

VII. CONCLUSION

The KORUS FTA is the most ambitious FTA signed by the U.S. since NAFTA. It has the potential to upgrade relations with an important regional ally and boost U.S. exports. South Korean companies will benefit from increased access to the U.S. market, and consumers will enjoy the benefit of lower prices. The ITC and KIEP have predicted that the agreement will boost the U.S. and South Korean economies by billions of dollars. Labor and environmental clauses are included, and NTBs are addressed. The agreement is not perfect, but it does make progress in key areas.

The KORUS FTA also raises important questions. First, the agreement involves extensive changes to domestic policies that have little to do with tariffs or quotas. These changes may or may not be beneficial to South Korea, but it is not clear that they belong in a trade agreement. Second, and more fundamentally, FTAs are only ever a second-best policy. Preferential trade agreements inevitably involve trade diversion and are inferior to multilateral and unilateral trade liberalization. The KORUS FTA is no exception. Unfortunately, at a time when the Doha Round of trade negotiations seems stuck in perpetual stasis, second best may be the best available.

THE “TEETH OF DIPLOMACY”: U.S.-DPRK RELATIONS AND THE SIX-PARTY TALKS

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I. INTRODUCTION

U.S. relations with the Democratic People’s Republic of Korea (North Korea, or DPRK) improved dramatically in 2007, although year-end events raised the specter of a renewed stalemate. The U.S. ended a four-year moratorium on direct negotiations with North Korea and achieved important breakthroughs in the Six-Party Talks, developing a more pragmatic and engaged approach toward Pyongyang that Secretary of State Condoleezza Rice has called the “teeth of diplomacy.” Wider diplomatic latitude (in spite of North Korea’s partial nuclear breakout in October 2006) enabled the top U.S. negotiator, Assistant Secretary of State for East Asian and Pacific affairs Christopher Hill, to meet with his North Korean counterpart, Vice Foreign Minister Kim Kye-gwan, to engage in serious discussions on North Korea’s denuclearization and the normalization of U.S.-DPRK relations. In a series of joint agreements in February and October 2007—each preceded by productive bilateral discussions—North Korea committed to shuttering and disabling its nuclear facilities in return for the initiation of U.S. efforts to normalize relations and for U.S. and international provision of economic, energy and humanitarian aid.

Important policy success during 2007 was achieved despite major developments that punctuated the negotiating process, galvanizing outside critics and raising important concerns about prospects for continued progress. Most seriously, North Korea failed to submit its nuclear declaration on time and will continue to work on disabling its Yongbyon facilities—although at a slower pace—beyond the December 31, 2007 deadline. U.S.-North Korea relations also must overcome the legacy of a protracted dispute over frozen North Korean funds

at Banco Delta Asia and revelations of possible North Korean complicity in an alleged Syrian nuclear program. Yet, outside the context of the Six-Party Talks on denuclearization, the U.S. and North Korea scheduled an unprecedented number of goodwill exchanges in a range of cultural and technical fields.

II. BACKGROUND

The emergence of a new policy of engagement by the U.S. represents a stark departure from the George W. Bush administration’s confrontational approach leading up to North Korea’s partial nuclear detonation in October 2006. Previous U.S. policy had been derived from the premise that North Korea was on the verge of collapse, sustained only by Chinese and South Korean aid, and that coercive policies aimed at toppling Kim Jong Il would further U.S. interests on the peninsula. Everyone in the foreign policy decision-making establishment did not share this hard-line perspective, but it was the dominant paradigm concentrated in strong personalities in the office of the Vice President and the Department of Defense, to which all others were oriented. President Bush famously denigrated North Korea as a charter member of the “Axis of Evil,” and Secretary of Defense Donald Rumsfeld called for regime change in Pyongyang in 2003. Prominent U.S. conservatives in think tanks outside the government captured the ear of key officials with a similar line. In December 2002, in the national strategy to combat the proliferation of weapons of mass destruction (WMDs), North Korea was considered a country to which the policy of preemptive attack would apply. These perspectives were catalyzed and reinforced in 2002 with the emergence of intelligence reports indicating that North Korea had been producing highly enriched uranium (HEU) in violation of the Agreed Framework of 1994. These reports confirmed U.S. officials’ worst suspicions: that Kim Jong Il was duplicitous and not serious about relinquishing North Korean WMDs. Thus, the stage was set for a U.S. policy of isolation that eschewed meaningful diplomacy and sought “sticks” rather than “carrots” to compel Pyongyang to acquiesce to maximal U.S. demands or to effect regime collapse.

U.S. policy toward North Korea in 2007 was altogether different in both style and substance from that of previous years. Rather than seeking to influence North Korean action by coercion, the more pragmatic policy ascendant in Washington was premised on the merits of engaged and incentive-based diplomacy. This change in policy outlook was the result primarily of three main events: personnel changes at key national security decision-making bodies in the second Bush administration; a significantly degraded geopolitical environment for the U.S. as a result of the war in Iraq; and a sober assessment of the exigencies of dealing with a nuclear-capable North Korea in Northeast Asia. Key to this shift were Secretary of State Rice, Christopher Hill as the top U.S.

negotiator, and Victor Cha, who until May 2007 was director of Asian Affairs at the National Security Council.

A key aspect of the U.S. policy toward North Korea in 2007, as reflected in the landmark February and October agreements, was that serious negotiations would give North Korea a meaningful stake in an emerging international order and would provide the U.S. with a hedge against DPRK recidivism, if not more robust instruments to compel or deter North Korea in the case of future abrogation. One-for-one schedules of coordinated, reciprocal actions—codified in September 2005 as the principle of “commitment for commitment, action for action”—provide the U.S. with structural assurances about the regularity of North Korean behavior and help foster predictability in relations between two countries burdened by a pernicious legacy of mistrust.

Indications of a new U.S. policy direction emerged after North Korea’s partial nuclear detonation on October 9, 2006, which demonstrated the failure of the Bush administration’s approach and elevated North Korea’s disarmament to paramount importance. North Korea’s nuclear breakout transformed the strategic context, affecting a rare condominium of interests among the U.S., China, Japan, Russia, and South Korea, and injecting a sense of mission in the often-wayward six-party negotiations. Concerted international effort resulted in the swift passage of United Nations (UN) sanctions against Pyongyang, coupled with bilateral Chinese pressure. North Korea announced an intention to return to the negotiating table in late October 2006. Yet actual discussions in December 2006—the first in 13 months—produced little beyond the broad acknowledgment of the September 2005 statement of principles stipulating North Korea’s commitment to “abandoning all nuclear weapons and existing nuclear programs.” As in earlier talks, the main impediment to successful negotiations remained the issue of “sequencing,” in which neither Washington nor Pyongyang was willing to relax first principles: North Korea maintained that the U.S. must lift financial sanctions before discussing nuclear disarmament, while the U.S. was adamant that nuclear disarmament talks proceed on a separate track, irrespective of financial matters.

As the negotiators were heading home in December to continued and certain deadlock, North Korea offered another request for direct talks with the U.S. The offer came in the form of a chance encounter between Victor Cha and North Korean negotiators at the Beijing airport as they all prepared to return to their capitals, with the North Koreans adding that they would prefer bilateral discussions outside Beijing. Up to that point, Washington had resisted North Korea’s longtime demands for direct discussions. But Cha took the offer back to Washington and his reasoning, coupled with a broader strategic urgency to gain some traction with Pyongyang, persuaded President Bush to agree to

allow Assistant Secretary Hill to meet bilaterally with Vice Minister Kim Kye-gwan. Cha’s key argument was that direct talks would help “test” North Korean intentions and force Pyongyang to either demonstrate its sincerity in working toward denuclearization or reveal its intransigence on the international stage in the face of accommodative U.S. behavior.

III. SURVEY OF 2007 EVENTS

Thus, in January 2007, the U.S. had decided to offer a tactical concession as a confidence-building measure to advance the stalled negotiations. Christopher Hill met his North Korean counterpart Kim Kye-gwan in a one-on-one session in Berlin in mid-January, the first time the U.S. under the Bush administration had held direct talks with North Korea outside the six-party framework. This seeming concession on negotiating procedure was complemented by a second compromise on tracked discussions regarding financial sanctions and nuclear disarmament. Japanese press in late January reported that the Berlin meeting resulted in an understanding that the U.S. would begin facilitating the release of approximately \$25 million of DPRK funds in a Macau Bank that had been frozen in 2005 on suspicion of money laundering and counterfeiting. In addition, the two sides signed a memorandum of understanding that committed North Korea to freezing its nuclear reactor in return for U.S. energy and humanitarian aid. Although top American officials insisted on the separation of the financial and denuclearization issues—Hill pointedly reiterated this during his press comments in Berlin—in practice, the parallel negotiations revealed an important quid pro quo that provided Pyongyang with the necessary financial incentives to address U.S. denuclearization concerns.

IV. FEBRUARY 13 AGREEMENT AND FIRST-PHASE ACTIONS

This linkage—“explicit though unstated”—paved the way for the breakthrough six-party agreement of February 13, 2007, the multiphase action plan in which North Korea declared its intention to “shut down and seal for the purpose of eventual abandonment” its nuclear facilities. The agreement effectively operationalized the September 2005 statement of principles by specifying the commitments to be undertaken by the U.S., North Korea, and the four other members in the following core areas: North Korean denuclearization; normalization of U.S.-DPRK and U.S.-Japan relations; provision of economic, energy and humanitarian assistance to North Korea; formal study regarding a regional security mechanism; and the establishment of a permanent peace regime on the Korean peninsula to replace the 1953 armistice that ended the Korean War. Importantly, the agreement specified a structure of phased implementation derived from the “commitment for commitment, action for action” principle. The

arrangement of quid pro quos in the “initial actions” phase introduced procedural regularity into the negotiation process, managing expectations and overcoming high barriers to mutual trust between the U.S. and North Korea.

Banco Delta Asia

But the new engagement strategy embodied in the Berlin meeting and the February 13 agreement soon gave way to protracted implementation that nearly imperiled the entire process. The U.S.’s pledge to facilitate the transfer of frozen North Korean funds from Macau-based Banco Delta Asia (BDA) proved a far more difficult task than originally expected by American diplomats. The perception of U.S. reticence gave North Korea grounds to exercise its prerogative of refusing implementation of the denuclearization accord until its frozen funds had been returned. The funds were first frozen in September 2005 after the U.S. Treasury Department initiated an investigation of BDA by describing it as a “financial institution of primary money laundering concern.” That action prompted a run on the bank, and Macanese banking authorities eventually froze the funds suspected of association with North Korean illicit activity and assumed control of the family-run institution. The Treasury Department’s action, seemingly uncoordinated with more accommodative State Department initiatives concerned at the time with the September 2005 negotiations, significantly affected North Korea’s perceptions of U.S. sincerity and the veracity of its commitment to a process of negotiation rather than coercion. The U.S. investigation into BDA closed 18 months later, in March 2007, at which time Washington decided to impose the “fifth special measure” under section 311 of the U.S. Patriot Act, prohibiting U.S. banks from holding accounts on behalf of BDA or BDA from opening or maintaining accounts in the U.S. While at the time this was seen to clear the way for the return of funds to North Korea, it eventually became an impediment to the process, as private U.S. and foreign banks were unwilling to risk involvement with the tainted monies.

North Korea, fearing that procedural difficulties reflected a broader lack of U.S. political will, resorted to familiar tactics of brinkmanship and “attention-inducing behavior.” During the Six-Party Talks that began in Beijing on March 19—billed as a follow-on to the February meeting and a chance to measure progress on initial actions—North Korea’s negotiator, Kim Kye-gwan, steadfastly refused to discuss any actions toward implementing the February 13 agreement without a resolution of the banking issue. Kim left on the third day, collapsing the talks. In May, with U.S. officials still unable to devise a method to return the funds, Pyongyang tested several short-range missiles in the Sea of Japan and then fired two more on June 7. International reaction remained relatively calm, although the U.S. called the second test “not constructive.”

Russian intervention finally helped resolve the banking impasse. On June 12, Moscow announced that the Russian Central Bank agreed to receive the \$25 million via the New York Federal Reserve Bank and then forward the funds to the Foreign Trade Bank of North Korea. Although North Korea could have technically withdrawn the funds in cash, Pyongyang insisted on a wire transfer to demonstrate a successful ability to deal with the international financial system. The U.S. Treasury Department, whose actions in March barred U.S. financial institutions from handling BDA funds and which refused to offer any exemptions, did not have to clear the involvement of New York's Federal Reserve Bank; as part of the regulatory Federal Reserve system and not a banking institution per se, it is not subject to relevant U.S. commercial banking laws. North Korea, upon U.S. insistence, agreed to use the money for humanitarian purposes, although monitoring and enforcement are unlikely.

Completion of Initial Action Phase

As a testament to the importance of the BDA issue, the return of the frozen funds triggered a flurry of diplomatic activity under the initial actions phase of the February 13 agreement. North Korea extended an invitation on June 18 to International Atomic Energy Agency (IAEA) inspectors to visit North Korea and discuss procedures to shut down and monitor its nuclear facilities. Three days later, Hill made a surprise visit to Pyongyang, the first trip to North Korea by a ranking U.S. ambassador since Assistant Secretary James Kelly's visit in 2002. Hill's quick visit sought to capitalize on the summer's momentum, secure North Korea's commitment to shuttering its reactor, and advance U.S.-DPRK relations by demonstrating a sincere U.S. willingness to deal directly with North Korea in the wake of the BDA debacle.

On June 25, North Korea confirmed receipt of all BDA funds. The next day, IAEA inspectors entered the country, and by July 9, they had approved an action plan to monitor the shutdown, verification and surveillance of five North Korean nuclear facilities: a 5 MW nuclear reactor at Yongbyon, a reprocessing facility, a nuclear fuel fabrication plant, and two uncompleted nuclear reactors. Days later, South Korea began shipping the first portion of 50,000 tons of heavy fuel oil to North Korea, and on July 15, two months later than envisioned, the IAEA officially verified the shutdown of North Korea's nuclear reactor at Yongbyon. This action effectively completed the initial actions phase and triggered discussions on the next set of actions required to implement the February 13 agreement.

V. AGREEMENT ON SECOND-PHASE ACTIONS

Second-phase actions concerned Pyongyang's commitment to advance beyond reactor shutdown to nuclear disablement and to provide a complete declaration of all its nuclear programs. Many experts considered these to be key areas in which differing interpretations among U.S. and North Korean negotiators could lead to protracted disputes or even a collapse of the process. Concerns focused on the precise understanding of what constituted disablement; whether a disabled facility could be reconstituted as fully operational; and the requirements for a "complete" declaration.

The July round of Six-Party Talks sought to address these concerns by identifying the necessary modalities and time line for action to which the six parties would commit. The talks ended without resolution on these matters and instead delegated the technical issues to the level of the five working groups formed in the February 13 agreement. Despite the perception of stalling by Pyongyang, U.S. and Chinese officials put a positive spin on the inconclusive July talks, saying the lack of agreement reflected North Korea's technical unfamiliarity with the disablement process rather than a strategic imperative by Pyongyang to stymie the negotiations. Throughout August and early September, the five working groups convened in China, Mongolia, Switzerland and Russia to advance discussions in specific issue areas. Notable achievements were made in Geneva at the U.S.-DPRK normalization working group talks, in which Christopher Hill and Kim Kye-gwan reached agreement on disablement and nuclear declaration procedures as well as the process through which the U.S. would begin lifting economic sanctions and removing North Korea's designation as a state sponsor of terrorism.

As with the Berlin meeting in February, a willingness in Geneva to negotiate bilaterally with North Korea (through a working group, in this case) laid the groundwork for another significant advance at the next round of Six-Party Talks, which began on September 27. Building on the Geneva negotiations, this round in Beijing yielded a detailed action plan and timetable on second-phase actions. Under the October 3 agreement, the DPRK agreed to "disable all existing facilities subject to abandonment" and provide a "complete and correct declaration of all its nuclear programs," and it committed to carry out both activities by December 31, 2007. The DPRK also reaffirmed a commitment to not engage in the proliferation of nuclear materials, technology or know-how. In response, under the "action for action" principle, the U.S. and other members would provide the remaining 900,000 tons of heavy fuel oil of the total promised 1 million tons under the February accord (50,000 tons had been provided by South Korea in July and another 50,000 by China in September).

The U.S. also committed to begin the process of terminating sanctions against North Korea and delisting North Korea as a state sponsor of terrorism.

The October 3 agreement was concluded amid reports in the preceding weeks that Israeli fighter jets had bombed a suspected nuclear installation in Syria that, according to Israeli intelligence, had received material and technological assistance from North Korea. Few details were publicly provided about the intelligence that precipitated the attack, the targeted facility, or the nature of any North Korean complicity in a nascent Syrian nuclear program. The DPRK officially condemned the attack and called the accusation of Syria-DPRK nuclear cooperation “groundless.” Press reports and nongovernment experts, however, indicated that the targeted Syrian facility, a suspected reactor building, was similar in design to North Korea’s Yongbyon facility, and they revealed that a North Korean vessel had docked at a Syrian port with suspicious cargo a few days before the bombing. Some media claim more provocatively that Israeli commandos seized nuclear material of North Korean origin and that Israeli warplanes killed North Koreans at the site of the attack.

U.S. reaction to this event was cautious and seemed to reflect a desire to conclude bilateral discussions with North Korea in Geneva and secure Pyongyang’s commitment to the October 3 agreement in Beijing. President Bush avoided comment except to say that proliferation would negatively affect the Six-Party Talks. Yet, while it appears that Bush was aware of North Korean activity in Syria at least since the preceding summer (and the date of North Korean assistance could be even farther in the past), Hill still received authorization to deal with the North Koreans in Geneva. The fact that North Korea “reaffirmed its commitment not to transfer nuclear materials, technology, or know-how” in the text of the October 3 agreement suggests that the Syria issue was raised during the negotiations.

The October 3 agreement was an important milestone in the six-party negotiations, and it established a schedule that sought to advance U.S.-North Korea relations to a historic point. North Korea committed to moving beyond commitments made in 1994, and the U.S. agreed to initiate steps to remove barriers to bilateral and international investment in North Korea’s economy and to undertake the normalization of bilateral relations. However, the schedule for implementing these provisions included a slight but potentially significant departure from the precedent of reciprocal and corresponding actions. In a modification that raised uncertainty about the modalities of implementation, the U.S. agreed to “begin the process” of lifting economic sanctions and delisting North Korea as a state sponsor of terrorism “*in parallel* with the DPRK’s actions [emphasis added]”—and not necessarily through a formal quid pro

quo arrangement. Such curious language reflected Washington’s concern (and, ostensibly, North Korea’s understanding) about establishing flexibility on North Korea’s delisting vis-à-vis Japanese concerns about the unresolved cases of abductions of its citizens by North Korean agents in the late 1970s and early 1980s. Tokyo complained that North Korea should still be considered a terrorist-sponsoring state until Pyongyang resolved the abductee issue to Japanese satisfaction.

Notwithstanding the rationale, supporters and critics alike of the U.S. approach seized upon the change in language, regarding it as a tactical mistake and saying that as the two parties moved toward the December 31 deadline, a lack of a strict one-to-one correspondence between DPRK and U.S. actions would enable North Korea to gain critical U.S. concessions without proper confirmation of Pyongyang’s commitment to disabling its nuclear facilities and submitting a proper and timely nuclear declaration. These fears were well founded. The process of lifting sanctions and removing North Korea from the terrorism list proved difficult, subject to countervailing demands by critics inside and outside the government, and tied to the perception of North Korean “parallel” actions. The absence of a rigid, clearly defined arrangement of quid pro quos resulted in a higher structural susceptibility toward deadlock, accusations of stalling, and protracted disputes over sequencing of actions—all issues that had proved nettlesome for the U.S. negotiators who had dealt with the BDA sanctions earlier in the year.

VI. IMPLEMENTATION OF SECOND-PHASE ACTIONS

Disablement

Amid the optimism after the October 3 accord, North Korea seemed committed to implementing its measures in a timely fashion. Other parties requested that the U.S. lead the process of disabling North Korea’s facilities, and Washington provided initial funding for these activities. The three facilities slated for disablement at Yongbyon were the 5 MW reactor, the reprocessing plant, and the nuclear fuel-rod fabrication facility. Six days after the October agreement was signed, a team of U.S. experts, led by Sung Kim, director of the Office of Korean Affairs at the State Department, was en route to Pyongyang to negotiate the “scope of disablement.” The October talks in Beijing reportedly defined disablement as a series of 10 steps, although the six parties were unable to agree on a broad application of those steps to each of the three facilities. In Pyongyang, Sung Kim and other U.S. officials sought to determine whether disablement would be considered the removal of critical parts in nuclear facilities or the chemical treatment of core components to render them unusable, and whether

such facilities, once disabled, could be reconstituted. According to press reports, U.S. and North Korean officials settled on an agreement that disablement meant a period of inoperability for at least 12 months.

A follow-on team of 9 U.S. experts arrived in Pyongyang on November 1 and traveled to Yongbyon to oversee the smooth start of the disablement process on November 5. The U.S. lauded North Korea's actions, which proceeded beyond the mere freezing of reactor activities to a "qualitatively new phase," representing the most far-reaching steps the DPRK had taken to limit its nuclear operations. A multinational team of six-party member delegates traveled to Yongbyon in late November to inspect the progress of disablement, which consisted of an 11-step process. The head of the inspection team, the U.S. State Department's Sung Kim, concluded that "all of the steps that can be completed this year will be completed by December 31," which implicitly raised the possibility that North Korea might undertake disablement activities after December 31 and thus miss the year-end deadline for the completion of all activities. Hill visited Yongbyon on December 4, declaring at the time that the "disablement activities are going well and on schedule" but that momentum needed to be maintained to meet the December 31 deadline.

A few days after Hill's statement, Wu Dawei, China's delegate to the Six-Party Talks and Vice Foreign Minister, revealed that North Korea would not meet the disablement deadline of December 31 for "technical reasons." Hill put a positive spin on the announcement, drawing a distinction between delays attributed to deliberate obstruction and those for safety and technical reasons. The North Koreans apparently needed more time to complete the removal of fuel rods and their storage in an adjacent pond, a process that takes about 100 days and that began in mid-December. U.S. commentators, in fact, had predicted this outcome in October when they analyzed the logistics of disablement according to such a tight timetable. As the December deadline neared, North Korea was reported to have completed or nearly completed 7 of 11 stages of the disablement process.

Prospects for progress on the remaining steps remain unclear. On December 27, North Korea declared its intention to slow down work on disablement because of a perceived slowdown in the provision of economic aid by the U.S., China, Russia and South Korea (Japan has refused to provide aid until the abduction issue is satisfactorily resolved). The aid package of 1 million tons of heavy fuel oil promised to North Korea by the other five states was subsequently revised and agreed to by all parties to consist of 400,000 tons of heavy fuel oil and alternative "energy-linked" aid equivalent to 500,000 tons of heavy fuel oil. Six-party working-level delegates convened in Beijing in mid-December to determine the composition of the energy-linked aid, but they adjourned without a final decision. At the end of 2007, North Korea had received 150,000

tons of oil (50,000 each from the U.S., China and South Korea) and 5,100 tons of steel from South Korea, with no further forms of aid specified. North Korea, describing the aid shipments as "steadily delayed," hesitated to commit to further action needed to destroy the cooling tower and dispose of nuclear fuel in the disablement stage, preferring instead to undertake such activities in the postdisablement "abandonment" phase. Despite signs of progress in early November, the year ended on a markedly ominous note.

Nuclear Declaration

Meanwhile, even fewer signs of progress could be found on North Korea's nuclear declaration. While technical reasons accounted for North Korea's failure to disable its nuclear facilities by December 31, Pyongyang seemed deliberately intransigent in its failure to submit a complete nuclear declaration by the end of 2007. Since the October agreement that provided for such a declaration, outside experts had detailed the manifold challenges of securing North Korea's commitment to submitting a declaration that the U.S. would find acceptable. The October 3 joint document specified that North Korea would provide a "complete and correct declaration of all its nuclear programs." Subsequent public statements by U.S. officials had clarified this to mean the amount of plutonium extracted from Yongbyon reactor operations, existing weapons and weapons-related components, and the nature and components of any uranium enrichment program. A fourth key declaration came from President Bush, who said that a complete declaration must also include documentation of any incidences of nuclear proliferation from North Korea to third countries, a demand that seems beyond the requirements of the October agreement.

Considerable uncertainty had surrounded the willingness of North Korea to submit a genuine declaration, especially regarding its alleged secret uranium enrichment program—the key assertion by U.S. intelligence that had led to the breakdown of the Agreed Framework in 2002. By March 2007, officials admitted that the U.S. intelligence community's confidence had waned about North Korea's continued uranium enrichment activities. By June, U.S. officials had made a slight but important shift in language, no longer referring to North Korea's HEU program but to its more modest "uranium enrichment program" (UEP). A UEP enriches uranium at lower, non-weapons-grade levels, a distinction that seemed to reflect the uncertainty of U.S. intelligence estimates as well as a more encompassing requirement for North Korea to declare its entire stockpile of uranium, regardless of enrichment level. U.S. officials characterized the change in August as a way for the North Koreans to save face by establishing a "bar they can meet."

The change contributed to buoyant hopes among top South Korean and U.S. officials that North Korea would submit its declaration on time. On November 8, South Korean officials said that North Korea was expected to submit a complete declaration of nuclear programs within one or two weeks. On the eve of a trip to Pyongyang later in November, Hill told reporters that he expected North Korea to provide a draft declaration to the Chinese, as the host of the Six-Party Talks, within a week's time. In a further dramatic sign of Pyongyang's willingness to be forthcoming, North Korea provided the U.S. with physical evidence to clarify its position that it had never embarked on an HEU program.

Hill was in Pyongyang December 3–5, briefing his North Korean counterparts on U.S. expectations of an accurate declaration and exhorting them to submit the declaration on time. In an unprecedented display of personal U.S. engagement at the highest levels, Hill delivered a hand-signed letter from President Bush to Kim Jong Il. The letter (which was not publicly disclosed and mirrored correspondence from the U.S. president to the four other participants in the talks) urged North Korea to continue disabling its nuclear facilities and to make three key issues part of an accurate nuclear disclosure: the number of plutonium warheads built; the amount of weapons-grade material produced; and any incidences of proliferation of nuclear material, technology or know-how to third countries. Speaking to reporters upon leaving Pyongyang, Hill raised the specter of U.S. concern over North Korea's intention to describe in sufficient detail its nuclear "materials, installations, and programs." Although at the time Hill qualified his public comments by refusing to call the situation an impasse, it appeared that serious disagreements had emerged about the veracity of North Korea's claims regarding its UEP. South Korean Foreign Minister Song Min-soon, speaking the day after Hill left Pyongyang, said that the U.S. and North Korea sat at a "critical juncture" over the uranium dispute.

U.S. officials pressed the North Koreans on two ostensible components for a uranium-based nuclear weapon: 150 tons of aluminum tubes purchased from Russia in 2002 and centrifuges sold to North Korea by Pakistani nuclear scientist A. Q. Khan. U.S. disablement teams at Yongbyon obtained samples of aluminum tubes in November; in subsequent testing in Washington, minute traces of uranium particles were found on the tube samples. The discovery cast doubt on North Korea's long-term denial about its UEP, although debate persists inside the U.S. government about whether the particles could have been transferred from sources outside North Korea or planted by hard-line elements within the North Korean government seeking to spoil the denuclearization deal. North Korea acknowledged purchasing the aluminum tubes but maintained they were not used in any UEP; instead, they were part of a conventional rocket program. The second U.S. concern regarding any UEP has been confirmation of the purchase, use and disposition of centrifuges integral to uranium enrichment.

Considerable uncertainty surrounds the issue, and some U.S. officials have raised the prospect that North Korea's centrifuges may have been exported to a third country, possibly Syria. The U.S. government estimates that North Korea may have obtained as many as 20 centrifuges for an enrichment program that required thousands. North Korea maintains that it never purchased the centrifuges.

As the end of 2007 neared, the U.S. sent a series of messages through separate channels to urge North Korea's compliance with the December time line for its nuclear declaration. Secretary Rice issued a reminder on December 20. Sung Kim was in Pyongyang December 19–21 to urge a complete and timely declaration, but North Korea reportedly denied—as it has done in the past—the existence of any UEP. North Korea issued a response to President Bush's letter, saying that it was prepared to abide by its October 3 agreement commitments as long as the U.S. fulfilled its part of the deal. However, North Korea failed to submit its nuclear declaration by December 31. Recalling statements made earlier in December, Song Min-soon attributed the failure to discrepancies over the "scope" of the UEP.

Delisting

The failure of North Korea to submit a nuclear declaration contrasts with its apparent willingness to move forward on the disablement of nuclear activities at Yongbyon. North Korea's mixed implementation was matched by similarly ambivalent actions on the U.S. side regarding delisting North Korea from sanctions lists and as a state sponsor of terrorism. At the end of 2007, the U.S. had neither terminated the application to North Korea of the Trading With the Enemy Act (TWEA) nor delisted North Korea from the State Department's list of terrorist-supporting countries, both of which severely curtail U.S.-North Korea economic relations and hinder large-scale lending to North Korea from international financial institutions such as the World Bank, the International Monetary Fund and the Asian Development Bank. North Korea was designated a state sponsor of terrorism after the bombing of a South Korean passenger jet in 1987, for which North Korean agents were responsible. U.S. laws stipulate that the American president can remove TWEA conditions without congressional approval; the terrorist-support designation can be eliminated after a notification by the president to Congress 45 days before the date of rescission. The Bush administration conspicuously decided to not notify Congress of its decision to remove the terrorist designation on November 16, the last day by which the label could be withdrawn by the end of the year.

The October 3 agreement noted that North Korea's disablement and declaration of its nuclear infrastructure was to proceed "in parallel" with U.S. delisting efforts. In contrast to rather premature comments in September by North Korea

that the U.S. had agreed to lift sanctions and remove the terrorist designation, North Korea hinted in November through a pro-Pyongyang paper in Japan that U.S. delisting by the end of year was “in return” for North Korean disablement and declaration. When Pyongyang missed the December deadline for nuclear disablement and declaration, North Korea made an even more explicit assertion that the U.S. has “not honored its [delisting] commitments” and thus that North Korea, by “going ahead of others in fulfilling its commitment,” would “adjust the tempo” of its denuclearization efforts on the “principle of action for action.”

North Korea regarded the fact that it had not been removed from sanctions and terrorism lists (or at least that there has been no substantive movement on delisting in correspondence with North Korean disablement) as an abrogation by the U.S. of the October 3 agreement. For its part, the U.S. maintained that a parallel process of delisting had been under way and, furthermore, that the October agreement provided for the U.S. to “begin the process” of delisting, not to entirely delist Pyongyang. Moreover, delisting, according to Hill, “is not a reward for endeavors in other areas” and is subject to U.S. “legal processes” and confirmation that North Korea is “no longer engaged with terrorism acts.” Hill added that the North Koreans should declare that they are “no longer in any way, shape, or form involved in any terrorist acts or assisting any terrorist groups and, moreover, that they are acceding to all UN covenants and international standards on terrorism.” Washington therefore, expected North Korean action for delisting to proceed.

These public statements suggest that the delisting issue is viewed differently by the two parties: North Korea views delisting as tied (perhaps mistakenly through an action-for-action modality and not as a parallel process) to disablement; the U.S. expects additional actions (what Hill has gone so far as to call a “declaration”) proving the genuine absence of involvement in international terrorism.

The U.S. position is hardened by a number of domestic and international factors. The first is alliance management with Japan. The ostensible impetus for the “in parallel” language was to accommodate Japanese demands that North Korea remain designated as a state sponsor of terrorism as long as Pyongyang did not make a successful effort to resolve outstanding issues regarding its kidnapping of at least 13 Japanese citizens in the late 1970s and 1980s. This act of terrorism, from the Japanese perspective, warrants U.S. inaction on delisting. While Washington appreciates Tokyo’s sensitivity about this issue, the State Department has said that the abduction issue is not linked to removing North Korea’s designation as a state sponsor of terrorism. Despite official Japanese pronouncements (including one by Chief Cabinet Secretary Nobutaka Machimura) that U.S. removal of North Korea’s terror status would damage

U.S.-Japan relations, the State Department, just days before a mid-November meeting between newly elected Japanese Prime Minister Fukuda Yasuo and President Bush, said that delisting is “not necessarily linked to” the Japanese abduction issue. The Bush-Fukuda summit appeared to produce no tangible resolution of the abductee issue, although Bush remarked to reporters at a joint press conference that he “would not forget” the abductees. Both governments have refused to disclose the details of the meeting; although Fukuda insisted separately that the U.S. would not sideline the abductee issue, he nevertheless declined to provide details.

The second factor complicating North Korea’s delisting is considerable domestic opposition from members of Congress and former and current government officials. In December, four senators, led by Sam Brownback (R-KS), submitted a draft resolution conditioning North Korea’s removal from the U.S. terrorism list on successful resolution of the Japanese abductee issue and confirmation of North Korea’s cessation of counterfeiting U.S. dollars. Over the course of the year, John Bolton, a former Bush administration insider, was especially critical of U.S. policy toward North Korea, including delisting.

Domestic detractors were emboldened by allegations of nuclear cooperation between North Korea and Syria, a claim that, if true, intersected with issues of proliferation that were also injected into the debate surrounding North Korea’s nuclear declaration. The Israeli strike on a purported Syrian nuclear facility that had allegedly received North Korean assistance opened the way, detractors maintained, for a reconsideration of North Korea’s suitability for removal from the terrorist list. Syria has been on the State Department’s list of terrorism-supporting countries since 1979. For North Korea to be removed from that list, U.S. laws require that the president certify to Congress that the DPRK has not supported international terrorism in the past six months and has provided assurances that it will not do so in the future. Congresswoman Ileana Ros-Lehtinen (R-FL), senior Republican on the House Foreign Affairs Committee, was especially outspoken in her criticism of the administration’s unwillingness to reconsider the North Korea deal in light of the Syria allegations. She introduced a bill in Congress—although it was never taken up by the Democratic chair, Sen. Tom Lantos (D-CA)—that conditioned North Korea’s removal from the U.S. list of state sponsors of terrorism on the clearing of Pyongyang’s involvement with any missile or nuclear-related technology.

In addition to alleged nuclear cooperation with Syria, a Congressional Research Service (CRS) report in mid-December raised the possibility of North Korea’s cooperation with two international terrorist groups within the past two years. The CRS released a report detailing North Korea’s supposed involvement in providing weapons, munitions, training and vital weapons components to

Lebanon's Hezbollah and the Tamil Tigers in Sri Lanka. Both groups are considered terrorist organizations by the U.S. State Department. Together with the reports on Syria, these allegations emboldened critics of the October agreement, who said they revealed Pyongyang's duplicity in negotiating with the U.S. while proliferating nuclear and conventional technologies to terrorist states and groups. The CRS report led to a formal letter from three senators—Sam Brownback, Chuck Grassley (R-IA) and John Kyl (R-AZ)—to Hill to clarify the State Department's assessment of North Korea's alleged ties to the two terrorist groups.

VII. INTERNATIONAL EXCHANGES AND TRADE

Outside the context of the Six-Party Talks, the U.S. and North Korea scheduled a series of educational and cultural exchanges that sought to foster bilateral awareness against the backdrop of halting progress in the denuclearization process. In early December, amid emerging indications of difficulties in North Korea's nuclear declaration, the New York Philharmonic accepted an invitation from North Korea's Ministry of Culture to perform in Pyongyang in February 2008. The orchestra's visit will represent an unprecedented cultural exchange between the two countries and cap the exchanges in sports, science and technology, finance, and military fields that took place in 2007. For example, in February 2007, the American Association for the Advancement of Science hosted an academic seminar with North Korean officials on cooperation between the two countries in science and technology, and a North Korean taekwondo team competed in exhibition matches in the U.S. in October. The National Committee on American Foreign Policy, a track-two forum, sponsored a conference in November for North Korean trade and financial officials to visit New York, meet their U.S. counterparts, and learn about topics in international finance. Weeks before the Wall Street visit, the U.S. Navy helped a crew of North Korean sailors repel pirates off the coast of Somalia. North Korea responded through its state media, thanking the U.S. and hailing the event as a "symbol of North Korea-U.S. cooperation in the war against terrorism." Although modest, together these activities contributed to an expansion of bilateral ties that supplemented the ongoing interaction at the official level over denuclearization.

VIII. CONCLUSION

The difficulties that emerged at the end of 2007 should not overshadow the admirable diplomatic progress achieved in the early part of the year. The new U.S. approach toward North Korea resulted in two important agreements in February and October in which North Korea committed to serious, verifiable actions to disable its Yongbyon nuclear production facility. North Korea's commitment to disablement comes just a year after its partial nuclear breakout. This success points toward the merits of direct U.S.-DPRK interaction, a relationship that has become personified in Assistant Secretary Chris Hill and Vice Minister Kim Kye-gwan, and which has required remarkable tactical wherewithal among U.S. and North Korean negotiating teams, as well as among diplomats from the four other members of the Six-Party Talks.

Yet, on balance, the mixed progress in 2007 is cause for worrying speculation about prospects for forward movement in U.S.-DPRK relations. Year-end problems—North Korea's failure to disable and declare its nuclear facilities on time, and perceptions of U.S. reticence in delisting North Korea from sanctions and terrorism-support lists—portend diplomatic wrangling reminiscent of the negotiations over the frozen BDA funds. Such protraction opens the possibility of damaging the bilateral relationship as well as the reputations of the proponents of this engaged U.S. approach.

The key issue for the U.S. continues to be whether tactical negotiations and process-driven engagement can, in the end, substitute for a broader strategic harmony of interests between North Korea and the U.S. The bilateral relationship continues to be characterized by mutual mistrust and strategic discord—or, at best, strategic ambivalence—regarding each party's commitment to the six-party process of denuclearization. North Korea fears that the U.S., especially its outspoken conservatives and hard-liners, will use the pretext of denuclearization to resurrect earlier hard-line policies of regime change. The U.S. is concerned about the provision of economic aid to a failing regime amid uncertainty about North Korea's strategic commitment to fully abandon its WMDs. The year's mixed results underscore the point that success at the tactical negotiating level (as was apparent after the resolution of the BDA issue and through the October agreement) is still subject to the durable and broader imperatives of longer term strategic uncertainty.