK), given the potential of such systems to be used as a means to deliver nuclear, chemical or biological payloads,

Registering profound concern at the DPRK's breaking of its pledge to maintain its moratorium on missile launching,

Expressing further concern that the DPRK endangered civil aviation and shipping through its failure to provide adequate advance notice,

Expressing its grave concern about DPRK's indication of possible additional launches of ballistic missiles in the near future,

Expressing also its desire for a peaceful and diplomatic solution to the situation and welcoming efforts by Council members as well as other Member States to facilitate a peaceful and comprehensive solution through dialogue,

Recalling that the DPRK launched an object propelled by a missile without prior notification to the countries in the region, which fell into the waters in the vicinity of Japan on 31 August 1998,

Deploing the DPRK's announcement of withdrawal from the Treaty on Non-Proliferation of Nuclear Weapons (the Treaty) and its stated pursuit of nuclear weapons in spite of its Treaty on Non-Proliferation of Nuclear Weapons and International Atomic Energy Agency (IAEA) safeguards obligations,

Stressing the importance of the implementation of the Joint Statement issued on 19 September 2005 by China, DPRK, Japan, Republic of Korea, the Russian Federation and the United States,

Affirming that such launches jeopardize peace, stability and security in the region and beyond, particularly in light of the DPRK's claim that it has developed nuclear weapons,

¹²³ Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/431/64/PDF/N0643164.pdf?OpenElement>

Acting under its special responsibility for the maintenance of international peace and security

1) Condemns the multiple launches by the DPRK of ballistic missiles on 5 July 2006 local time;

2) Demands that the DPRK suspend all activities related to its ballistic missile programme, and in this context re-establish its pre-existing commitments to a moratorium on missile launching;

3) Requires all Member States, in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent missile and missile-related items, materials, goods and technology being transferred to DPRK's missile or WMD programmes;

4) Requires all Member States, in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent the procurement of missiles or missile related-items, materials, goods and technology from the DPRK, and the transfer of any financial resources in relation to DPRK's missile or WMD programmes;

5) Underlines, in particular to the DPRK, the need to show restraint and refrain from any action that might aggravate tension, and to continue to work on the resolution of non-proliferation concerns through political and diplomatic efforts;

6) Strongly urges the DPRK to return immediately to the Six-Party Talks without precondition, to work towards the expeditious implementation of 19 September 2005 Joint Statement, in particular to abandon all nuclear weapons and existing nuclear programmes, and to return at an early date to the Treaty on Non-Proliferation of Nuclear Weapons and International Atomic Energy Agency safeguards;

7) Supports the six-party talks, calls for their early resumption, and urges all the participants to intensify their efforts on the full implementation of the 19 September 2005 Joint Statement with a view to achieving the verifiable denuclearization of the Korean Peninsula in a peaceful manner and to maintaining peace and stability on the Korean Peninsula and in north-east Asia;

8) Decides to remain seized of the matter.

Appendix 3 UN Security Council Resolution 1718¹²⁴

The Security Council,

Recalling its previous relevant resolutions, including resolution 825 (1993), resolution 1540 (2004) and, in particular, resolution 1695 (2006), as well as the statement of its President of 6 October 2006 (S/PRST/2006/41),

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Expressing the gravest concern at the claim by the Democratic People's Republic of Korea (DPRK) that it has conducted a test of a nuclear weapon on 9 October 2006, and at the challenge such a test constitutes to the Treaty on the Non-Proliferation of Nuclear Weapons and to international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons, and the danger it poses to peace and stability in the region and beyond,

Expressing its firm conviction that the international regime on the non-proliferation of nuclear weapons should be maintained and recalling that the DPRK cannot have the status of a nuclear-weapon state in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons,

Deploring the DPRK's announcement of withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons and its pursuit of nuclear weapons,

Deploring further that the DPRK has refused to return to the Six-Party talks without precondition,

Endorsing the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States,

Underlining the importance that the DPRK respond to other security and humanitarian concerns of the international community,

Expressing profound concern that the test claimed by the DPRK has generated increased tension in the region and beyond, and *determining* therefore that there is a clear threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Condemns* the nuclear test proclaimed by the DPRK on 9 October 2006 in flagrant disregard of its relevant resolutions, in particular resolution 1695 (2006), as well as of the statement of its President of 6 October 2006 (S/PRST/2006/41), including that such a test would bring universal condemnation of the international community and would represent a clear threat to international peace and security;

¹²⁴ Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/572/07/PDF/N0657207.pdf?OpenElement>

2. *Demands* that the DPRK not conduct any further nuclear test or launch of a ballistic missile;

3. *Demands* that the DPRK immediately retract its announcement of withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons;

4. *Demands* further that the DPRK return to the Treaty on the Non-Proliferation of Nuclear Weapons and International Atomic Energy Agency (IAEA) safeguards, and *underlines* the need for all States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to continue to comply with their Treaty obligations;

5. *Decides* that the DPRK shall suspend all activities related to its ballistic missile programme and in this context re-establish its pre-existing commitments to a moratorium on missile launching;

6. *Decides* that the DPRK shall abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner, shall act strictly in accordance with the obligations applicable to parties under the Treaty on the Non-Proliferation of Nuclear Weapons and the terms and conditions of its International Atomic Energy Agency (IAEA) Safeguards Agreement (IAEA INFCIRC/403) and shall provide the IAEA transparency measures extending beyond these requirements, including such access to individuals, documentation, equipments and facilities as may be required and deemed necessary by the IAEA;

7. *Decides* also that the DPRK shall abandon all other existing weapons of mass destruction and ballistic missile programme in a complete, verifiable and irreversible manner;

8. *Decides* that:

(a) All Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of:

(i) Any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms, or related materiel including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below (the Committee);

(ii) All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction related programmes;

(iii) Luxury goods;

(b) The DPRK shall cease the export of all items covered in subparagraphs (a) (i) and (a) (ii) above and that all Member States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the DPRK;

(c) All Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision,

manufacture, maintenance or use of the items in subparagraphs (a) (i) and (a) (ii) above;

(d) All Member States shall, in accordance with their respective legal processes, freeze immediately the funds, other financial assets and economic resources which are on their territories at the date of the adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons or entities designated by the Committee or by the Security Council as being engaged in or providing support for, including through other illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes, or by persons or entities acting on their behalf or at their direction, and ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of such persons or entities;

(e) All Member States shall take the necessary steps to prevent the entry into or transit through their territories of the persons designated by the Committee or by the Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to the DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, provided that nothing in this paragraph shall oblige a state to refuse its own nationals entry into its territory;

(f) In order to ensure compliance with the requirements of this paragraph, and thereby preventing illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials, all Member States are called upon to take, in accordance with their national authorities and legislation, and consistent with international law, cooperative action including through inspection of cargo to

and from the DPRK, as necessary;

9. *Decides* that the provisions of paragraph 8 (d) above do not apply to financial or other assets or resources that have been determined by relevant States:

(a) To be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within five working days of such notification;

(b) To be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee; or

(c) To be subject of a judicial, administrative or arbitral lien or judgement, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement was entered prior to the date of the present resolution, is not for the benefit of a person referred to in paragraph 8 (d) above or an individual or entity identified by the Security Council or the Committee, and has been notified by the relevant States to the Committee;

10. *Decides* that the measures imposed by paragraph 8 (e) above shall not apply where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligations, or

where the Committee concludes that an exemption would otherwise further the objectives of the present resolution;

11. *Calls upon* all Member States to report to the Security Council within thirty days of the adoption of this resolution on the steps they have taken with a view to implementing effectively the provisions of paragraph 8 above;

12. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks:

(a) To seek from all States, in particular those producing or possessing the items, materials, equipment, goods and technology referred to in paragraph 8 (a) above, information regarding the actions taken by them to implement effectively the measures imposed by paragraph 8 above of this resolution and whatever further information it may consider useful in this regard;

(b) To examine and take appropriate action on information regarding alleged violations of measures imposed by paragraph 8 of this resolution;

(c) To consider and decide upon requests for exemptions set out in paragraphs 9 and 10 above;

(d) To determine additional items, materials, equipment, goods and technology to be specified for the purpose of paragraphs 8 (a) (i) and 8 (a) (ii) above;

(e) To designate additional individuals and entities subject to the measures imposed by paragraphs 8 (d) and 8 (e) above;

(f) To promulgate guidelines as may be necessary to facilitate the implementation of the measures imposed by this resolution;

(g) To report at least every 90 days to the Security Council on its work, with its observations and recommendations, in particular on ways to strengthen the effectiveness of the measures imposed by paragraph 8 above;

13. *Welcomes and encourages further* the efforts by all States concerned to intensify their diplomatic efforts, to refrain from any actions that might aggravate tension and to facilitate the early resumption of the Six-Party Talks, with a view to the expeditious implementation of the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States, to achieve the verifiable denuclearization of the Korean Peninsula and to maintain peace and stability on the Korean Peninsula and in north-east Asia;

14. *Calls upon* the DPRK to return immediately to the Six-Party Talks without precondition and to work towards the expeditious implementation of the Joint Statement issued on 19 September 2005 by China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States;

15. *Affirms* that it shall keep DPRK's actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in paragraph 8 above, including the strengthening, modification, suspension or lifting of the measures, as may be needed at that time in light of the DPRK's compliance with the provisions of the resolution;

16. *Underlines* that further decisions will be required, should additional measures be necessary;

17. *Decides* to remain actively seized of the matter.

Appendix 4 EU Common Position on North Korea (20 November 2006)¹²⁵

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL COMMON POSITION 2006/795/CFSP of 20 November 2006 concerning restrictive measures against the Democratic People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) On 15 July 2006, the United Nations Security Council adopted Resolution 1695 (2006) ('UNSCR 1695 (2006)') in which it condemned the multiple launches by the Democratic People's Republic of Korea ('DPRK') of ballistic missiles on 5 July 2006.

(2) On 14 October 2006 the United Nations Security Council adopted Resolution 1718 (2006), ('UNSCR 1718 (2006)') in which it condemned the nuclear test proclaimed by the DPRK on 9 October 2006, and expressed its gravest concern at the challenge such a test constituted to the Treaty on the Non-Proliferation of Nuclear Weapons and to international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons, and the danger it posed to peace and stability in the region and beyond. The UN Security Council determined therefore a clear threat to international peace and security.

(3) On 17 October 2006, the Council of the European Union strongly condemned the test of a nuclear explosive device by the DPRK and urged the DPRK to return immediately to the Six-Party talks, to abandon all nuclear weapons and existing nuclear programmes, and to comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, including submitting all its nuclear activities to International Atomic Energy Agency verification. The Council also stated that it would fully implement the provisions of all relevant UNSC Resolutions and notably those of UNSCR 1695 (2006) and UNSCR 1718 (2006).

(4) UNSCR 1718 (2006) prohibits the direct or indirect supply, sale or transfer to the DPRK by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, of certain conventional weapons as defined for the purpose of the UN register on Conventional Arms, or related materiel including spare parts, or items as determined by the UN Security Council or the Committee established pursuant to paragraph 12 of UNSCR 1718 (2006) ('the Committee'). The Council considers it appropriate also to cover other conventional weapons, including at least all goods and technology on the EU Common List of Military Equipment.

(5) UNSCR 1718 (2006) also prohibits the direct or indirect supply, sale or transfer to the DPRK by nationals of Member States or from the territories of Member States, or

¹²⁵ European Council Common Position 2006/795/CFSP, 20 November 2006, *Official Journal of the European Union*, L322/32, 22 November 2006. Available at: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_322/l_32220061122en00320035.pdf

using their flag vessels or aircraft, of items as listed in the relevant UN documents, which notably comprise the items contained in the Nuclear Suppliers Group and Missile Technology Control Regime lists; and of other materials, equipment, goods and technology related to nuclear, ballistic missile or other weapons of mass destruction programmes.

(6) UNSCR 1718 (2006) also prohibits the provision of technical training, services and assistance in relation to the items referred to in recitals (4) and (5), the prohibition of which should also cover financing or financial assistance.

(7) UNSCR 1718 (2006) also prohibits the procurement of the items referred to in recitals (4) and (5) from the DPRK.

(8) UNSCR 1718 (2006) also prohibits the supply, sale or transfer of luxury goods to the DPRK.

(9) UNSCR 1718 (2006) also imposes measures to prevent the entry into, or transit through their territories of the persons designated by the Committee or by the UN Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members. L 322/32 EN Official Journal of the European Union 22.11.2006

(10) UNSCR 1718 (2006) furthermore imposes a freeze of funds, other financial assets and economic resources, owned or controlled directly or indirectly by the persons or entities designated by the Committee or by the UN Security Council as being engaged in or providing support for, including through other illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missiles-related programmes, or by persons or entities acting on their behalf or at their direction; and an obligation that no funds, financial assets or economic resources are made available to or for the benefit of such persons or entities.

(11) This Common Position may be amended if the Council deems it appropriate to apply the restrictive measures to additional persons, entities or items, or to other categories of persons, entities or items.

(12) Action by the Community is needed in order to implement certain measures, HAS ADOPTED THIS COMMON POSITION:

Article 1

1. The direct or indirect supply, sale or transfer of the following items and technology, including software, to the DPRK by nationals of Member States or through or from the territories of Member States, or using their flag vessels or aircraft, shall be prohibited whether or not originating in their territories:

(a) arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, with the exception of non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for protective use of personnel of the EU and its Member States in the DPRK;

(b) all items, materials, equipment, goods and technology as determined by the UN Security Council or the Committee in accordance with paragraph 8(a)(ii) of UNSCR 1718 (2006), which could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

2. It shall also be prohibited to: (a) provide technical training, advice, services, assistance or brokering services, related to items and technology set out in paragraph 1 and to the provision, manufacture, maintenance and use of these items, directly or indirectly to any person, entity or body in, or for use in the DPRK; (b) provide financing or financial assistance related to items and technology referred to in paragraph 1, including, in particular, grants, loans and export credit insurance, for any sale, supply, transfer or export of these items, or for the provision of related technical training, advice, services, assistance, or brokering services, directly or indirectly to any person, entity or body in, or for use in the DPRK; (c) to participate, knowingly or intentionally, in activities the object or effect of which is to circumvent the prohibition referred to in points (a) and (b).

3. The procurement by nationals of Member States, or using their flag vessels or aircraft, of items and technology referred to in paragraph 1 from the DPRK shall also be prohibited, whether or not originating in the territory of the DPRK.

Article 2

The direct or indirect supply, sale or transfer of luxury goods to the DPRK by nationals of Member States or through or from the territories of member states, or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

Article 3

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons designated by the Committee or by the Un Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, as listed in the Annex.

2. Paragraph 1 will not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall not apply where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligations, or where the Committee concludes that an exemption would otherwise further the objectives of UNSCR 1718 (2006). 22.11.2006 EN Official Journal of the European Union L 322/33

4. In cases where pursuant to paragraph 3, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

Article 4

1. All funds and economic resources belonging to, owned, held or controlled, directly or indirectly, by the persons and entities designated by the Committee or by the UN Security Council as being engaged in or providing support for, including through illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missiles related programmes, or by persons or entities acting on their behalf or at their direction shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of persons and entities referred to in paragraph 1.

3. Exemptions may be made for funds and economic resources which are: (a) necessary to satisfy basic needs, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges; (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services; or (c) intended exclusively for payment of fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds and economic

resources, after notification by the Member State concerned to the Committee of the intention to authorise, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within five working days of such notification.

4. Exemptions may also be made for funds and economic resources which are: (a) necessary for extraordinary expenses, after notification by the Member State concerned to and approval by the Committee; or (b) the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds and economic resources may be used to satisfy that lien or judgment, provided that the lien or judgment was entered prior to the date of UNSCR 1718 (2006), and is not for the benefit of a person or entity referred to in paragraph 1, after notification by the Member State concerned to the Committee.

5. Paragraph 2 shall not apply to the addition to frozen accounts of: (a) interest or other earnings on those accounts; or (b) payments due under contracts, agreements or obligations that were concluded or arose prior to 14 October 2006, provided that any such interest, other earnings and payments continue to be subject to paragraph 1.

Article 5

Member States shall, in accordance with their national authorities and legislation, and consistent with international law, take cooperative action, including through inspection of cargo to and from the DPRK as necessary, in order to prevent illicit trafficking in nuclear, chemical or biological weapons, ballistic missiles, their means of delivery, related materials and technology. In this respect available non-proliferation mechanisms could be used to assure effective sea, air and land cargo inspections.

Article 6

The Council shall establish the list contained in the Annex and implement any modifications thereto on the basis of the determinations made by the Committee or the UN Security Council.

Article 7

This Common Position shall be reviewed, and, if necessary, amended, notably as regards the categories of persons, entities or items or additional persons, entities or items to be covered by the restrictive measures, or taking into account relevant UNSC resolutions.

Article 8

This Common Position shall take effect on the date of its adoption.

Article 9

This common position shall be published in the Official Journal of the European Union.
Done at Brussels, 20 November 2006

For the Council: The President J. KORKEAOJA
L 322/34 EN Official Journal of the European Union 22.11.2006