

JOINT U.S.-KOREA ACADEMIC STUDIES

Towards Sustainable  
Economic & Security  
Relations in East Asia:

# U.S. AND ROK POLICY OPTIONS



# CONTENTS

<b>Preface</b> . . . . .	vii
<b>U.S.-ROK Security Relations</b>	
Strategic Abandonment: Alliance Relations in Northeast Asia in the Post-Iraq Era <i>Daniel Sneider</i> . . . . .	1
Korea's Domestic Base for Alliance with the United States <i>Lee Sook-Jong</i> . . . . .	23
<b>U.S.-ROK Economic Relations</b>	
Issues in U.S.-ROK Economic Relations <i>Kozo Kiyota and Robert Stern</i> . . . . .	41
Cultural Integration Between the United States and Korea: Looking Beyond the Free Trade Agreement <i>Mo Jongryn</i> . . . . .	75
<b>Can a Deal Be Done? The DPRK Nuclear Question Revisited</b>	
Lessons from the North Korean Nuclear Issue <i>Gregory F. Treverton</i> . . . . .	89
"Peace in Our Time" at What Cost? Possible Financial and Legal Implications of Denuclearizing North Korea <i>Scott Rembrandt</i> . . . . .	115
A Real Deal or a Political Masquerade? The North Korean Nuclear Question Revisited <i>Lee Jung-hoon</i> . . . . .	137
<b>East Asia's Economic and Security Regionalism: Old Constraints and New Prospects</b>	
Turning the Six-Party Talks into a Multilateral Security Framework for Northeast Asia <i>Gilbert Rozman</i> . . . . .	149
Economic and Security Institution Building in Northeast Asia <i>Vinod K. Aggarwal and Min Gyo Koo</i> . . . . .	167
<b>Korean Soft Power: Transnational Cultural Flows, Korean Film, and Diplomacy in East Asia</b>	
"Guests" of the Dear Leader: Shin Sang-ok, Choi Eun-hee, and North Korea's Cultural Crisis <i>Kim Suk-young</i> . . . . .	195
Remember Me, Remember Us, Remember Korea: <i>Hallyu</i> , Flashbacks, and the Transformation of South Korea Into an Unforgettable Nation <i>Aaron Han Joon Magnan-Park</i> . . . . .	209

# **A REAL DEAL OR A POLITICAL MASQUERADE? THE NORTH KOREAN NUCLEAR QUESTION REVISITED**

*Lee Jung-hoon* \*

## **CONTENTS**

- I. Introduction
- II. The 2.13 Agreement in Perspective
- III. Recasting Historical Lessons
- IV. North Korean Nuclear Capacity beyond Yongbyon
- V. Conclusion: The Fallacies of the Engagement Policy

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## I. Introduction

In less than a year, the fate of the six-party talks has swung around from the lowest ebb when North Korea conducted its nuclear test to the current high point where the disabling process is much anticipated to materialize. When the nuclear devices were tested on 9 October 2006, the six-party process was pronounced dead by many experts. Few expected a major turnaround anytime soon. This is why the recent developments in the nuclear talks are raising eyebrows, if not open questions, about the intentions of the respective governments. Can the negotiators from Pyongyang and Washington prove the doubters wrong? What has led to such a turnaround? Can North Korea be trusted to reveal anytime soon its entire nuclear program? If so, does it mean that Kim Jong-il no longer considers the nuclear program critical to his regime's survival? If, however, North Korea is not to be trusted, what must be done to hold North Korea accountable? Beyond shutting down the tangible Yongbyon facilities, how will the intangible nuclear facilities, materials, and devices be dealt with? What leverage does the international community have on North Korea to make sure, for once, that it stays the course?

Amid much optimism about the prospect for a final nuclear resolution, the above questions beg careful scrutiny in order to ensure a genuine denuclearization process on the Korean peninsula. If the handling of the Banco Delta Asia (BDA) issue by the U.S. government is any indication of things to come in the 2.13 process, we may be in for a less than satisfactory dismantlement. A deal focused on a successful peace initiative rather than on a stricter, and certainly more difficult, dismantlement will lead to a paradoxical result: the Bush administration's claim of a negotiation success and a dismantlement triumph could very well come at the risk of strengthening the Kim Jong-il regime, whose well-hidden nuclear program would no longer be subjected to international scrutiny. If political symbolism is the objective of the six-party talks, then such a result may be acceptable to some. But if the primary objective remains dismantlement, much needs to be done to realign the negotiations to meet the original objective—complete verifiable and irreversible dismantlement.

## II. The 2.13 Agreement in Perspective

The chief negotiators for the six-party talks are guided by what is generally referred to as the 2.13 agreement, an agreement reached at the third session of the fifth round of the six-party talks held in Beijing from 8 to 13 February 2007 where the parties agreed to take coordinated steps to implement the Joint Statement of 19 September 2005. In a series of actions to be taken concurrently, North Korea was to shut down and seal the Yongbyon nuclear facilities, including the reprocessing facility, as well as provide a list of all its nuclear programs. North Korea, in turn, would receive economic,

energy, and humanitarian assistance, beginning with an emergency energy assistance equivalent to 50,000 tons of heavy fuel oil. The U.S. government would also commence bilateral talks with the Pyongyang regime to remove the designation of North Korea as a state sponsoring terrorism as well as terminate the application to North Korea of the Trading with the Enemy Act. Although North Korea failed to meet the 60-day deadline in complying with the action plans, Washington demonstrated uncanny patience and flexibility to keep North Korea in the game, even at the expense of bending rules and principles, as was the case with the BDA resolution.

The BDA resolution needs a brief mention here because it exemplifies the extent to which the Bush administration is willing to compromise its principles—if not the law—to clear the way for the implementation of the 2.13 agreement. In 2003, the Bush administration established the Illicit Activities Initiative to target revenue from North Korea's illegal trade in narcotics, counterfeiting, and money laundering. North Korea was accused of printing and circulating counterfeit \$100 "super notes." Then, in September 2005, the U.S. Department of the Treasury designated BDA, a Macau-based bank, as a "primary money laundering concern."<sup>1</sup> BDA was charged with assisting North Korean companies in laundering money obtained from counterfeiting and drug smuggling. Thus, Section 311 of the USA PATRIOT Act effectively banned all U.S. banks from dealing with BDA. The result was the freezing of 50 North Korean accounts worth \$24 million.

The more devastating blow to North Korea was the loss of its principal conduit for most of its international financial transactions. Foreign financial institutions shunned dealing with North Korea in fear of being implicated in North Korea's illegal activities. In short, U.S. financial sanctions were working effectively. North Korean arrangements for imports could be transacted only in cash (Lague and Greenlees 2007). To loosen the U.S. financial squeeze, Pyongyang called for the lifting of the financial sanctions as a prerequisite for its rejoining the six-party talks.

The U.S. actions combined with United Nations Resolution 1718, adopted on 14 October 2006 and condemning the nuclear test by North Korea and calling for various sanctions in accordance with Chapter 7 of the UN Charter—although Article 41 on automatic military enforcement was barred—doubtless placed Pyongyang under the most significant international pressure to date. Indeed, North Korea's nuclear test had the effect of galvanizing the UN Security Council's resolve to deal resolutely with the Pyongyang regime. With assets frozen, trade blocked, and financial transactions stymied, the Kim Jong-il regime was in a state of desperation.

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1. For the official announcement of the U.S. Department of Treasury designating BDA as money laundering concern, see Treasury (2005).

This is where the 2.13 agreement came in. The agreement swiftly baffled international efforts hitherto mounted effectively against Pyongyang's nuclear proliferation and transnational criminal activities. Like a fairy tale's knight in shining armor, the agreement had the effect of rescuing Pyongyang from mounting international pressure, first and foremost by releasing North Korea's illicit money held in BDA. The agreement also took the steam out of UN Resolution 1718. The Proliferation Security Initiative was also negatively affected. In short, the 2.13 agreement allowed Pyongyang room to maneuver just as its back was up against the wall.

Trusting North Korean negotiators' verbal commitment to proliferate no more, U.S. negotiators decided to turn blind eye to Pyongyang's involvement in transnational crime. Arguably this was a necessary evil if the six-party talks were to be kept alive. Can the pursuit of the larger goal of safeguarding the nonproliferation regime legitimize the compromise on the BDA issue, which, for all intents and purposes, was a legal matter, not a political one? What if achieving the larger goal in itself is not realistic? If so, what would have been the point of letting Pyongyang off the financial hook? It would have been interesting to see how North Korea might have reacted had Washington focused more on implementing the UN resolution while it remained resolute on the BDA issue. Contrary to the engagement advocates' long-held argument that too much pressure would lead to a war, Pyongyang probably would have resorted to a more genuine dismantlement process, albeit following its usual dose of brinkmanship. The 2.13 agreement may very well have led to the squandering of the best opportunity for dismantlement in North Korea. Such an opportunity may be hard to revive irrespective of the ongoing talks on disabling the North's nuclear facilities.

The verdict is still out on the sudden U.S. policy turnabout. But given North Korea's track record of broken promises, odds are against those dependent on the whims of Kim Jong-il, the "Dear Leader." Quantitative factors also don't bode well for the optimists. There's little doubt that North Korea's nuclear program is now substantial. Even in the most conservative estimates, North Korea is thought to possess a large quantity of weapons-grade plutonium as well as a number of nuclear warheads, however crude they may be. The simple logic is that the larger and more diverse the program, the more difficult it would be to dismantle it.

Pyongyang, meanwhile, having weathered the post-nuclear test backlash, can now sit back and reap economic and political benefits from Washington and Seoul. All it has to do, as it is doing now, is to disable temporarily the Yongbyon facilities. This concession is an easy giveaway as the facilities had been barely operational anyway.

On providing a list of nuclear programs, Pyongyang is expected to deny the existence of nuclear weapons, weapons-grade plutonium, as well as a full-fledged highly enriched uranium (HEU) program. Any admission would probably represent a fraction of what's

really going on in North Korea. Pyongyang, in other words, is expected to lie. In the end, Yongbyon may be shut down again but not before Pyongyang achieves its primary objective of removing financial sanctions without having to compromise its entire nuclear programs. It is indeed ironic that the Bush administration, having been so critical of the Clinton administration's Geneva deal with North Korea, is now on the verge of completing a deal that would leave the situation a lot worse than was the case in 1994. In 1994 the Clinton administration agreed to a freeze with a North Korea that was not yet a nuclear power. In 2007, basically a same freeze was agreed to, this time with a North Korea that is now most likely to be a nuclear state with both plutonium- and uranium-based nuclear weapons programs.

### **III. Recasting Historical Lessons**

The U.S. negotiators led by Christopher R. Hill, assistant secretary of state for East Asian and Pacific affairs, insist that the current deal is genuinely different from the previous one. Moreover, they claim that the current negotiations would in the end somehow bring about North Korea's denuclearization. As such, Washington is sold on the negotiators' suggestion that Pyongyang, for the right price, could be persuaded to agree to a genuine dismantlement commitment. Time will tell how committed North Koreans are. For now, however, examining the current developments in a historical context may provide the best assessment of how things may unfold.

Since the late 1980s, the primary source of tension on the Korean peninsula has evolved from a conventional threat to a nuclear threat. Although the history of the North Korean nuclear weapons program is long—five decades—it did not become a major threat until Pyongyang refused to accept a mandatory special inspection by the International Atomic Energy Agency (IAEA) of two suspect nuclear sites in Yongbyon. When Pyongyang announced on 12 March 1993 that it was withdrawing from the Nuclear Non-Proliferation Treaty (NPT), the North Korean withdrawal instantly became one of the most serious global threats. William Perry (2002) recollected, "During my tenure as Secretary of Defense, this was the only time that I believed that the U.S. was in serious danger of a major war." Frantic negotiations ensued to keep North Korea in the NPT and, thereby, the strategic balance intact.

Tensions rose to new heights when North Korea pulled the reactor rods from the research reactor and threatened to turn South Korea into a "sea of fire." OPLAN (Operation Plan) 5027—a U.S. military plan to defeat North Korea in a conflict—was fast becoming a reality as President Bill Clinton seriously contemplated a preemptive military action. The U.S. military prepared detailed plans for attacking the Yongbyon facilities with precision-guided munitions. Notwithstanding former president Jimmy Carter's tête-à-tête with Kim Il-sung in June 1994, it was the fear of such a U.S. military strike that would finally bring Pyongyang to the negotiation table, ultimately

leading to the so-called Geneva Agreed Framework on 21 October 1994. For agreeing to freeze its suspected bomb-making capability, North Korea was promised, among other things, two light-water reactors (LWRs), 500,000 metric tons of heavy fuel oil every year, a delay in the shipment of the 8,000 spent fuel rods, and full normalization of political and economic relations with the United States.

The Geneva arrangement was indeed a handsome payoff for Kim Jong-il, who took over the leadership following his father's sudden death in July 1994. North Korea even managed to get the annual U.S.–South Korea Team Spirit military exercise canceled. The morale of the story for Pyongyang was that brinkmanship paid off, especially when it involved a nuclear threat.

This important lesson for Pyongyang would be reconfirmed in 1998. North Korea was suspected of carrying on a secret nuclear weapons program in a large underground facility at Kumchangri. The site was suspected of housing a plutonium-producing graphite-moderated reactor as well as a reprocessing plant. With no mechanism to enforce the Agreed Framework, the nuclear freeze appeared fragile at best. Again, frantic negotiations followed, ultimately leading to the inspections of the Kumchangri site, first in May 1999 and again in May 2000. In return for the inspections, *Munhwa Ilbo* on 17 March 1999 reported that North Korea was promised a significant amount of food aid and an easing of economic sanctions.

The inspections found no evidence of suspected construction, suggesting a North Korean hoax to exact concessions from the United States. The predicament now for the world was that Pyongyang, like a good poker player, could bluff its hand either way. It could put on a poker face in hiding its weapons program or it could lead others to think it had something à la Kumchangri. Flipping back and forth, Pyongyang could dictate the flow of the game. But for this pattern to continue to work, Pyongyang needed to maintain a degree of nuclear credibility. Nuclear brinkmanship, after all, requires a credible threat to keep the enemies in tow.

Against this backdrop, Pyongyang revealed its uranium-based nuclear weapons program, thereby setting off the latest nuclear crisis. The North Korean admission surprised many, given the steps taken in 2002 toward inter-Korean as well as Japan–North Korea rapprochement. But when looked at in the larger context of Pyongyang's efforts to sustain nuclear credibility, the admission is not all that surprising. The only query is why Pyongyang opted to raise the stakes when it did in October 2002.

Obviously Pyongyang did not feel right about something at the time, something that it wanted to change in a drastic way. One possible such condition was the delay in the construction of two LWRs that were to generate approximately 2,000 megawatts of energy. The target date for the construction of the first one was 2003. This target



date was not about to be met. Notwithstanding North Korea's responsibility for causing the delay, Pyongyang's HEU admission could very well have been a message to the U.S.-led Korean Peninsula Energy Development Organization that broken promises would be penalized severely.<sup>2</sup>

The more critical source of problem at the time, however, may have been the clause in the Agreed Framework that called for North Korea to "come into full compliance (before delivery of key nuclear components) 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 North Korea's initial report on all nuclear material in the DPRK."<sup>3</sup> Now, a full inspection of North Korea's nuclear facilities was something Pyongyang was not willing to permit despite the specific stipulations in the Agreed Framework. Pyongyang, in short, was willing to forgo billions of dollars in assistance in order to avoid a complete nuclear checkup.

The implication of such a conclusion for the current negotiations is significant. When the time comes for the listing of all North Korean nuclear programs pursuant to the 2.13 agreement, we'll know whether there's been any change in Pyongyang's resolve on this matter of open inspections.

The historical lessons of North Korea's nuclear strategy are very clear and simple. To obtain its goal, whether it's to break the BDA bind or to make way for economic assistance from South Korea, Pyongyang does not hesitate to use its nuclear card. As witnessed time and again, it also does not hesitate to lie about its nuclear status. Another lesson that remains constant is North Korea's commitment to nuclear credibility, or the threat of it. In the current context, disabling the Yongbyon facilities is not inconsistent with this premise because shutting down Yongbyon is not the same as relinquishing the country's nuclear ambition. Turning away from the nuclear route would be unobtainable so long as the causal relationship between the nuclear program and regime survival remains intact. To date, there are no substantive indications to suggest a change in this causal link.

#### **IV. North Korean Nuclear Capacity beyond Yongbyon**

The crux of the 2.13 agreement has to date focused mainly on the Yongbyon facilities. Note that North Korea has several nuclear facilities, Yongbyon being only one. Still,

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2. Construction of the LWR was delayed in part by North Korea's uncooperative behavior concerning protocols, passage, telecommunication, and plant site (Lee and Moon 2003).

3. For INFCIRC/403, see IAEA (1992); for a text of the Agreed Framework, see ISIS (1994).

there's no denying the significance of Yongbyon facilities that include a 5 megawatts electric (MWe) research reactor, a larger 50 MWe reactor that has been under construction, a plutonium reprocessing plant, a radiochemical laboratory, and a storage installation for fuel rods. Since the early 1980s, satellite imagery has shown traces of high-explosive detonations near Yongbyon's riverbank, implying an active nuclear weapons development program. Since 1989, in fact, North Korea has been suspected of reprocessing spent fuel. Such speculation has now given way to North Korea's open assertions of possessing weapons-grade plutonium as well as nuclear weapons themselves.

If Yongbyon facilities can be shut down irreversibly, it would indeed be a major step forward in containing North Korea's future proliferation capability. But what of North Korea's bomb-making efforts that hitherto entailed significant reprocessing activities? Here the quantitative elements of North Korea's nuclear bombs, weapons-grade plutonium stockpile, and HEU program are in question (Lee 2007). In Geneva 13 years ago, North Korea was to make its nuclear program completely transparent and obligated itself to eventually eliminate all its existing or planned nuclear power and related facilities. Such obligations are now a moot point. Today, officials of the U.S. Department of State are trying hard to put life back into these obligations. But if North Korea was reluctant before in implementing its Agreed Framework obligations, now it should be even more reluctant given the expansion of its nuclear programs.

According to the 2.13 agreement, North Korea is to provide a list of all its nuclear programs as part of the disabling process. What North Korea is expected to list voluntarily falls into three categories—the nuclear bomb, weapons-grade plutonium, and HEU. In October 2002, Shin Kon, South Korea's director of the national intelligence service, testified to the National Assembly's Intelligence Committee that North Korea is estimated to have extracted 7–22 kilograms of weapons-grade plutonium to produce 1–3 nuclear weapons prior to IAEA inspections in May 1992 (Hong 2003). If North Korea has reprocessed 8,000 spent fuel rods as is self-claimed and generally assumed, then we're looking at 6–7 further bombs from 50 to 60 kilograms of weapons-grade plutonium. Of those intelligence agencies watching over North Korea's nuclear program, the U.S. Defense Intelligence Agency has one of the highest estimates at 12 to 15 bombs. Whether it's 2 to 3 or 12 to 15—and crude or sophisticated—few believe that North Korea has none at all. By the same token, no matter what the number is, no one expects Pyongyang to report them all. The more likely scenario would be Pyongyang claiming that the one it had was used in the 2006 test.

Second on the list to be reported would be the weapons-grade plutonium. If bombs were not made, where did all the plutonium go? What happened to the 8,000 spent fuel rods that were pulled out of the cooling pool? If Yongbyon's 5 MWe reactor alone could potentially produce enough plutonium to make more than 10 nuclear weapons

per year, North Korea's accumulated plutonium stockpile could indeed be significant. Again, as is the case with the nuclear weapons, it would be totally out of character and inconsistent with the pattern of nuclear brinkmanship for Pyongyang to reveal the exact amount of plutonium in stock.

Third on the list and the original source of the current nuclear crisis is North Korea's HEU-based nuclear weapons program. North Korea's admission about having this program has already been mentioned. Not satisfied with the plutonium-based nuclear weapons program alone, North Korea is believed to have delved seriously into the development of the HEU program since the 1990s. HEU has obvious pluses for Pyongyang, as it would for most potential nuclear states or terrorist organizations: (1) crude nuclear explosives are easily made with HEU, (2) HEU exists in large quantities around the world, and (3) low levels of radiation make HEU difficult to detect (Maerli and van Dassen 2005). There being an estimated 26 million tons of natural uranium in North Korea, turning to HEU was perhaps not so unnatural. To make U-235, Pyongyang could have imported Zippe-type gas centrifuge technology from Pakistani scientist Abdul Qadeer Khan. Although the 2006 nuclear test was determined not to have used HEU, the HEU program now figures prominently in North Korea's overall nuclear picture, making the current deal much more complex and difficult than was the case in 1994.

Having denied the existence of HEU since October 2002, North Korea recently admitted to having an unsuccessful HEU plan. In a meeting with Christopher Hill in Geneva, Kim Gye-gwan, vice foreign minister of North Korea, revealed on 2 September 2007 that North Korea had to scrap its HEU plan because of lack of technology and equipment. Kim went on to admit importing aluminum cylinders but not for use in making HEU. Amid suspicion that North Korea may have provided nuclear assistance to Syria, possibly in the form of HEU technology, the new version of North Korea's admission is being treated by U.S. negotiators as sufficient for resolution of the HEU issue. It's been suggested that the BDA-Kumchangri formula might be used in solving the HEU issue. If so, the formula would require a minimal admission—something that's already been done—followed by superficial verification and a big payoff.

## **V. Conclusion: The Fallacies of the Engagement Policy**

Considering the near blind determination shown by the U.S. negotiators to legitimize the 2.13 agreement, Pyongyang and Washington may very well succeed in claiming a diplomatic milestone by the end of 2007. To achieve this, the resolute U.S. stance in combating North Korean counterfeiting, money laundering, and drug smuggling had to be compromised. A rare UN resolution referring to Chapter 7 of the UN Charter also had to be set aside, if not ignored. Worse yet, in a bizarre collusion between

Washington and Pyongyang, all sorts of excuses are being meticulously crafted to get North Korea off the nuclear hook.

Where is all this leading? Sacrifice made in the broader interests of nonproliferation is one thing. It's quite another if those interests serve a different objective. During the current negotiations, dismantlement remains an illusion. Efforts are being made to take Pyongyang's words at face value. Stringent verification is likely to be skirted in favor of a diplomatic success. We've already seen principles bent in the BDA case. We're seeing glimpses of this again in the HEU negotiations. What impact this outcome would have for the Iraq War-weary Bush administration is for domestic political consumption. For those seriously concerned with the nuclear ambitions of the Kim Jong-il regime, the 2.13 agreement is more a spoiler than a positive development in the dismantlement process.

Under the surface of this political masquerade, North Korea is poised to emerge a stronger and more confident state. For simply saying that it commits to nonproliferation and that it will subject Yongbyon and select sites to inspections, Pyongyang gets to (1) overcome major international pressure, (2) resume international financial transactions, (3) receive material assistance from the United States and South Korea, (4) deal directly with the United States, (5) use these new bilateral relations as leverage in dealing with China, and (6) possibly influence the domestic political conditions in South Korea. It's indeed a very good deal for North Korea! When conditions change, North Korea can always resort once again to nuclear brinkmanship to have its way. One has to wonder whether this is not too much of a price to pay for a small, superficial diplomatic achievement that's really not going to lead to a comprehensive nuclear dismantlement in North Korea. By the same token, little can be expected of the positive spillover effect on the deteriorating Iraqi situation.

In dealing with North Korea, advocates of engagement policy always ask what realistic alternatives there are to doing otherwise. The specter of war is usually raised as a follow-up to the question. The fundamental problem here is that engaging the North does not solve the problem at hand. Instead it perpetuates the problem by helping to prop up the Kim Jong-il regime—the root of all ills. If anything, engagement policy falls into the trap of rewarding without merit while encouraging bolder and more aggressive demands and behavior from the North.

In dealing with this defiant regime, diplomats and negotiators must never compromise fundamental principles for quick and temporary results. If they do, the nuclear threat and the crisis will only be perpetuated. If the Bush administration is serious about ending North Korea's nuclear program once and for all, it must take a firm stance to let the Pyongyang government know that its nuclear ambition will bring an end to the regime. Trying to buy off the regime will only encourage it to raise the stakes. Will the

resumption of normal financial transactions for North Korea ensure nuclear dismantlement? Will the removal of North Korea from the list of terrorist states ensure dismantlement? If neither will do, what will? Unfortunately there's no telling where the ceiling on North Korean demands is.

All is not lost just yet. There is still time to limit the damage caused by the 2.13 agreement. The Bush administration must realize the superficial nature of the current negotiations and hold off any further concessions. One has to be patient in dealing with the Pyongyang regime. Diplomatic efforts must be made not so much to appease or to bribe North Korea, but to convince South Korea and China not to keep fueling North Korea with economic assistance that is keeping the regime afloat. With assistance cut off in keeping with the UN Resolution 1718, the Kim Jong-il regime will soon face the prospect of collapse. Given the already failed state of the North Korean economy, the feasibility of the collapse scenario is very high. But before the regime reaches the point of collapse, there will surely be an escalation of threats that could include further nuclear tests. Following the first test in October 2006, the Bush administration panicked and reacted in haste, resulting in the 2.13 agreement. This mistake must not be repeated. The only point at which a genuine deal with North Korea could be struck is when the regime faces imminent collapse. U.S. negotiators must realize that the fear of regime collapse is the only way the North Korean nuclear arsenal will be compromised.

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