

The Six-Party Talks and New Opportunities to Strengthen Regional Nonproliferation and Disarmament Efforts

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The Six-Party Talks and New Opportunities to Strengthen Regional Nonproliferation and Disarmament Efforts

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Introduction

The Revival of Global Nuclear Disarmament

Over the past few years, a growing number of political leaders and international security policy scholars have worked to revive the goal of global nuclear disarmament and to stimulate momentum toward that end. Among the most prominent to join this group is US President Barack Obama. Throughout his time in the US Senate, continuing through his presidential campaign and on into his presidency, President Obama has shown a consistent desire to make nuclear disarmament (and its conjoined twin, strengthened nonproliferation) a priority in his foreign policy and his administration. While nuclear disarmament has had its moments of political favoritism in the past, the declared commitment to achieving this long-sought goal has never been so strong.

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The reasons for current high-level political attention and commitment to a goal that has been considered by some naïve and impossible to achieve—both technically and politically—are readily discernable and of a critically different character from the calls for nuclear disarmament of the past. Far from airy idealism, 21st century pressures and motivations are driven by stark pragmatism and a number of technical and political tectonic shifts that the global community cannot ignore.

First, the breakdown of the bipolar international security environment following the end of the Cold War resulted in shifting alliances, less rigorous control and oversight of activities within former proxy states, conflicting attitudes toward international norms, and greater independence among many states, especially among those whose historical regional prominence had been dampened by the post-World War II environment. Second, the nearly ubiquitous spread of advanced technology, engineering, and know-how—so fundamentally beneficial to development and improvements in quality of life for billions of people around the globe—has brought along with it the opportunity for abuse and diversion to harmful and destructive ends.

Concomitantly, the well-developed frameworks for international trade and communication facilitate the transfer of goods and information in multivariate directions among a variety of pathways, regardless of intent or motivation. And finally, the growing political acceptance of the reality of human-influenced climate change is driving research and procurement in more carbon-neutral directions, which may include a global rebirth in nuclear energy infrastructure and trade.

These trends pose fundamental challenges to the current global nuclear nonproliferation and disarmament regime, and could have resulted in resignation in the nuclear nonproliferation community. Instead, leaders have determined that these challenges will need to be addressed in order to make headway in disarmament policy goals. Two practical case studies unfolding in real time stand as bellwethers when determining whether success at a global level is likely to be

achieved. Iran, with its nascent nuclear program straddling the line between civilian and military capabilities on the technical side, and compliance and noncompliance with international agreements on the political side, stands as a cautionary tale of what might be. North Korea is a more dramatic and less ambiguous case.

North Korean Challenge to Nonproliferation and Disarmament

North Korea is the only state to withdraw from the Nuclear Non-Proliferation Treaty (NPT), to openly pursue a nuclear weapons program and, then to test a nuclear device. The Democratic People's Republic of Korea (DPRK) is also accused of simultaneously pursuing a covert uranium enrichment program to produce HEU (highly enriched, or military grade, uranium). North Korea's nuclear activities pose a threat, not only to its own population and its neighbors in Northeast Asia, but also to the global community, whether it is by perfecting a miniaturized nuclear bomb mated to a long-range missile or by covertly proliferating weapons or material for political or economic reasons. Given North Korea's particularly stark challenge to the NPT, successful global movement toward nuclear disarmament and strengthened nonproliferation measures will, in part, hinge on the progression of the North Korean case.

Half a generation of North Koreans have been raised during the fifteen or more years that the international community has tried to negotiate away North Korea's nuclear weapons program. With the beginnings of the six-party process in 2003, observers have hoped to see victory snatched from the jaws of the defeat of the 1994 Agreed Framework. Subsequent six-party negotiation rounds, however, have underscored the enduring challenges to achieving durable, verifiable progress, such as disablement, never mind approaching the ultimate goal of nuclear disarmament. Many issues have been subject to discussion and revision, negotiation and renegotiation, during the six years of the six-party process.

Negotiations took a positive turn in 2007, when North Korea agreed to disable its key nuclear installations in October of that year—a key step toward disarmament. However, by the fall of 2008, positive signs (such as a North Korean declaration of nuclear assets, finally announced in June, six months late) had mixed with more cautionary signals, for example warnings from North Korea that it would restart its reactor at Yongbyon (the reactor that had been the source of spent plutonium reprocessed into weapons-grade material). The disappearance of DPRK Leader Kim Jong-il from the public eye raised speculation that he might be in ill health and the political future of the country uncertain. The impending US presidential election furthered the sense of uncertainty about the future of nuclear disablement and disarmament on the Korean peninsula.

At this ripe opportunity for reflection on the North Korean nuclear situation and the status and future of the six-party process, the Stanley Foundation, the National Committee on North Korea, and the Institute for Foreign Policy Analysis joined the China Arms Control and Disarmament Association in

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hosting a workshop in Beijing, China, that brought together policy experts from five of the six-party states (South Korea, China, Japan, Russia, and the United States; North Koreans were invited, but chose not to participate) for a daylong discussion on nuclear disarmament and nonproliferation in the Northeast Asia region. Participants reflected on topics ranging from the interconnections between the global nonproliferation regime and the situation on the ground in Northeast Asia to current stumbling blocks in the six-party process and potential avenues for surmounting them. The summary below of the day's discussions is followed by a view from three months down the road in January 2009, outlining potential avenues for moving forward with North Korean nuclear issues.

The beginning of a new US administration and foreign policy approach marks a good entry point for reviewing the complex set of challenges the global community faces when considering the longstanding challenges of North Korea—particularly from the special perspective of officials and experts from the five-party states, many with firsthand knowledge and experience in the process. While the North Korean nuclear problem has shown considerable resistance to well-intended solutions, this meeting produced a few ideas that could help in small but meaningful ways.

The North Korean Case

Global Nonproliferation Norms and North Korean Context

The global nuclear nonproliferation regime, beginning with the Nuclear Non-Proliferation Treaty, relies on equal and fair systems monitored by a neutral body—the United Nations. In exchange for forgoing the development of nuclear weapons, states are to receive the benefits of the peaceful uses of nuclear technologies. North Korea plays a careful hand, attentive to the goals and pressures on the great powers around it, but also making calculated decisions to flaunt international law and pursue an independent nuclear program. As judged by the international sanctions and opprobrium it has faced for these actions, North Korea does not often win in these encounters, but simultaneously does not often lose, and so is able to maintain the status quo.

In the nuclear context, then, the question becomes: does North Korea think it can achieve its domestic and regional policy goals without giving up nuclear weapons? If that is the case—and suspicions run high that North Koreans are more becoming more confident that the answer is yes—then that is their obvious choice. In that scenario, what are the levers to persuade North Korea to disarm?

To date, efforts have consisted of a two-track approach overall: actions directed specifically at North Korea, such as sanctions and incentives through the six-party negotiation process, and broader steps to shore up the international nonproliferation regime, thereby indirectly affecting North Korea. This accretion of mutually reinforcing new norms and instruments has had the effect of constricting North Korea's freedom of action while at the same time

leaving open the possibility for North Korea to join these international efforts as a participating partner and compliant state. As an example of the former (strengthened norms of accountability), at the global level, UN Security Council Resolution 1540, which holds states accountable for illicit weapons of mass destruction (WMD) activity within their own borders (especially by nonstate actors), plays toward negative reinforcement. Such is also the case with finer filters for North Korean trade, specifically, such as UNSCR 1718, which created a North Korea Sanctions Committee and applied international sanctions against North Korea for trade including dual-use items that could be diverted to WMD programs, conventional arms, and luxury goods. To date, the six-party talks have also attempted to play toward the positive, including negotiations over energy futures for North Korea, possible security guarantees, inclusion in regional fora such as the Northeast Asian security mechanism, and the startling suggestion that North Korea (presumably in the long term and with a different character to its regime) could potentially participate in US-led counterproliferation efforts, such as the Proliferation Security Initiative.

Failing progress with these “carrots,” an outstanding question is whether the joint political will can be found among the five-party states to apply “sticks” as well. So far, in a multilateral dimension, clearly China, and to some extent Russia, have been and continue to be steadfast against coercive measures as part of the six-party process. They will wait much longer than the US-ROK-Japan group before applying pressure. But many around the conference table from each of the five-party states agreed that North Korea will not likely thoroughly engage unless given a starker choice between positive reinforcement and negative reinforcement.

Yet this is not the only multilevel gaming occurring in the North Korean context. More fundamentally, each side, represented essentially by North Korea and the United States, defines its goals differently. While North Korea may be fundamentally concerned with regime survival, the United States seeks denuclearization. The irony is that, depending on one’s perspective, these goals may be seen as mutual reinforcing or fundamentally incompatible. The United States sees disarmament as a step toward normalization of relations, while North Korea sees the opposite (i.e., normalization and related moves would demonstrate the end of America’s “hostile policy” toward the North, which would allow for denuclearization). The lack of trust among the parties makes it incredibly difficult to get beyond this diplomatic Catch-22, as each side is looking for the other to be the first to demonstrate good faith.

A durable outcome on nuclear dismantlement and disarmament may well depend on North Korean perspectives of larger domestic and regional issues, such as regime stability and economic development. The challenge and the benefit of the six-party process is to build reassurance through the statements and actions of interested states to persuade North Korea of the overall benefits of abandoning its nuclear programs, in exchange for diplomatic and economic gains.

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Beyond the United States, the other partners in the six-party process have clear reasons for supporting durable outcomes to the process. China seeks stability and security on the peninsula. South Korea seeks a more prosperous neighbor on its border, as this will foster the establishment of a path toward confederation and eventual reunification. Japan seeks regional security and nuclear disarmament, as continuing tensions and nuclear proliferation in the region may cause Japan to reevaluate its own nuclear stance.

Most of the six-party participants are trying to balance regional security and stability with global nonproliferation norms. The challenge of the six-party process is to convince all sides of the compatibility of these differing goals and to encourage political consensus both on the nuclear issue itself as well as the proper placement of the nuclear issue within the larger basket of issues for discussion, including such items as economic support and the normalization of relations.

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Yet clarity on mutual goals and sequencing issues should not be confused with rigidity. Take, for example, the handling of North Korea's 2003 announcement that it was withdrawing from the NPT. Rather than accept North Korea's withdrawal, at the appropriate moment (during the review process of the implementation of the NPT), the United Nations chose to place North Korea's status within the NPT at least temporarily in limbo. While perhaps flying in the face of North Korea's stated intentions and best efforts, this diplomatic sleight of hand protected the political space occupied by the six-party process and allowed those negotiations to continue without additional external pressure.

The Size and Shape of the Table

Over the last few years even the scope of the negotiations has been hotly contested. Ultimately, there have been tacit agreements to leave some fundamental parameters undefined. When negotiations have focused on substantive issues, they have served to underscore the thorniness of the various aspects of the intended outcome of the United States—Complete, Verifiable, Irreversible Disarmament (CVID). How much verification does the international community need for assurance? Will the DPRK, the most closed state in the world, be willing to meet international demands? Beyond the scope, what technical measures will North Korea allow? Current talks have included discussions, not only on the well-known plutonium-reprocessing stream, but on the unacknowledged uranium enrichment program as well. Will this remain the case as discussions move forward? North Korea has preferred the use of "mutual consent" when discussing sensitive issues. How concerned should the international community be that consent from the North Korean side will be slow in coming?

The inclusion of an unconfirmed uranium enrichment program inserts another issue for discussion: access to undeclared sites and personnel, particularly without declared notice. Currently-mandated safeguard agreements for states with civilian nuclear programs do not include no-notice spot inspections of any location deemed suspicious or uncertain by the International

Atomic Energy Agency (IAEA). An inspection regime that makes extraordinary demands on the DPRK, particularly one that is perceived to undermine North Korean sovereignty, may not be politically feasible within the DPRK.

Given this, North Korea has often viewed disarmament and its intermediary steps as a “pay as you go” arrangement, rather than a set of actions that will lead to an overall outcome at the end of the process. This may be tenable at the discrete level, but with no fundamental agreement on the final scope of disarmament, rewarding each individual step begins to look like continual renegotiation of the underlying agreements and understandings. As one conference participant put it, “[We] are at the beginning of a very long meal and a North Korean return to the NPT is the dessert.... We are the farmers, the peasants, and we must continue to garden.”

Challenges from the United States Perspective

This raises the question on the other side of the equation: how much is the international community willing to give in order to achieve its objectives? Based on the experience of the past 15 years it seems clear that in order to achieve the objective of ending North Korea’s nuclear programs—if that is indeed achievable given North Korean choices—the international community must be prepared to give a lot to get a lot.

But this facile statement is complicated by the current situation on the ground. There is fear of instability inside North Korea, due to reports of Kim Jong-Il’s recent illness. The international community may look back and long for a time when there was a clear unitary leader in North Korea making decisions. After years of negotiations and renegotiations, as well as exogenous pressures on the sets of bilateral relations between different pairs of the six-party states, the multilateral coalition is not solid and the six-party relations are frayed, resulting in a fragile negotiating process. All of the five other members—not only North Korea—have viewed the United States as inconsistent—pointing to the recent US-India nuclear cooperation deal as well as changes in its negotiation stance with North Korea over time. Political change in South Korea has also altered the six-party playing field.

Oftentimes, technical and political considerations are difficult to untangle from each other in the realm of nonproliferation policy and verification. With a new administration in the United States—and one that has highlighted nonproliferation as a foreign policy goal and reemphasized diplomacy—some shifts may occur in the gray area between technical and political, allowing new avenues of progress. For example, the Bush administration opposed the Fissile Material Cutoff Treaty (FMCT), which would halt the production of any additional weapons-grade nuclear material from the nuclear weapon states, because it determined that the treaty lacked sufficient verification measures. The Obama administration may choose to make a different calculation when balancing the pros and cons of an FMCT. This might be one measure by which the United States could demonstrate a more consistent nonproliferation policy and thereby garner more support and buy-in from the other members of the six-party process. Such an approach

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was also advocated by the Congressional Commission on the Strategic Posture of the United States, and it could apply to other policy moves such as further reduction in the US nuclear stockpile or attempts to ratify the Comprehensive Test Ban Treaty.

After the 2007 Israeli bombing of the Syrian installation (thought by most to be a nuclear reactor in construction, possibly with the help of North Korean expertise), many nonproliferation experts declared that a US response was necessary, and that this situation demonstrated why we need to take a harder line toward North Korea to punish it for proliferation. Others, however, argue that driving North Korea into a corner would only worsen the situation, and that some compromises on verification and other aspects of the six-party negotiations might be useful if they help us achieve tangible progress on the most important issue, proliferation. Since it seems unlikely that Israel would have taken such a dramatic, immediate step against the Syria facility without discussions with the United States, some conclude that the United States gave its tacit approval, allowing the situation to return quietly to the status quo ante. If so, this physical disruption of North Korean proliferation efforts could become one aspect of a two-pronged approach toward this challenge (mixing soft and hard). On the soft side, Washington could try to take a lead in promoting global disarmament, underscoring its good intentions, while at the same time cracking down hard on any evidence of nuclear proliferation.

Early involvement of the IAEA will be important, as it could benefit near-term negotiations, and it is necessary for establishing a credible baseline for future verification measures.

The Six-Party Process

The six-party process has led to important breakthroughs, not only in getting beyond political sensitivities, but in substantive negotiating progress, such as a North Korean declaration and the dismantlement of the Yongbyon reactor. However, there was useful debate at the conference over whether or not the structure may have outlived its usefulness. Is the process adequately structured to deal with the issues at hand? As an informal structure, little institutional knowledge exists to create consensus and pass that along to future country representatives. In addition, there is no secretariat that can facilitate implementation of agreements and help to resolve disputes during downturns in negotiations. Can the current process be improved? Where can the six-party talks borrow from other international and regional approaches to strengthen the effort?

On the other hand, the current process has led to some positive outcomes. Its basic trend of continuous process has built up some level of momentum and there are considerable reasons to support it. While a fundamentally multilateral framework, both the United States and North Korea have been able to maintain bilateral contact within the six-party process. No party ultimately wants to scrap progress that has been made, although at times North Korea has shown its willingness to delay and thwart negotiations and achievements in the short term, whether by calling for the expulsion of Japan from the six-party process or the on/off relationship that it maintains with the Republic of Korea to its south. The majority of conference participants believe that the six-party process remains the best option available to address the North Korean nuclear challenge, at least for the time being.

Global Considerations

While North Korea is a unique case, there are important considerations for the global nonproliferation regime and for potential future challenges to it. The “pay as you go” phased approach occurring within the six-party process may have the internal benefit of maintaining momentum within the North Korean case. However, by opening the possibility of giving North Korea new bargaining cards, it also may provide an unhelpful example to other states with nuclear ambitions. If the six-party process is too North Korea-specific, it may hamper efforts to duplicate a process of denuclearization with states like Iran. As well, the inconsistency of messages and approaches out of the North Korean situation may provide additional political space for others wishing to leverage their own illicit activities. As the Obama administration looks for ways to repair US relations with the global community, minimizing state-specific solutions and exclusions (such as the US-India nuclear cooperation agreement in the previous US administration) in favor of more uniformly multilateral approaches may help garner international support.

For these reasons, at the end of the process it is likely that the verifiable, complete, and irreversible disarmament of the Korean peninsula will need to comply with international standards. With the IAEA willing to play a larger role in the process, the question is one of timing and approach. While many see the current model safeguards agreement as insufficiently robust, moving to integrate the higher standard of the Additional Protocol will be more successful if it is seen as a universal measure, rather than as a North Korean-specific requirement. While North Korea has been reluctant to involve the IAEA—preferring to work only within the six-party process—it will only get harder and more burdensome to integrate the IAEA later on. Early involvement of the IAEA will be important, as it could benefit near-term negotiations, and it is necessary for establishing a credible baseline for future verification measures. As soon as the IAEA is engaged, they would need to start their verification and safeguard procedures from the beginning. However, US and North Korean mistrust of the IAEA has made it difficult to bring them in at an early stage.

Fortunately, this does not need to be an all-or-nothing proposition, and interesting analogues do exist. Rather than expect that North Korea will agree to a model Additional Protocol above and beyond the legal requirements of the IAEA at the start, it may be preferable to delink safeguards from the NPT entirely. India, Pakistan, and Israel have all accepted some level of international safeguards within the IAEA system, and North Korea should be no different. At the same time, care should be taken so that any transitional DPRK-specific safeguard agreement is of limited duration and scope, so that North Korea does not gain standing as a nuclear weapon state outside of the NPT system, on par with the three outliers.

The Agreed Framework, KEDO and LWR: Lessons Learned

The Korean Peninsula Energy Development Organization (KEDO) was established to implement two key components of the 1994 Agreed Framework: the provision of heavy fuel oil and the construction of light water reactors (LWRs)

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in order to provide North Korea with a significant, sustainable energy supply more proliferation-resistant than their existing reactors. KEDO was formally terminated in May 2006, after a substantial infrastructure had been built but before the construction of the LWRs had begun. Although KEDO did not complete its assigned task, it did provide a wealth of experience and information. Conference participants made several observations relevant to the structure of a future consortium and the challenges of working within the limitations of the DPRK's energy infrastructure.

Energy security for North Korea must be viewed from a broad perspective, for reasons political, technical, and practical, and must extend well beyond a discussion regarding a LWR. Due to its history, most of the six-party states would strongly prefer for North Korea to have a blended mix of energy sources beyond LWRs, but this will take a substantial level of assistance from outside sources. Because of the real limitations of North Korea's power grid and energy infrastructure, without significant attention to enlarging and upgrading its hardware, large-scale energy assistance of any kind cannot possibly be readily and fully utilized on a broad scale. Not only does the electrical power need to be upgraded, but DPRK coal mining operations and hydroelectric systems also need to be modernized. Although North Korea has been reluctant to engage on this issue, it is necessary to have it on the table if real energy development is to take place.

Nevertheless, nuclear power may need to be an element of North Korea's energy spectrum, due both to its practical need for more energy as well as domestic political forces that view nuclear as a gateway to technological and modern development. As such, the challenges remain: how to design a sufficiently proliferation-resistant nuclear program; how fuel will be handled, on both the front and back ends of the nuclear cycle; how to build a verification regime that meets the standards of international law as well as the concerns of the six-party states; and how to accomplish this without getting mired in the complications that plagued the Agreed Framework and KEDO.

During the life of KEDO, which nominally operated between 1995 and 2006—but in reality was only active for perhaps half that time—the timing of the fulfillment of obligations on both sides was a source of ongoing tension and mistrust.¹ This became a self-perpetuating cycle of dissatisfaction among the parties; the longer the overall situation dragged out, the less likely the realization of the plan became.

Beginning a LWR program is challenging within any developing state, given the arrays of bureaucratic hurdles that must be overcome. The political

¹ Not only were heavy fuel oil (HFO) shipments often delayed, but the agreement itself contained two areas of ambiguity that allowed for differences of interpretation on both sides: "Dismantlement of the DPRK's graphite-moderated reactors and related facilities will be completed when the LWR project is completed" and "When a significant portion of the LWR project is completed, but before delivery of key nuclear components, the DPRK will come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), including taking all steps that may be deemed necessary by the IAEA, following consultations with the Agency with regard to verifying the accuracy and completeness of the DPRK's initial report on all nuclear material in the DPRK."

environment in North Korea and the ongoing discussions over the dismantlement of its nuclear weapons program created additional hurdles. If an LWR will be part of a future agreement, appropriate timeframes for construction must be set and agreed upon in advance, in keeping with international norms, with corresponding implementing plans to insulate the construction from unnecessary delays.

One suggestion for easing the difficulties that led to delays under KEDO is to give the contract for LWR implementation and operation to South Korea at the outset, and then transfer it to North Korea over a period of years. As opposed to the turnkey approach that would hand over operations to North Korea immediately, this “Build-Operate-Transfer” (BOT) approach would create a transitional period during which North Korean skills and best practices could be developed and confidence would be built among the other participants in the six-party process.

Although KEDO eventually had thirteen members, the founding members—the United States, South Korea, and Japan—played the most prominent roles. The United States took the most visible leadership position, and Korea and Japan provided the most funding. The current process has the potential to add China and Russia, which could be critical both for confidence building and funding. KEDO was stymied by the difficulties in raising capital for the LWR project—something that the broader six-party process might more readily address. Involving Russia opens the possibility of building a Russian reactor (based on a Russian-DPRK agreement from the 1990s) with the potential for less expensive interconnection of power grids.

One of the most positive outcomes of the KEDO experience was increased communication among engineers from opposite sides, who previously had little or no opportunity to interact with their international colleagues. This allowed North Korea to play a positive role and to show respect and responsibility, while also building connections that might prove useful for all sides in the future. One lesson that came out of the KEDO experience is that communication at every level, from the political through to the engineers, needs to be improved to insure the success of an LWR project.

Nuclear energy issues have not been stagnant in the larger international frame in the five years that KEDO has been dormant, never mind the 15 years since the Agreed Framework first considered a LWR solution for the North Korean situation. Over the past several years, significant effort has been put into reconsidering a resurgence of nuclear power at a global level, both to satisfy the desire for more electrical power generation for development and as a carbon-neutral source of energy, and also to address the proliferation concerns at a larger, more universal scale than simply a one-state solution. A number of proposals have been developed for the multilateralization of the nuclear fuel cycle, and new reactor designs promise to be inherently less proliferation-prone. Rather than carve out a special solution to the North Korean problem, an approach that views a North Korean nuclear solution as the “gold standard” of a

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new international norm could be advantageous both for North Korea as well as the global environment.

LWRs are among the thorniest of issues within the six-party process. Easing into the issue, building on the positive examples of technical communications and relationship building, could be achieved through approaching nuclear research from a broader scope. Joint nuclear activities of the kind the IAEA is accomplished in directing—medical radio-isotopes, nuclear uses in agriculture, small-scale research applications—could build practical knowledge and assist development across a range of civilian activities, integrating nuclear on a gradually building basis. As part of this confidence-building measure, such a shift in emphasis would also serve to redirect North Korean scientists from nuclear experts to other, less proliferation-prone work. While not a substitute for a LWR, such efforts would aid transparency inside North Korea, help build a safety and security culture among the technical fields, and help North Korean people.

The international community can accept the verification protocols that the North Koreans initially offer as long as, eventually, monitoring and verification is extended throughout the nuclear fuel cycle, including the indigenous uranium mines.

Verification

As with many aspects of the North Korean nuclear program, verification need not be seen as an all or nothing proposition. A more nuanced approach may pick up opportunities as they are found and use them to build toward the final outcome. As one example, the six-party process could take the pieces that North Korea offers first—for instance, allowing multinational groups of technicians and inspectors to go to Yongbyon to oversee the disablement of the reactor and its thorough (and irreversible) dismantlement. Building on this to create some permanent capacity, such as a standing working group structure to deal with technical issues, would ensure that knowledge is not lost with personnel rotation or policy shifts. Requests for regular access to, and monitoring of, North Korea's uranium mines would put the issue on the table, making it clear to North Korea that if the international community is to verify the complete program, it must look at all facilities (assuming there must be more than one). If North Koreans protest, this topic could be used as an inroad to discussion. The international community can accept the verification protocols that the North Koreans initially offer as long as, eventually, monitoring and verification is extended throughout the nuclear fuel cycle, including the indigenous uranium mines.

While to date much of the disablement monitoring and technical verification have been bilaterally arranged between North Korea and the United States, politically the participation and blessing of the six-party states are likely to lead to greater satisfaction and durability overall. As well, a six-party approach to verification could be useful in getting beyond the skepticism and mistrust among many parties, although the IAEA needs to be involved at all levels, both for the political imprimatur that their participation confers, as well as for the technical expertise and best practices it can lend to the process. The six-party process, therefore, can play an organizational/technical role in the verification process, as well as a confidence-building role.

Conclusion

As the six parties in the negotiations continue their efforts to achieve a nuclear-weapon-free Korea, they will need to balance the temptation to take advantage of near-term opportunities with potential long-term implications. An incremental approach fraught with compromise might be the only available avenue, but it should not come at the expense of real trust building or future confidence that the Korean peninsula is, indeed, nuclear weapon free. They must also work harder to reconcile competing priorities and objectives in the talks, and this might be easier in a less formal (but still multilateral) negotiating format, that involves less pomp (and media attention) than does the current six-party process.

North Korean Reentry into the NPT: A Path Forward

North Korea's withdrawal from the NPT in 2003 has created a host of challenges for regional security and stability. Given that North Korea was the first state to withdraw from the NPT, it has also raised questions about the viability of the Non-Proliferation Treaty itself. Moreover, if North Korea seeks to reenter the treaty, can it do so without creating a different, but no less problematic set of stress points that might threaten to destroy the nonproliferation regime?

If, for example, a denuclearization agreement provides North Korea with either unique benefits or certain carve-outs in order to get it to rejoin the regime (as a "nonnuclear" state), it creates a moral hazard for other states who might seek to follow North Korea's path and develop nuclear weapons programs with the goal of a substantial payoff down the line. On the other hand, protecting the NPT by holding North Korea to the strictest standards to meet its full obligations might have the unintended consequence of limiting the ability of a diplomatic effort from achieving success. And, paradoxically, insisting to strict adherence and keeping North Korea out may be even worse for the regime because an unpenalized and nuclear-capable North Korea sends out a dangerous signal to other nuclear aspirants.

Indeed, if North Korea were to acquire a de facto nuclear weapons status similar to India or Pakistan, the implications for a regional arms race in which Japan, South Korea, and Taiwan pursue nuclear weapons are severe. Such risks are compounded by questions about whether the NPT could withstand such defections, which would likely also create additional defections in other parts of the globe.

In this context, there are a series of strategic, diplomatic, and technical issues that need to be addressed in exploring how and whether North Korea can be induced into rejoining the NPT.

First and foremost, of course, is the strategic choice that North Korea must make about whether to seek to retain its nuclear programs or to seek genuine denuclearization of the peninsula. When North Korea with-

It is hard to imagine a workable scenario in which North Korea is able to keep its nuclear programs intact while seeking reengagement with the NPT on its own terms....

drew from the NPT in 2003, the immediate decision followed on from North Korea's decade-long effort to avoid meeting the IAEA's demand for a special inspection, under North Korea's safeguard agreement, to reconcile inconsistencies in its declaration of nuclear materials to the IAEA.

It is hard to know if North Korea was ever, in fact, in full compliance with the NPT following its accession to the treaty in 1985. In 1992, for example, when the IAEA's inspections suggested that North Koreans were hiding nuclear material, North Korea announced its withdrawal from the NPT—a course of action only averted, at that time, following a US-led diplomatic effort which resulted in North Korea “suspending” its withdrawal just before it went into effect. This led skeptics to conclude that North Korea's actions were a *de facto* admission of culpability.

It is hard to imagine a workable scenario in which North Korea is able to keep its nuclear programs intact while seeking reengagement with the NPT on its own terms (and with the international community more broadly). And insofar as North Korea may never intend to relinquish its nuclear weapons programs, the international community will, among other things, need to give up on efforts to seek to reintegrate North Korea into the NPT and instead focus energies on managing a potentially destabilizing regional dynamic as well as the broader global implications for the future of the NPT itself. Such a situation—in which the United Nations Security Council would be hard pressed to choose between maintaining the NPT and some effective punitive action—would test the diplomatic skill and political restraint of all parties involved.

If, on the other hand, North Korea's goal in withdrawing from the NPT in 2003 was, as some noted at the time, a tactical move designed to put North Korea in the position to receive security, economic, and diplomatic objectives through negotiation, then there are no inherent obstacles to North Korea's rejoining the NPT (as a nonnuclear member) but rather just questions of sequencing, working through technical issues and, of course, the price of the deal. This is not to discount what would be both a conceptual and diplomatic challenge, but rather simply to suggest that a comprehensive peace settlement on the Korean peninsula, including the fulfillment of earlier pledges for denuclearization, mesh with the goal of North Korea reentering the NPT.

In the final analysis it is likely unknowable—at least until the diplomatic process actually reaches a point of absolute clarity—what North Korea's intentions are regarding its nuclear weapons programs, whether they will give them up, and at what price. Succession issues within North Korea further complicate matters. Regardless of this broader reality, however, many of the issues that it would be necessary to address in seeking to reintegrate North Korea into the NPT as a nonnuclear state align closely with issues that the six-party process (or whatever its follow-on diplomatic process might be) will need to address. To date, the existing process has proved better than the alternative of no process at all, but that does not mean that the current arrangement is inviolate.

First, successful progress in the six-party talks—and progress toward reentry in the NPT—hinge on verification, including a full disclosure and verification of all fissile material, including its plutonium separation facilities and any uranium-based efforts, as well as the readmission of long-term staff of IAEA inspectors expelled in 2002 to supplement the more limited team currently at Yongbyon. This is likely to require North Korea to return to a safeguards agreement with the IAEA at least on par with the current model agreement for nonnuclear weapon states.

When North Korea left the NPT, it stated that it had “no intention to produce nuclear weapons” and that it would confine its activities to “peaceful purposes.” Subsequent events proved that stated intention unreliable. Nonetheless, ongoing diplomatic efforts and reentry in the NPT would require North Korea both to disclose and to verify nuclear weapons programs, and in fact confine any future activities to “peaceful purposes” under safeguards. After all, Article III of the NPT requires each nonnuclear weapon state to accept safeguards in an agreement with the IAEA, in order to verify its compliance with its obligation under Article II to refrain from manufacturing or acquiring nuclear explosives. While the six-party talks (or some other diplomatic process) could create a separate verification protocol and inspection mechanism, any solution must still ensure that the IAEA is provided the authority to verify the “correctness and completeness” of North Korea’s declarations and the dismantlement of any nuclear weapons programs.

This leads to a third issue: how to sequence reentry into the NPT with the six-party process and a potential peace regime on the Korean peninsula. While the verification endpoint sketched out above may be necessary for all three processes, it is also easy to develop pathways that allow for progress in the diplomatic process—and even for achieving a peace regime—before reaching the point at which North Korea would need to reenter a safeguards accord with the IAEA. (Although it is important to note that just because it is easy to envision such possibilities does not make them advisable or recommended.) Establishing timing and sequencing acceptable to all parties will require a fair degree of finesse. Likely, for example, North Korea would not want to do so until it reached the final stages—or even the final stage itself—of any roadmap, whereas for the United States, Japan, and South Korea, in particular, there would be a strong desire to see action up front, or at least midway through a mutually reinforcing action-for-action process with sufficient built-in assurances that things are moving in the right direction.

A fourth and related issue relates to the provision to North Korea of any LWRs as part of a comprehensive deal or grand bargain, recreating the contours of the Agreed Framework. As with the Agreed Framework, any program to provide North Korea with LWRs can only progress for a finite amount of time—a few years at most—before it requires that “sensitive components” be provided to North Korea. Those components cannot be provided, however, until and unless North Korea has reentered civilian safeguards agreements. In the final analysis, North Korea cannot have LWRs if it remains outside a safeguards accord with the IAEA. If they choose the

While the six-party talks...could create a separate verification protocol and inspection mechanism, any solution must still ensure that the IAEA is provided the authority to verify the “correctness and completeness” of North Korea’s declarations and the dismantlement of any nuclear weapons programs.

LWRs (and other elements of any comprehensive agreement) over their nuclear weapons programs, there is a clear choice that North Korea will have to make in terms of the timing of any roadmap and its sequencing.

Under the 1994 Agreed Framework, North Korea's 5-megawatt reactor, as well as its fuel reprocessing plant and associated facilities at Yongbyon, was shut down, and construction on the 50-megawatt and 200-megawatt reactors was halted. The IAEA monitored the shutdown but was not permitted to conduct a complete investigation of North Korea's nuclear program until two 1,000-megawatt LWRs were completed. A similar structure is conceivable again, although the subsequent erosion of trust on all sides will make this difficult.

If North Korea's nuclear ambitions trigger a cascade of nuclear proliferation...the resulting stresses on the NPT might well be too much for the treaty to withstand.

Finally, in addressing all of the above, there will be a need to clarify the status of North Korea's NPT membership—and hence its NPT safeguards agreement—which, despite North Korea's withdrawal from the treaty, reprocessing, testing and so forth still remains unclear, as it has still not been clarified to the IAEA by either NPT states, the NPT depositary states, or the UN Security Council.

Beyond these technical and diplomatic issues, there are two additional elements that, while not directly related to North Korea's possible reentry into the NPT, can provide larger political and diplomatic context necessary for progress: first, the willingness of the United States to provide negative security assurances to North Korea and second, the implications of US nuclear posture and approach to arms control and the development of new nuclear weapons. US action in these areas may be critical in helping shape the environment in which North Korea will make its choices regarding whether to relinquish its nuclear weapons programs and consider reentry to the NPT. At the same time, this must be done in a way that does not undermine America's alliance commitments to South Korea and Japan. If the allies believe that these steps on security assurances and arms control can contribute positively to the security situation on the peninsula, then they are likely to be supportive, but there is enough subjectivity in such assessments to warrant close allied consultations.

Although success in bringing North Korea back into the NPT may seem like a long shot, nonetheless it is difficult to overstate the importance of the issue. If North Korea's nuclear ambitions trigger a cascade of nuclear proliferation in East Asia; if it fuels proliferation elsewhere in the globe; or if its noncompliance with the NPT prior to its withdrawal—and its current status “outside the law”—continue unabated, the resulting stresses on the NPT might well be too much for the treaty to withstand.

Additional Options for the United States?

Yet for all the difficulties on all sides, the current situation is what it is and the best course may be to build on the foundation built by the Bush administration over the past two years. One conference participant laid out the following potential approach:

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1. Pursue the nuclear track/denuclearization midway between the current US piecemeal approach, which has stalled, and a grand bargain that would address all issues, since this is currently untenable. Identify the intermediate steps that would be most constructive. Elements of this approach could include taking spent fuel from North Korea, on-site reprocessing to blend down the weapons-grade stocks within the borders of North Korea, extracting the remaining spent-fuel plutonium, and further disabling facilities. The political downsides of this approach need to be weighed against the hard fact that it would result in 7-8 kilograms (approximately 16.5 pounds) of plutonium being irrevocably removed from North Korea.
 2. Stop talking about past declarations and engage in a nonproliferation dialogue. There is an urgent need for a broader nonproliferation conversation, which could include tangible concrete steps, such as breaking the concerning ties between North Korea and Iran and Syria, particularly as fears have been raised that North Korea may wish to "outsource" its nuclear enrichment activities to willing international partners.
 3. Start the peace process on the Korean peninsula. While the nuclear issue needs to remain front and center for the United States, it is also necessary to send a clear political signal that a larger peace process, including a normalization future, is on the table for the United States.

Other approaches may need to be integrated into this basic model. For instance, the six-party process evolved from a time when the United States would not meet bilaterally with North Korea, but this has changed over time. Pairing a bilateral approach with the existing multilateral approach may prove effective. Beyond the manner and frequency of discussions, there is also a need to broaden the scope—possibly including military-to-military contacts between United States and North Korea, if the North is willing to improve its relationship with South Korea.

In the end, strengthening regional and nonproliferation and disarmament efforts requires patience, perseverance, and a fair amount of flexibility and creativity. The underlying objectives, however, should not be compromised, even if they take a long time to achieve. Toward this end, frequent communication and policy coordination amongst the regional and global players will be required, and multilateral dialogues such as this one should continue.

This report is based in part on views and perspectives drawn from a daylong off-the-record workshop held in Beijing, China, in October 2008, thanks to the generous participation and support of the Stanley Foundation (TSF), the National Committee on North Korea (NCNK), the International Foreign Policy Association (IFPA), the China Arms Control and Disarmament Association (CACDA), and the Carnegie Corporation of New York. The author, Matthew Martin, would like to thank the workshop participants and in particular, Karin Lee (NCNK), Michael Schiffer (TSF), and James Schoff (IFPA) for their assistance in preparing this report. Special thanks are due to Secretary General Li Genxin and his colleagues at CACDA who helped make this international workshop possible. Workshop participants neither reviewed nor approved this report. Therefore, it should not be assumed that every participant subscribes to all of its recommendations, observations, and conclusions.

Discussion Agenda

Session 1:

Regional Nonproliferation Review, National Concerns and Interests

This short session sets the stage for the workshop by providing an overview of the existing nonproliferation legal structure and political considerations, with an emphasis on how they pertain to the Korean peninsula and the six-party countries.

Presentation One:

Recent nonproliferation and disarmament developments pertinent to East Asia and possible near-term trends (incorporating results from a TSF/Fudan University conference held in Shanghai on this subject).

Presentation Two:

Six-party perceptions and strategic considerations regarding the potential for expanded use of nuclear energy in the region, as well as nuclear weapons development (incorporating results from TSF/Fudan University conference).

Key Questions:

- Can we identify (in general terms) the most important topics to be discussed for the day, in terms of broad nonproliferation concerns, priorities, vulnerabilities, and opportunities for collective action as they might relate to the six-party talks?
- What can we learn from the Shanghai meeting as it applies to Northeast Asia and the six-party countries?
- How do we assess the tension that exists between the oft-stated goal of an “international standard” or “norm” regarding nonproliferation and the frequent reality of establishing standards and practices that differ region-by-region, situation-by-situation?

Session 2:

Six-party Status Report and Implications for the Future

This is also a short session; in it we make use of the knowledge in the room to assess where we are (and where we might be going) in the six-party talks (6PT). It is an opportunity for participants to experience the different national and disciplinary perspectives of accomplishments and remaining obstacles.

Presentation:

A view from China (as 6PT chair and chair of the denuclearization working group).

Discussion:

Moderated discussion among the participants to consider different perspec-

tives of the 6PT, so that we might gain both a rich and realistic understanding (at least in broad terms) of a variety of interconnected six-party issues (e.g., technical, legal/governance, and political).

Key Questions:

- How are the six-party countries approaching key issues such as verification, the transfer of fissile material, the appropriate role for the IAEA and other international bodies, safety, and financing of denuclearization efforts?
- What lessons have been learned with regard to the adequacy of the denuclearization working group (and/or the 6PT overall) to manage relevant protocols and procedures associated with denuclearization?
- What are the prospects for the six-party environment in the next few years and likely timing for discussions regarding possible light-water reactor development in North Korea? How important is development of a Korean peace regime to overall progress?

Session 3:

**Possible Regional Structures and Responses
from a Nonproliferation Perspective**

Building on the first two sessions, this discussion focuses on how to place the six-party denuclearization effort within the broader context of regional and global nonproliferation and disarmament efforts. We seek to understand how near-term choices within the 6PT regarding verification, fuel reprocessing, waste management, and other issues impact the longer term.

Presentation One:

How much flexibility for the North Korean case? An examination of the relative pluses and minuses (practicality/feasibility) for immediately applying international standards to denuclearization (such as they are) versus a more Korean-specific and/or phased-in approach.

Presentation Two:

A view of the IAEA/UN system.

Key Questions:

- What interim international and regional nuclear nonproliferation framework or frameworks (political, legal, regulatory) might best sustain stability in East Asia and provide a means by which North Korea eventually denuclearizes and rejoins the NPT (e.g. IAEA Plus, Six Parties, Six Parties Plus)?
- What are the costs/benefits of a regional inspection regime, with or without partnering with the IAEA (possibly focused on issues of transparency, accident prevention, and nonproliferation)?
- What role is there for security assurances, doctrine, and preventive arms control as confidence-building measures in the region, and can they positively affect the Korean case?

Session 4:

Views of Nuclear Energy Development on the Korean Peninsula. How Closely Linked Can/Should Nuclear Energy Development and Management be Between North and South?

Exploring the potential for developing a Northeast Asian (or broader Asian) regulatory mechanism related to nuclear fuel, reprocessing, and waste disposal. Nuclear energy capacity in the region is likely to grow substantially in the next few decades, and embedding North Korea within a broader regional regulatory regime for nuclear energy might be much more productive than trying to single out North Korea for special supervision.

Presentation:

Views of nuclear energy development on the Korean peninsula. How closely linked can/should nuclear energy development and management be between North and South?

Key Questions:

- What are the key parameters regarding nuclear energy development in North Korea (e.g., timing, location, scale, and content)?
- What lessons can we draw from past efforts on the peninsula (e.g., North-South Joint Nuclear Control Commission (JNCC), Korean Peninsula Energy Development Organization (KEDO), etc.)? What is the right balance in terms of managing development, safety, and related issues from a peninsula-centered approach versus a regional or 6PT-centered approach?
- Can a regionally coordinated effort that addresses a possible peaceful nuclear energy program for North Korea also be a catalyst for enhanced regional cooperation on such issues? Could the European Atomic Energy Committee (EURATOM) or its equivalent be applied to the region, and if so, how?

Session 5:

Workshop Discussion Wrap-up and Possible Next Steps

Recognizing that we have covered a lot of diverse ground in a short period of time, can we now look back at the first session and examine if we are closer to general agreement on the most important priorities and potential opportunities regarding the intersection of the 6PT and the global/regional nonproliferation regime? How might we best address these priorities and attempt to take advantage of these opportunities?

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About the Organizers

The Stanley Foundation

The Stanley Foundation seeks a secure peace with freedom and justice, built on world citizenship and effective global governance. It brings fresh voices, original ideas, and lasting solutions to debates on global and regional problems. The foundation is a nonpartisan, private operating foundation, located in Muscatine, Iowa, that focuses on peace and security issues and advocates principled multilateralism. The foundation frequently collaborates with other organizations. It does not make grants. Online at www.stanleyfoundation.org.

National Committee on North Korea

National Committee on North Korea (NCNK) is a nonpartisan coalition of American individuals with extensive and complementary knowledge of and direct experience related to the society, economy, government, and history of the Democratic People's Republic of Korea. NCNK advances, promotes, and facilitates engagement between citizens of the United States and the DPRK. It works to reduce tensions and promote peace on the Korean peninsula and improve the well being of the citizens of the DPRK. NCNK supports transitions enabling the DPRK to become a full participant in the community of nations.

China Arms Control and Disarmament Association

China Arms Control and Disarmament Association (CACDA), founded August 2001 in Beijing, is a nation-wide non-profitable, nongovernmental organization in China in the area of arms control, disarmament, and nonproliferation. Its aim is to organize and coordinate academic research and nongovernmental academic activities regarding arms control, disarmament, and nonproliferation so as to help promote the international arms control and disarmament process to safeguard world peace.

The Institute for Foreign Policy Analysis

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