

# Policy Forum 05-68A: Closing the Nuclear Loopholes

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# Closing the Nuclear Loopholes

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Policy Forum Online 05-68A: August 18th, 2005

## Closing the Nuclear Loopholes

By Jung-min Kang

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### I. Introduction

Jung-min Kang, a Nautilus Institute Senior Associate, writes: "Pyongyang also has to realize that South Korea, which operates 20 nuclear power reactors at present, has had no problem generating nuclear power without enriching or reprocessing uranium, in accordance with the Joint Declaration of the Denuclearization of the Korean Peninsula."

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The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Nautilus Institute. Readers should note that Nautilus seeks a diversity of views and opinions on contentious topics in order to identify common ground.

## **II. Essay by Jung-min Kang**

- Closing the Nuclear Loopholes  
by Jung-min Kang

Discussions over North Korea's right to the peaceful use of nuclear energy are heating up not just between Pyongyang and Washington, but between Seoul and Washington. One of the main issues that sent the long-awaited fourth round of the six-party meeting into recess was North Korea's claim to a right to peaceful use of nuclear energy.

Washington has clarified its position; President George W. Bush said on August 10 that the United States would not allow North Korea to have a civilian nuclear program. The South Korean government has expressed a different stance on the issue, with Unification Minister Chung Dong-young saying on August 11 that the right to use nuclear energy for peaceful purpose was a nation's general right.

Additionally, Cho Tae-yong, director of the Foreign Ministry's task force on the North Korean nuclear issue, said that North Korea could pursue peaceful nuclear activities if Pyongyang gave up its nuclear weapons program, returned to the Treaty on the Non-Proliferation of Nuclear Weapons and abides by the International Atomic Energy Agency's safety guidelines.

With the second phase of the fourth round six-party talks about to begin, this difference in positions is an important pending issue between Seoul and Washington, and is a crucial variable that could determine whether the six-party talks are successful or not.

Article 4 of the Nuclear Non-Proliferation Treaty states that all parties to the treaty are guaranteed the right to use nuclear energy for peaceful purposes, without discrimination and in conformity with Articles 2 and 3 of the treaty. Therefore, the United States has said that it would allow Iran to have a peaceful nuclear energy program as long as it agreed to inspections of the International Atomic Energy Agency. Washington took this position despite the elevating international tension over Iran's operation of a uranium conversion facility.

This being the case, it is only proper that Pyongyang be guaranteed the same right, if it returns to the Nuclear Non-Proliferation Treaty and agrees to IAEA inspections. So why is Washington stubbornly denying that it has that right?

According to Article 10 of the Nuclear Non-Proliferation Treaty, any member country can give notice to the United Nations that it is withdrawing from the treaty, if that country decides that extraordinary events have jeopardized its interests. Three months after giving notice, the country can legitimately withdraw from the treaty.

A country that decides to abuse that process could therefore join the treaty, develop nuclear facilities under the rights it guarantees and then declare that it is withdrawing. The United Nations would be helpless. That is the treaty's blind spot.

There is no guarantee that North Korea, which in January 2003 became the only country to withdraw from the treaty, would not exploit that loophole again even if it decided to return to the system.

Its history might be the main reason that Washington is denying that North Korea has a right to a

peaceful nuclear program, regardless of whether Pyongyang returns to the treaty.

To regain Washington's confidence, Pyongyang therefore needs to make a binding promise to the United Nations that it will never withdraw from the treaty again. If Pyongyang makes that commitment, Washington should agree to let it have a civilian nuclear program.

Another controversial issue is the scope of such civilian nuclear programs. North Korea has not yet specified the scope of its peaceful use of nuclear energy, but it is an important question that could lead to another nuclear crisis in the future. And so Pyongyang needs to clarify its position on the matter as soon as possible.

Seoul has said that permissible nuclear activity in North Korea would include nuclear power generation by, for instance, light-water reactors, but would exclude the enrichment and reprocessing of uranium and graphite moderated reactors. This is a reasonable option that Pyongyang needs to consider.

If North Korea insists on being allowed to enrich and reprocess uranium in the name of having a self-sufficient civilian nuclear program, the logical conclusion is that Pyongyang is very interested in building nuclear facilities that could be converted to use for a weapons program, and the international community would never tolerate such attempt.

North Korea has to admit that most of the developed countries in the world, with a few exceptions such as Japan, maintain nuclear power generation facilities that do not involve the enrichment and reprocessing of uranium.

Pyongyang also has to realize that South Korea, which operates 20 nuclear power reactors at present, has had no problem generating nuclear power without enriching or reprocessing uranium, in accordance with the Joint Declaration of the Denuclearization of the Korean Peninsula.

### **III. Nautilus Invites Your Responses**

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send responses to: [napsnet-reply@nautilus.org](mailto:napsnet-reply@nautilus.org) . Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

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