



March 4, 2003

## North Korea: Time to Change the Dynamics

### Executive Summary<sup>1</sup>

The aggressive challenge to world order recently reignited by North Korea and the failure of the 1994 agreement between the United States and North Korea to achieve decisive change demand a new strong response. The United States and its allies must change the very dynamic of dealing with North Korean recklessness, most recently illustrated by its aggressive fighter intercept of a U.S. military aircraft in international airspace on March 2, 2003. Mere containment works to dictator Kim Jong-Il's advantage now that he is again pursuing a nuclear program.

The United States must urgently seek to create a peaceful, disarmed North Korea which neither exports weapons of mass destruction nor threatens its neighbors. To prevent future nuclear brinkmanship and foster lasting peace on the Korean Peninsula, the United States also should promote the establishment of democracy in North Korea. Accomplishment of these goals requires reassessment of what works and what doesn't, as well as reappraisal of the practicality of nuclear-free allies in East Asia.

The bottom line is this: North Korea will not change its bad behavior until the status quo is fundamentally altered. The status quo will only be fundamentally altered if the U.S. government makes clear to North Korea that there is a price to be paid for continued bad behavior, and that nothing short of real, complete, and permanent dismantlement of its nuclear facilities is required.

The thesis underlying a new approach to North Korea is that the United States must alter the balance of power in negotiations – that *rewarding* cessation of bad behavior (“carrots”) has failed, and that *disincentives* (“sticks”) to such behavior must be included in any new negotiations for them to have any hope of producing acceptable results. *U.S. bargaining power must exceed that of North Korea in order to compel North Korea to dismantle its nuclear and weapons programs and to abide by its agreements.* To achieve this advantage in the negotiations, the United States must be prepared to end all U.S. aid to North Korea under the Agreed Framework, reimpose sanctions lifted in 1999, and impose a quarantine to cut off its supply of hard currency and stop its weapons proliferation activity.

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<sup>1</sup>No classified material was used to prepare this Policy Paper. Its recommendations are intended to stimulate discussion and do not necessarily represent the views of all Republican Senators.

## Centerpiece of U.S./N. Korea Policy in the 1990s – “Agreed Framework”

North Korea’s disturbing nuclear history has worried U.S. policymakers since the 1960s, when North Korea established an atomic energy research complex in Yongbyon. By the 1980s, it had begun a nuclear weapons program with the operation of facilities for uranium fabrication and conversion. In 1985, the United States learned that North Korea had built an “experimental”<sup>2</sup> nuclear reactor near Yongbyon which produced fuel rods for plutonium extraction.<sup>3</sup> That same year, under international pressure, the Pyongyang regime acceded to the Non-Proliferation of Nuclear Weapons Treaty (NPT).

North Korea’s nuclear ambitions have also been a cause of deep concern to South Korea over the years. Talks between North and South Korea eventually resulted in a Declaration on the Denuclearization of the Korean Peninsula (the “Joint Declaration”). Under the Joint Declaration, concluded on December 31, 1991, North and South Korea agreed to forego testing, manufacture, production, receipt, possession, storage, deployment, and use of nuclear weapons, as well as possession of nuclear reprocessing and uranium-enrichment facilities. An inspections regime contemplated under the Joint Declaration was never implemented.

North Korean nuclear recalcitrance began with the regime’s failure to quickly conclude a safeguards agreement with the International Atomic Energy Agency after becoming an NPT party. North Korea finally signed a nuclear safeguards agreement with the IAEA seven years after it became an NPT party (generally, this process should take no more than 18 months), and the latter’s inspections began in June 1992. In 1993, however, North Korea barred IAEA inspectors from two suspected nuclear sites, and then escalated this dispute on March 12, 1993 by announcing its withdrawal from the NPT. The United States responded by commencing talks with Pyongyang in June, 1993, which led to North Korean “suspension” of its NPT withdrawal. Subsequent United States-North Korea contacts in Geneva led to what became the so-called Agreed Framework.

### *The Agreed Framework*

The Agreed Framework has been the centerpiece of U.S. policy toward North Korea for the last nine years. Signed by President Clinton’s representative in 1994, the Agreed Framework in the main provided that the United States would arrange construction of light-water reactors (LWR) for electrical power in North Korea to replace Pyongyang’s graphite-moderated reactors.<sup>4</sup> The United States also agreed to arrange fuel oil shipments to North Korea to help offset energy foregone by ending its graphite-

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<sup>2</sup>For reactor program descriptions see <http://www.eia.doe.gov/oiaf/archive/ieo98/nuclear.html> (Department of Energy) and [http://www.fas.org/irp/threat/svr\\_nuke.htm#dprk](http://www.fas.org/irp/threat/svr_nuke.htm#dprk) (Federation of American Scientists).

<sup>3</sup>For details on North Korean nuclear facilities see <http://cns.miis.edu/research/korea/nuc/yongbyon.htm>.

<sup>4</sup>A graphite-moderated reactor produces more nuclear material suitable for use in weapons programs than LWRs. As an anti-proliferation matter, it is therefore less desirable.

moderated reactor program, and to ease economic sanctions. In return, North Korea agreed to freeze and dismantle its graphite-moderated reactors and refrain from reprocessing spent nuclear fuel.<sup>5</sup>

The United States abided by the Agreed Framework by forming the Korean Energy Development Organization (KEDO)<sup>6</sup> to obtain international support for the LWR project, and by arranging deliveries of fuel oil to the North. President Clinton also reduced economic sanctions against North Korea, permitting nonmilitary trade, financial transactions, travel, and diplomatic contacts. The Clinton order remains in effect.<sup>7</sup>

## **Agreed Framework's Shortcoming: Relatively Little Bargaining Strength**

The Clinton Administration expected the Agreed Framework to end North Korea's nuclear fuel reprocessing efforts, to ensure safe disposition of spent nuclear fuel then in North Korea, and to obligate North Korea to accept IAEA inspections before receiving LWR components. The Administration also expected that these steps would be verifiable and that North Korea would adhere to its 1992 safeguards agreement under the NPT.

On the other hand, although the Agreed Framework stipulated that the IAEA must be allowed to monitor North Korea's freeze of nuclear facilities, it *did not* provide for resolution of discrepancies between North Korea's declaration to the IAEA and the IAEA's own findings. Nor did it compel IAEA inspections until key LWR components provided under the Agreed Framework were ready for delivery, an event which did not occur until long after conclusion of the agreement. North Korea's 1992 safeguards declaration suggested to the IAEA that North Korea possessed undeclared plutonium.<sup>8</sup> The Agreed Framework, however, did not provide a basis for the IAEA or the United States to overcome North Korea's refusal to provide access to additional information and to two sites which seemed to be related to nuclear waste storage.

Most important, the Agreed Framework provided no credible "stick" to complement the "carrots" offered to North Korea for good behavior. Losing LWRs promised under the Agreed Framework and fuel oil shipments promised in return for its reactor shutdown would have returned North Korea to the *status quo* before the Agreed Framework, but otherwise North Korea was in no danger of suffering true detriment for failure to live up to its end of the bargain. The Agreed Framework did not

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<sup>5</sup>For the text of the Agreed Framework see <http://www.kedo.org/pdfs/AgreedFramework.pdf>.

<sup>6</sup> See KEDO home page at <http://www.kedo.org/>.

<sup>7</sup>See Office of Foreign Assets Control (U.S. Department of the Treasury) North Korea fact sheet. <http://www.ustreas.gov/offices/enforcement/ofac/sanctions/t11korea.pdf>.

<sup>8</sup>See "June 1994 IAEA Board Resolution", IAEA, [www.iaea.org/worldatom/Press/P\\_release/2002/med-advise\\_052.shtml](http://www.iaea.org/worldatom/Press/P_release/2002/med-advise_052.shtml).

provide for such consequences. Its nuclear program was merely “put on ice” rather than dismantled, so it was not difficult for North Korea to restart the reactors (or threaten to do so unless rewarded with a new concession from the United States).

## **Pyongyang: Intransigence, Secret Stockpiling, Military Provocation**

Beginning in 1994, almost before the ink on the Agreed Framework was dry, North Korean intransigence delayed the LWR project. From 1994 to 1997, North Korea objected to acquisition of light-water reactors from South Korea and demanded cash before providing surveys necessary for KEDO to build the reactors.

Despite the Agreed Framework, North Korea apparently continued its attempts after 1994 to obtain fissile material for its nuclear weapons programs. Pakistan and North Korea almost certainly cooperated on nuclear weapons and missile development.<sup>9</sup> In March, 1999, the *Washington Times*, citing a Department of Energy (DOE) “intelligence report,” claimed that North Korea was pursuing uranium-enrichment technology for a nuclear weapons program with Pakistani help.<sup>10</sup> Pakistan denied this, but on August 23, 1999, the *Los Angeles Times* quoted a “U.S. official” as saying that “it is highly probable” that North Korean technicians were working in Pakistani nuclear labs in a deal between the two countries in which nuclear technology was exchanged for missile technology and components.<sup>11</sup>

In July, 2002, a Pakistani C-130 aircraft reportedly landed in North Korea and loaded missile parts for export to Pakistan. According to Indian on-line reporting, the shipment included 47 tons of special aluminum that Pakistan’s AQ Kahn [nuclear] Research Laboratories acquired from a firm in the United Kingdom. Press reports suggest that this transaction was part of a nuclear know-how-for-parts “swap” between North Korea and Pakistan,<sup>12</sup> and that China may have assisted.<sup>13</sup> Taken together, these reports (if accurate) would illustrate a lack of North Korean intent to act consistently with the spirit of the Agreed Framework.

This attitude is also evident in North Korea’s provocative military conduct since 1994. In September, 1996, a North Korean submarine carrying 26 commandos ran aground in South Korean

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<sup>9</sup>See entries for 28-29 May, 1998, NTI North Korea Chronologies, [http://www.nti.org/db/profiles/dprk/nuc/chron/NKNCH98\\_GO.html](http://www.nti.org/db/profiles/dprk/nuc/chron/NKNCH98_GO.html).

<sup>10</sup>Bill Gertz, “Pyongyang Working to Make Fuel for Nukes,” *Washington Times*, March 11, 1999, p.A1.

<sup>11</sup>Dexter Filkins, “N. Korea Aid to Pakistan Raises Nuclear Fears,” *Los Angeles Times*, August 23, 1999.

<sup>12</sup>David E. Sanger, “In North Korea and Pakistan, Deep Roots of Nuclear Barter,” *New York Times*, November 24, 2002, and <http://www.nytimes.com>; “Pak Despatched [sic] N-Material to N Korea This July,” *Outlook India.com*, December 6, 2002.

<sup>13</sup>“U.S. Begins Diplomatic Offensive on North Korea,” *Los Angeles Times*, October 19, 2002.

waters.<sup>14</sup> In June, 1998 a second submarine was caught by the South Korean Navy in the same vicinity as the 1996 grounding.<sup>15</sup> In June, 1999, after a North Korean gunboat entered South Korean waters, a naval battle ensued, costing lives on both sides.<sup>16</sup> The most alarming incident occurred on August 31, 1998, when North Korea launched a Taepo Dong I ballistic missile over Japan.<sup>17</sup> In June, 2002, another deadly naval clash was provoked by North Korean patrol boats when they entered South Korean waters.<sup>18</sup>

## **N. Korea Suffers No Consequences for Failure of the Agreed Framework**

North Korea's belligerence reflects a disposition to flout the Agreed Framework, as well as any other international undertaking intended to pacify the Korean Peninsula. Yet at no time has the North suffered any serious consequences for its irresponsible conduct.

North Korea's lack of intent to perform its Agreed Framework obligations was confirmed on October 16, 2002. On that day, the State Department announced that during talks in Pyongyang from October 3 to October 5, U.S. Assistant Secretary of State James Kelly's North Korean hosts acknowledged the existence of North Korea's uranium-enrichment program. State Department press spokesman Richard Boucher said this program is a serious violation of North Korea's commitments under the Agreed Framework.<sup>19</sup> In response, the U.S. government and the other KEDO participants ended heavy fuel oil shipments to North Korea a few weeks thereafter.<sup>20</sup> North Korea responded to U.S. action ending heavy fuel oil shipments by withdrawing from the NPT.<sup>21</sup>

The North Korean uranium-enrichment program revealed in October, 2002 was seen by some observers as the end of the Agreed Framework.<sup>22</sup> At one point, according to press reports, a "high level

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<sup>14</sup>See Koreascope, [http://www.koreascope.org/english/sub/2/nk10\\_7.htm](http://www.koreascope.org/english/sub/2/nk10_7.htm).

<sup>15</sup>See <http://www.cnn.com/WORLD/asiapcf/9806/22/s.korea.submarine/>.

<sup>16</sup>See <http://www.cnn.com/2002/WORLD/asiapcf/east/06/29/korea.warships/>.

<sup>17</sup>See CIA, [www.cia.gov/cia/public\\_affairs/speeches/archives/1998/walpole\\_speech\\_120898.html](http://www.cia.gov/cia/public_affairs/speeches/archives/1998/walpole_speech_120898.html).

<sup>18</sup>See <http://www.cnn.com/2002/WORLD/asiapcf/east/06/29/korea.warships>.

<sup>19</sup>Press Statement, Richard Boucher, Spokesman, "North Korean Nuclear Program," U.S. Department of State, 16 October 2002 (<http://www.state.gov/r/pa/prs/ps/2002/14432.htm>).

<sup>20</sup>"US Says N. Korean Fuel Oil Deliveries Should End," Carl Giacomo, Reuters, November 13, 2002.

<sup>21</sup>See Korean Central News Agency, January 22, 2003, <http://www.kcna.co.jp/index-e.htm>.

<sup>22</sup>See, e.g., Charles Krauthammer, "Clinton's Paper Chase", *The Washington Post*, October 24, 2002, and H.J. Res. 2, Division E, Section 586, Public Law 108-007 (Sense of the Senate on North Korea).

North Korean” official even stated that Pyongyang would consider the Agreed Framework null and void if heavy fuel oil shipments were terminated.<sup>23</sup> Since then, however, Pyongyang has waffled on the Agreed Framework, accusing the United States of working to render it void, but not stating categorically that the arrangement is defunct.

At a State Department press conference on December 16, 2002, however, Secretary of State Colin Powell said, “North Korea must ... honor its commitments under ... the [Framework].”<sup>24</sup> On February 11, 2003, Secretary Powell told the Senate Budget Committee that North Korea’s conduct “is not acceptable, and it puts the Agreed Framework *at risk*” (emphasis added).<sup>25</sup> These remarks suggest that despite ending fuel oil shipments to North Korea, the United States is hedging on whether the Agreed Framework remains in force.

Finally, according to a March, 2003 press report, the KEDO light water reactor project (the United States is a KEDO board member), although slowed, apparently has not been cancelled – although more than four months have passed since the North revealed its uranium-enrichment program.<sup>26</sup>

Apart from losing fuel oil shipments, North Korea has suffered no real consequences for its Agreed Framework violations. In fact, on February 25, 2003, Secretary Powell announced at least 100,000 tons in new humanitarian food aid for North Korea in reply to a call from U.N. Secretary General Kofi Annan.<sup>27</sup>

Furthermore, the Administration was understood to support continued funding for KEDO in the FY 2003 omnibus appropriations legislation signed into law just last month [P.L. 108-7]. Five million dollars were actually appropriated (a \$70-million reduction in the amount provided last July in S. 2779).<sup>28</sup> Report language reads, “KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION Sec. 562. None of the funds appropriated by this Act ... may be made available for assistance to the Korean Peninsula Energy Organization (KEDO): Provided, That the President may waive this restriction

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<sup>23</sup>Yonhap (South Korea) News Agency, *Chosun Ilbo*, November 13, 2002 at [http://www.nti.org/db/profiles/dprk/nuc/chron/NKNCH02\\_GO.html](http://www.nti.org/db/profiles/dprk/nuc/chron/NKNCH02_GO.html).

<sup>24</sup>See <http://www.state.gov/secretary/rm/2002/16016.htm>.

<sup>25</sup>See <http://www.state.gov/secretary/rm/2003/17620.htm>.

<sup>26</sup>BBC Monitoring Asia Pacific/BBC Worldwide Monitoring, March 1, 2003, Nuclear Consortium to Delay Work on North Korea Reactor Project, Yonhap News Agency, Seoul, in Lexis-Nexis.

<sup>27</sup>Secretary Powell’s Seoul Press Conference, February 25, 2003.

<sup>28</sup>Report 108-10, Division E, Conference Report to Accompany H.J. Res. 2.

and provide up to \$5,000,000 of funds appropriated under the heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” for assistance to KEDO for administrative expenses only notwithstanding any other provision of law, if he determines that it is vital to the national security interests of the United States and provides a written policy justification to the appropriate congressional committees...”

## The Current State of the Stand-off

Today the stage is set for a new U.S. policy approach on North Korea. Wisely, the Bush Administration avoided ruling out force or regime change,<sup>29</sup> removing U.S. forces from South Korea, or exploring a non-aggression treaty with the North. Likewise, the Administration has declined to openly shore up the Agreed Framework or give in to North Korea’s loud demands for direct talks (as well as demands for direct talks from others who, ironically, oppose direct U.S. action in Iraq). All options remain open, and this is a defensible starting point for new policy.

In contrast, almost hourly, the North Korean government’s bellicose conduct and tone grow harsher. According to March 3, 2003 press reports, on March 1<sup>st</sup> four North Korean fighters intercepted a U.S. Air Force RC-135 aircraft lawfully present in international airspace and shadowed it for 22 minutes over the Sea of Japan. The North Korean fighters reportedly “locked on” to the RC-135 with fire control radar (N.B. indicating hostile intent and preparations to launch a weapon). The RC-135 was located 150 miles off the coast of North Korea at the time. The North Korean fighters came to within 50 feet of the much larger U.S. aircraft (a military variant of the Boeing 707), intentionally placing the lives of the American air crew in serious peril. The press also reported that this incident was the first of its kind since 1969, when North Korean fighters intercepted and shot down a U.S. Air Force aircraft in international airspace, taking the lives of 31 crewmen.<sup>30</sup>

Furthermore, a day after Secretary Powell’s announcement in Seoul last month of additional humanitarian food aid, U.S. intelligence officials reportedly confirmed for the press that North Korea has restarted the Yongbyon five megawatt nuclear reactor that was shut down under the Agreed Framework.<sup>31</sup> The reactor could produce plutonium for nuclear weapons. On February 24, 2003 – the eve of South Korean President Roh’s inauguration – North Korea conducted an anti-ship missile test at sea. This ham-handed stunt was undoubtedly intended to ratchet up pressure on the United States and

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<sup>29</sup>At his February 25 press conference in Seoul, in reply to a question Secretary Powell said, “We have never expressed [regime change] as a policy objective.”

<sup>30</sup>See <http://www.washingtonpost.com/wp-dyn/articles/A37245-2003Mar3.html>.

<sup>31</sup>“Reactor Started in North Korea, U.S. Concludes,” *New York Times*, 2/27/03, A1, “North Koreans Restart Reactor, Drawing Warning,” *Wall Street Journal*, 2/27/03, A2, “North Korea Restarts Nuclear Facility,” *The Washington Post*, 2/27/03, A23.

South Korea's new President. Secretary Powell told the press in Seoul on February 25 that, as to the timing of the test, "I will let you speculate as well as anyone else can."

## **Reaching the Critical Objective of a Peaceful, Disarmed North Korea**

In the short run, the key to achieving the objective of a peaceful, disarmed North Korea is to change North Korean behavior. In the long run, the key is to promote fundamental change in the North Korean regime. To accomplish a change in North Korean behavior, it is necessary first to change the dynamic that fosters the current standoff. To achieve this change, the United States must be able to apply more pressure in discussions. If North Korea "holds all the cards," the United States cannot hope to negotiate meaningful nuclear disarmament.

The critical flaw with U.S. policy in the 1990s was U.S. policymakers' unwillingness to resolutely employ all of the tools at their disposal to alter the negotiating strength of the United States relative to North Korea, so that they could insist on dismantlement – not just shutdown – of North Korean nuclear programs, and employ enforceable consequences for noncompliance. Mere containment, or anything like it, works to Kim Jong-Il's advantage now that he is again openly pursuing a nuclear program.

### **Difficult Military Options**

On February 11, Secretary Powell told the Senate Budget Committee that the United States is preserving all of its options – including military options – with regard to North Korea. Presumably this could include a pre-emptive attack on the Yongbyon plutonium facility in North Korea.

Over the years, the full range of military options has served U.S. deterrence policy well. But the use of pre-emptive military force against North Korea (e.g., a strike against the Yongbyon facility) presumably would result in massive Northern retaliation against the largest cities in South Korea, and against U.S. forces. Pyongyang possesses a very large arsenal of rockets, missiles, and artillery pieces. These weapons could be brought to bear quickly and kill literally millions of people in South Korea, so preemptive military action is the most perilous option available.

However undesirable, the use of military force, *especially in retaliation*, must not be taken off the table. The Administration should make it clear not only to North Korea, but also to North Korea's neighbors, Russia and China, that there have to be consequences to an absolute refusal of North Korea to abide by norms carefully observed by most of the rest of the world and to abide by its international agreements. As former U.S. Ambassador Dennis Ross wrote in the *Washington Post* on January 10, 2003,

"If we want diplomacy to stand a chance, we cannot divorce it completely from possible military responses. ... By taking the military option off the table in Korea, we not only signal the North



Koreans that they have time, but also reduce the sense of urgency that might alter Chinese and Russian behavior. And it is the Chinese and Russians who have the greatest leverage on Kim Jong-Il.”

### **Traditional Diplomacy and Talks Without Consequences are Meaningless**

At the other end of the spectrum, some observers maintain that the United States must negotiate with North Korea bilaterally.<sup>32</sup> While reasonable people can differ about approaches, in this matter at least, policymakers have actual experience as to what hasn’t worked – traditional diplomacy and talks with North Korea have been tried and have failed. North Korea is willing to talk – in fact, today loudly demands direct talks with the United States – but is unwilling to make lasting or enforceable concessions. It is important to remember that when North Korea has promised to make a concession (e.g., to shut down its Yongbyon reactor under the Agreed Framework and seal its fuel rods), it has demonstrated no intention of abiding by the concession.

### **Success Requires Changing the Circumstances on the Ground**

Circumstances on the ground – i.e., conditions that affect day to day relations with other states, and shape official conduct – must change, in order to end the “threat/concession” dynamic set up by Pyongyang and open the door to successful diplomacy. North Korea must be compelled to come to terms with its commitment violations, to comply with the commitments it has made, and to begin to dismantle its nuclear programs under international supervision. Without pressure to do so, North Korea will conclude – correctly – that it has nothing to lose by refusing to negotiate seriously or by violating agreements. Only diplomacy coupled with real pressure to force proper North Korean behavior can provide the change in circumstances required to end the “threat/concession” dynamic.

## **End the Threat/Concession Dynamic: New Approach and Concrete Steps**

Setting aside military options, and given that diplomacy without consequences has failed to change North Korean behavior, it is a combination of diplomatic and militarily enforceable economic options that must be employed to change the current dynamic and increase the likelihood that diplomacy can work.

As long as no nation is willing to apply pressure on North Korea, it should not be surprising that North Korea continues to act belligerently. The status quo will be fundamentally altered only if the U.S.

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<sup>32</sup>See, for example, “Statement of Senator Kennedy.” February 12, 2003 ([http://kennedy.senate.gov/index\\_low.html](http://kennedy.senate.gov/index_low.html)).

government adopts measures to compel North Korea to more seriously treat negotiations as a means toward real, peaceful resolution of disputes with the international community and real dismantlement of its nuclear facilities. Without such measures, what possible reason would anyone have for optimism that North Korea would change its behavior?

The thesis underlying a new approach to North Korea is that the United States must better use its bargaining power relative to North Korea in order to compel it to dismantle its nuclear and weapons programs and abide by its agreements. What are the assets available to the United States?

First, it should be obvious that any new approach would require an end to all U.S. aid to North Korea under the Agreed Framework and reimposition of sanctions lifted in 1999. Isolating North Korea politically, cutting off its supply of hard currency through sanctions, and interrupting its weapons proliferation activity by a quarantine (including an enforced military blockade) could also provide needed pressure to force North Korea to comply with its international agreements.

To implement this new approach, Congress should provide policy guidance and legislative authorities where needed, and otherwise encourage the Administration to take concrete steps now.

### **1. Acknowledge that the Agreed Framework has failed.**

First, Congress should acknowledge in an appropriate resolution that the Agreed Framework concluded nine years ago is void. Additional U.S. assistance to North Korea or the Korean Peninsula Energy Development Organization under the Agreed Framework must be prohibited. This assistance works, in effect, as a subsidy to the North Korean government, allowing it to save hard currency resources that it would otherwise have to expend for these items. By ending the Agreed Framework subsidy to North Korea, hard currency needed to develop its nuclear program can be cut off.

The Agreed Framework related to circumstances which North Korea itself has radically upset. As Arizona Senator John McCain noted on January 13, 2003, “America today is less secure as a result of the Agreed Framework. There can be no going back to the failed policies that produced the false peace we enjoyed from 1994 to 2002.”<sup>33</sup>

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<sup>33</sup> See <http://mccain.senate.gov/nkoreares03.htm>.

## 2. Bring China into the Picture.

The most important effect of the Administration's current effort to "multilateralize" action related to North Korea would be to bring China into the search for a solution. Congress should urge the President to continue to press China to exercise its influence over North Korea. China could bring enormous and probably decisive pressure on North Korea to comply with its international commitments since that nation supplies approximately 80 percent of North Korea's fuel oil and provides more than half of North Korea's food and fuel generally.

China has a long border with North Korea and clearly would be called upon to help enforce sanctions, if they were imposed. Perhaps most significant, China would suffer, probably more than any other country, from a nuclear detonation of any kind on the Korean Peninsula or from any release of poison gases, nerve agents or biological agents, since some prevailing winds are from south to north. This is particularly ironic considering reports that China may have facilitated North Korean/Pakistani cooperation in nuclear weapons and missile development programs.<sup>34</sup>

Secretary Powell, during a press conference in Beijing on February 24, 2003, said that the Chinese are "anxious to play as helpful a role as they can." Secretary Powell noted China's "long, deep, and historical relationship with North Korea" and their understanding of North and South Korea's leaders. "I think they prefer to play their role quietly, but they have a clear understanding of our desires and our interests," he added.<sup>35</sup>

The problem is there is absolutely no evidence China has tried to help. If it has, there is no evidence that it has produced any results.

Why not? China has much to lose from North Korean acquisition of nuclear weapons. China almost certainly would not want other countries in the region, including Japan, South Korea, and Taiwan, to have nuclear weapons. Nor would China want the United States to extend its nuclear umbrella to cover these countries. China needs to be convinced these scenarios are real. China also needs to know its interests with the United States will suffer if it is not more helpful. Presumably, China just thinks the United States will solve the problem and bear any negative consequences. Until China feels U.S. pressure to help, it is obvious it will not. This is the kind of change of dynamic that is necessary for the United States to be able to pressure North Korea.

Congress should offer to legislate in any area deemed helpful. U.S. pressure on China could run the gamut from quiet diplomacy to sanctions like terminating the recently restarted U.S.-China military-to-

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<sup>34</sup>See footnotes 10, 11 and 12, above.

<sup>35</sup><http://www.state.gov/secretary/rm/2003/17892.htm>.

military program, or reducing or eliminating international financial institution loans and Export-Import Bank assistance.

The “multilateralization” of the North Korea situation is a means to a desired end, but it is not the end in itself. On January 8, 2003, during an appearance on “Fox on the Record,” former Secretary of State Henry Kissinger pointed out:

“North Korean behavior is an attack on the whole international system. ... When a country with that record insists on building nuclear weapons, the whole world ought to worry about it. ... If the international community permits a country like this to build nuclear weapons without doing anything about it, then we’re going to live in a very tough world. And I think the United States should put this to some of [North Korea’s neighbors] in a very explicit way.”

Dr. Kissinger’s comments suggest that multilateralization can bring an important advantage beyond engaging China – namely, it could promote “buy-in,” instead of criticism, from regional actors (e.g., South Korea and Japan) who have the most to gain from a resolution of the problem, and who will be expected to enforce the results.

### **3. Reimpose Sanctions.**

Congress should reimpose sanctions against North Korea lifted in September, 1999 by President Clinton. Congress should prohibit expenditures for enforcement of a sanctions regime that is less restrictive than the regime in effect prior to September, 1999.<sup>36</sup>

President Clinton’s 1999 waiver did not require congressional approval. At a September 17, 1999 briefing about the waiver, Secretary of State Madeleine Albright said that understandings reached with Pyongyang, together with a review of U.S. policy by former Defense Secretary William Perry, had put the United States on “a new and more hopeful road.” Adding that U.S. cooperation “is not a one-way street,” Albright pointed out that the sanctions could be quickly re-imposed at any time and that the administration was prepared “to go down a different road altogether” to defend U.S. interests.<sup>37</sup> It is clear that the “new and more hopeful road” in United States-North Korea relations anticipated by the Clinton Administration led to a dead end. Yet sanctions have not been reimposed.

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<sup>36</sup> The sanctions lifted by President Clinton’s September, 1999 order were imposed under the Trading with the Enemy Act, the Defense Production Act, and the Commerce Department’s Export Administration Regulations. They prohibited imports of North Korean goods, exports of U.S. goods to North Korea, investment in commercial economic sectors in North Korea, remittances to North Korean nationals, and shipping and commercial flights to and from North Korea.

<sup>37</sup> Reuters and Dow Jones Newswires, Alex Keto, “Albright: N. Korea Sanction Move Supported by Allies,” Washington, 9/17/99.

#### **4. Impose Quarantine and Maritime Interdiction.**

Congress should also encourage the President to put a quarantine into place against North Korea to disrupt its financial and economic activity and interdict weapons-related shipments to and from North Korea.

Although it is not clear that any more are needed, Congress should provide all required authorities to the Executive Branch and encourage the Administration to enforce against North Korea measures similar to what was authorized under U.N. Security Council Resolution 611 (1990) against Iraq. Resolution 611 cut off hard currency to Iraq by preventing the sale or supply of commodities or products, and by cutting off access to any “commercial, industrial or public utility undertaking” in Iraq or Kuwait. The resolution also provided for a freeze of Iraqi assets abroad.

Interdicting North Korean weapons shipments would also deny hard currency to a country deeply engaged in illicit activity. The largest sources of North Korea’s hard currency are the weaponry it sends to other countries and the illicit narcotics trade. By prohibiting the export of these items from North Korea, economic circumstances would be created to persuade Pyongyang to negotiate and make commitments it intends to keep.

North Korean proliferation activity via civilian merchant vessels was blatantly evident in December, 2002, when Spanish marines boarded the vessel SO SAN in the Gulf of Aden and discovered a cargo of 15 SCUD missiles bound for Yemen.<sup>38</sup> This incident underscores the urgent need to prevent North Korea from exporting nuclear weapons material and proliferation-related technology, and from profiting by its proliferation activity.

#### **5. Cut Off Remittances.**

In 1990, the United Nations also barred remittances to Iraq in Security Council Resolution 661. Now Congress should strongly urge the President to seek multilateral blocking of remittances from ethnic Koreans to North Korea. In a 1997 statement to the Senate Foreign Relations Committee, a representative of the Institute for International Economics said that estimates of the annual amount of remittances vary “from \$2 billion to the low millions.”<sup>39</sup>

Remittances are an important source of hard currency for the Kim Jong-II regime. Multilateral action to stop remittances from reaching North Korea could force Kim Jong-II to use precious hard currency reserves that otherwise are spared by the subsidy provided when persons living abroad send monies to North Korea. A multilateral approach is desired because North Korea can evade U.S.

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<sup>38</sup><http://www.time.com/time/photoessays/scudraid/>.

<sup>39</sup>[www.iie.com/papers/noland0797.htm](http://www.iie.com/papers/noland0797.htm).

unilateral sanctions by encouraging senders to use non-U.S. currency and non-U.S. bank clearance channels when sending monies from abroad.

## **6. Promote democratization.**

Just as President Ronald Reagan put additional pressure on the U.S.S.R. in the 1980s by pushing for democratization in Eastern Europe and in formerly captive Soviet republics, the United States should pressure North Korea on democratization and liberalization in general. Congress should encourage the Administration to compel the Chinese Government to treat North Korean refugees properly, and work with other countries in the region to promote burden-sharing of refugee costs and resettlement.

In the realm of public diplomacy, Congress should also require Radio Free Asia to increase its broadcasting to North Korea to 24 hours a day, and authorize funding needed to accomplish that.

## **7. Take decisive military defensive measures.**

To assure the highest level of military deterrence against North Korea, Congress should also urge the Executive Branch to take appropriate measures, including military reinforcements if necessary, to enhance the U.S. defensive posture on the Korean Peninsula. The temptation to remove U.S. forces from the Korean Peninsula may be great given the recent inhospitable atmosphere in South Korea. It is clear that some relocation and restructuring is in order. However, a precipitous withdrawal of U.S. forces would be shortsighted. If the United States is to put credible pressure on North Korea to produce meaningful dialogue, a U.S. military presence is necessary to demonstrate that our country is in earnest when it insists that North Korea comply with its agreements. As North Korean intentions unfold, it is the wrong time to remove U.S. forces or to suggest they are not prepared in the event of escalating northern belligerence.

## **8. Postpone further food aid until North Korea complies with the Food Aid Convention.**

President Bush has made it clear he will not use food as a weapon. But that laudable pronouncement does not mean that the United States has an affirmative responsibility to provide food to a country that daily threatens to attack it. There are many needy people in the world. The United States has no obligation to *prioritize* aid to North Korea.

Moreover, it is impossible to determine whether U.S. humanitarian food aid to North Korea has been provided exclusively to its needy citizens or diverted to the North Korean military because North Korea bars food aid monitoring. Furnishing food aid to North Korea in the absence of such a determination violates Declaration (1) attached to the Senate's resolution of advice and consent accompanying the 1999 Food Aid Convention, which provides:

“(a) Declarations.— The advice and consent of the Senate is subject to the following declarations:  
(1) NO DIVERSION.— United States contributions pursuant to this Convention shall not be diverted to government troops or security forces in countries which have been designated as state sponsors of terrorism by the Secretary of State.”<sup>40</sup>

The State Department’s latest terrorism report, “Patterns of Global Terrorism, 2001” (released May 21, 2002), lists North Korea as a state sponsor of terrorism.<sup>41</sup> In line with Declaration (1), therefore, the United States should postpone additional food aid to North Korea (including that promised by Secretary Powell on February 25<sup>th</sup>) until Declaration (1) can be satisfied by full and proper monitoring of U.S.- provided food aid in North Korea.

The United States has not been derelict in its humanitarian assistance to North Korea. Since 1995, the United States has been the single largest food donor to North Korea, providing \$620 million in food aid assistance over that time. North Korea does not allow full verification of the use of food aid assistance. It has failed to permit the World Food Program (WFP) to introduce a system of random access monitoring of food aid in North Korea. North Korea has also failed to furnish to the WFP a list of institutions through which food assistance is provided to beneficiaries. These failures fall well short of humanitarian practice in emergency operations in other parts of the world.

Therefore, while one should not argue that the United States should use food as a “weapon,” consistent with the plain language of Declaration (1), such aid should be conditioned upon North Korea’s allowance of full verification of food aid assistance. This will only be accomplished when North Korea provides the WFP with a list of institutions through which WFP food is provided to beneficiaries; by permitting the WFP to introduce a system of random access monitoring in North Korea; and by providing access for the WFP in all North Korean counties, permitting the WFP to use its own translators and to employ all means it deems necessary for communications.

Congress should condition extension of future humanitarian food assistance to North Korea on a Presidential determination to this effect.

## **9. Permit no new nuclear agreements or cooperation.**

The possibility that nuclear weapons may rest in the hands of North Korean dictator Kim Jong-Il poses an unacceptable threat to United States and world security. North Korea has demonstrated its readiness to export ballistic missiles. North Korea may be just as willing to export nuclear weapons materials to terrorist groups that target the United States and its allies. Therefore, Congress must forbid any further nuclear cooperation agreement or interaction (e.g., transfers under the Atomic Energy Act) with North Korea unless and until certain conditions are met.

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<sup>40</sup>See, Congressional Record, p. S8866, September 20, 2000, 106<sup>th</sup> Congress, 2<sup>nd</sup> Session.

<sup>41</sup> See, <http://www.state.gov/s/ct/rls/pgrtrpt/2001/html/10249.htm>.

First, if the State Department proposes to undertake nuclear cooperation or interaction with North Korea in any form – bilateral or multilateral – the President should be required to make a formal determination that North Korea has no nuclear weapons program. The President should also be required to make a formal determination that nuclear cooperation or interaction with North Korea is in the national interest before it occurs. In addition, no cooperation or interaction should occur unless and until Congress passes a joint resolution of approval. Finally, the President should also be required to report to Congress whether technology and hardware-sharing programs under the Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime, or similar international undertakings contributed to development of North Korean conventional or unconventional weapons programs.

Given North Korea’s demonstrated contempt for its international agreements, it is difficult to envision any rational policy justification for further nuclear cooperation or interaction with the Pyongyang regime.

### ***Are These Steps Too Provocative?***

The concrete steps envisioned in the new approach described above come down well short of resorting to military force but are more robust than what the United States has tried. The United States should not be surprised that it gets no different results when it keeps trying the same things. What is proposed above is essential to ensuring that North Korea, or any other country contemplating withdrawal from the Nuclear Non-Proliferation Treaty, understands that serious consequences short of war will inexorably follow violations of international undertakings or other conduct that threatens international peace and security.

In the 1980s, some observers criticized President Ronald Reagan for his “provocative” description of the U.S.S.R. as an “evil empire.” Many other observers, however, credit the breakup of the Soviet Union to the pressure which President Reagan brought to bear on Moscow by building up the U.S. military to create a strong deterrent to Soviet military action, and by pushing harder for democratization and freedom in Eastern Europe and formerly captive Soviet republics. Over time, U.S. legislation, like the Jackson-Vanik Amendment (emigration of Soviet citizens),<sup>42</sup> and international cooperation among democratic nations also contributed to the Soviet Union’s breakup.

Far from being a “provocation,” by creating similar pressures on North Korea through a combination of U.S. legislation and international cooperation, a foundation is created for North Korea to become a less oppressive society that can care for its people and cease to threaten its neighbors.

## **Conclusion: Measuring North Korean Compliance**

The steps described above could change the relative negotiation position of the parties to allow the United States to take firmer positions with the North Koreans.

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<sup>42</sup>See <http://www.congress.gov/erp/rl/pdf/98-545.pdf> for a CRS background paper on Jackson-Vanik.



Hard experience has shown the United States and its allies that, in order to resolve complex international problems, it is vital to “know the enemy” and understand his goals. The United States doesn’t know whether North Korea is just using its nuclear program to bargain or whether it really wants to acquire the weapons to threaten or use. The latter seems more likely since there are easier ways to get food and oil and non-aggression treaties.

A sobering example of the international community’s failure to understand the enemy is seen in the appeasement of Adolf Hitler leading to surrender of the Czech “Sudetenland” to Nazi Germany. Tragically, British Prime Minister Neville Chamberlain thought it would be enough to grant concessions to the Nazi government in exchange for promises of peace.<sup>43</sup> He was wrong, and tens of millions died.

Experience with Hitler and with the Soviet Union also underline the need for firmness in U.S. policies with regard to North Korea. The same clarity and determination that animated President Reagan’s policies toward the U.S.S.R. should animate the policy today toward North Korea. The United States must not be seen as an appeaser, as some have characterized it,<sup>44</sup> or as vacillating, or North Korea will continue to act the way it has. North Korea must fear some consequences of its bad behavior (such as the weekend’s RC-135 intercept over the Sea of Japan) for it to change.

To strengthen its hand, the United States must first ensure that its positions are clear-cut and firm, as outlined in this paper. Second, the President’s policy of forcing North Korea to promptly and verifiably dismantle its uranium-enrichment and plutonium programs must be adhered to faithfully. Third, Congress can play an important role by enacting legislation to achieve the steps described above.

A reliable set of indicators is available to measure North Korea’s true intentions: whether Pyongyang will agree to promptly and verifiably dismantle its uranium-enrichment and plutonium programs; whether it will dismantle its weapons of mass destruction facilities under international supervision; whether it will pull its conventional forces back from the South Korean border; and whether it will permit unfettered monitoring of food aid.

The bold new approach described above can result in meaningful pressure on North Korea sufficient to force it to come to a meaningful, verifiable agreement with the United States and its allies that would bring dismantlement of North Korean weapons and peace to the region.

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<sup>43</sup><http://www.fordham.edu/halsall/mod/1938PEACE.html>.

<sup>44</sup>Charles Krauthammer, “Korea Follies,” *The Washington Post*, January 17, 2003.