

Policy Forum 06-60A: Embrace Tiger, Retreat To Mountain, Test Nuke

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Embrace Tiger, Retreat To Mountain, Test Nuke

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“Embrace Tiger, Retreat To Mountain, Test Nuke”

By Peter Hayes

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I. Introduction

Peter Hayes, Nautilus Institute Executive Director, writes “The DPRK can now take two paths. It can

do nothing for a while, try to obtain the typical late year delivery of food aid from the ROK before winter hits, and hope to muddle through. Or, it can test and hope to adapt its economy in magnificent, nuclear-armed isolation, waiting for the world to adjust to the new strategic reality of North Korea's existence as a nuclear weapons state."

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II. Essay by Peter Hayes

-“Embrace Tiger, Retreat To Mountain, Test Nuke”

By Peter Hayes

UNSC Condemns DPRK Missile Tests

The North Korean firing of a salvo of short, intermediate and long-range rockets on July 5 signaled the new strategic reality that is descending over East Asia. The North Koreans hoped to force the United States to address its concerns in bilateral talks by firing the missile. A parade of Chinese and Russian senior officials went to Pyongyang in the weeks and days leading up to the test to dissuade the DPRK from firing the missiles, only to be rebuffed on July 5 by the missiles.

Unlike the DPRK's 1998 long range rocket that also failed but led ultimately to negotiations with the Clinton Administration, this launch seemed to back-fire politically. The United States orchestrated a chorus of denunciation, and Japan led the charge at the UN Security Council to sanction the DPRK with reference to Chapter 7 which would authorize the use of force to implement the resolution. For a short time, China and Russia seemed likely to veto such a resolution, but then swerved to sign on to a modified resolution ([available here](#)) issued on July 15, 2006 that condemned North Korea's missile tests as jeopardizing “peace, stability and security in the region and beyond, particularly in light of the DPRK's claim that it has developed nuclear weapons,” demanded that the DPRK suspend all related activities, and required member states to prevent the import or export of funds or goods that could fuel the DPRK's missile or weapons of mass destruction programs.

The tenuous legal basis for this resolution was that the 2006 tests (as in 1998) “endangered civil aviation and shipping through its failure to provide adequate advance notice without prior notification to the countries in the region.” Although the DPRK was allegedly not in compliance with its NPT commitments and IAEA obligations, its withdrawal from the NPT and IAEA have rendered these issues moot from a legal perspective. Linking the DPRK's nuclear weapons program to its missile program is a purely political act by the Security Council as there are no legal restraints on UN member states from developing missiles.

The DPRK *is* legally required to issue notices-to-airmen (NOTAMs) as a signatory to Annex 11 of the Convention on International Civil which contains explicitly international requirements to coordinate such activities well in advance so as “to avoid hazards to civil aircraft and minimize interference with the normal operations of such aircraft.” The coordination is specified in Annex 15 and entails establishing dissemination channels to whom DPRK NOTAMS are sent (and from whom the DPRK receives NOTAMS—these are not exactly the same). After the 1998 rocket launch (that like the July 5 firing, failed), the ICAO Council noted that objects fell into the ocean near Sanriku, Japan, and into international airspace through which passes airway A590, the East Asia-North American aviation trunkline over which 180 commercial flights pass per day. It called on all contracting states to comply with the Convention.

In 2000, the DPRK issued its Aeronautical Information Publication as required by ICAO and listed Amsterdam, Bangkok, Beijing, Berlin, Bratislava, Brussels, Havana, Kiev, Hong Kong, Madrid, Moscow, Phnom Penh, Rome, Macau, Singapore, Vienna, Washington and Zurich as receiving DPRK NOTAMs. ICAO states that no such NOTAM was issued for the July 5th salvo, a fact confirmed with the US NOTAM office in Washington. Commercial aircraft from Japan and South Korea did indeed divert from the standard aviation routes over the Sea of Japan as a result of the test firings.

Although ICAO itself has no means or authority to enforce the Convention, member states could respond to a Council resolution that they withdraw from civil aviation agreements with the DPRK in response to its non-compliance. States such as Japan and Korea could take up the DPRK's NOTAM non-compliance in July with the Council as follow-up to the ICAO President's letters to the DPRK on July 6 and 11, 2006 asking for an explanation of the DPRK's non-issuance of NOTAMs for these missiles (the DPRK response was that they had forwarded his enquiry onto the proper authorities). Sanctions implemented by ICAO member states would have been a proper legal response to the non-issuance of NOTAMs by offended and affected states.

The customary practice of states that commandeer international ocean space for short-term military use it to issue warnings called notices-to-mariners (NOTMARs). Under "Navigation Warnings" found in Chapter V, Regulation 4 of the International Convention for the Safety of Life at Sea, the DPRK is obliged to issue NOTMARS having been a member state since 1986. Its failure to do so when it fired a long-range rocket in 1998 led to IMO Resolution A.706(17) and an MSC Circular 893 issued 21 December 1998. Like the ICAO, these noted that objects from the 1998 DPRK rocket launch fell into waters near Japanese coast that contain major shipping lanes and fishing grounds. The Circular called on member governments to attach the greatest importance to safety of navigation and avoid taking any action which might adversely affect shipping engaged in international trade, and strictly comply with the recommendations contained in the foregoing resolution concerning navigational warnings so that operations do not endanger safety of navigation.

However, the NOTMAR requirement appears to be less stringent than with NOTAMs. The United States, for example, sometimes does not issue NOTMARs for the rockets that launch ostensibly secret satellites. Press reports have also mentioned that the DPRK did advise Russia of pending maritime danger zones which seems likely given the fact that some of the shorter-range missiles did splash down inside Russia's 200 mile exclusive economic zone (although outside the designated danger zones indicating that these rockets may not be very accurate!).

North Korea Condemns the UNSC Resolution

North Korea's UN representative Pak Gil Yon swiftly rejected the resolution on the spot. He argued that the missile launches were routine exercises to increase the DPRK's self-defense capacities, and asserted that the DPRK had the sovereign right to conduct such tests.

This was followed on July 16 by the broadcast on Radio Pyongyang of an authoritative, high-level official response ([available here](#)) by the DPRK Ministry of Foreign Affairs statement. The statement did not mention of Japan's or China's roles in the UN Security Council process but blamed the United States for master-minding the resolution. The statement did not include the DPRK's formerly routine verbal recommitment to denuclearization in principle, nor its preconditions for returning to the six-party talks. Instead, it stated that such efforts were "futile" in light of unremitting US hostility, and noted that the United States was mocking its efforts to resolve the nuclear issue by dialogue and negotiation. The statement justified the DPRK's missile tests by asserting that "Neither the United Nations, nor anyone else, can protect us," a statement that effectively denigrates its erstwhile security ally, China.

Finally, and most ominously, it hinted that it would demonstrate its deterrent capacity (aka nuclear weapons) and now had "no option" but to take "stronger physical [mullijo'k] actions." Some observers have noted that this phrase may denote actions that are simply physical, or refer to an activity that relies on physics—possibly a nuclear test.

Thus, the DPRK appears to have collided head-on with the Chinese, its primary backer in terms of food and oil supply. This is a startling development and a matter of great joy in conservative and hard-line anti-DPRK circles in Washington and Tokyo. What could possibly explain this momentous shift?

What was China Thinking?

Not issuing a NOTAM or a NOTMAR would not have moved China to condemn the DPRK's missile test and agree to sanctions on transferring dual-use technology related to missiles or nuclear weapons to the DPRK. This was a momentous move by China. Its leaders understood fully that condemning the DPRK is the same as condemning the DPRK leadership, including the person of Kim Jong Il in whom all leadership is vested. Undoubtedly, something of immense significance occurred not long before or immediately after the missile test on July 6th, and July 15th, when the UN Security Council issued its resolution.

In my view, the only factor that would have led China to support such a condemnatory resolution at the Security Council would have been advance notice by the DPRK that intended to test a nuclear weapon, or unambiguous intelligence received by China to the same effect. Reportedly, the United States did monitor a significant communication at that time, although the content of that information, or even whether it pertained to China, is unknown. This would explain the increasingly strident Chinese public statements against the DPRK missile test, which while irritating to China, was hardly cause for picking a fight with Pyongyang at the UN Security Council. It is known that the Chinese were angered greatly by the missile test itself which showed that they could not exercise much influence over the DPRK's decisions on security issues. It is also known that a senior Chinese delegation visited Pyongyang after the missile test and was not allowed to meet with Kim Jong Il and returned empty-handed to Beijing.

Chinese leaders are not prone to fits of pique or to emotional or ideological driven positions on matters related to international security. Their decision to align themselves with Japan and the neo-conservatives in the United States was measured and purposeful.

Why would the North Koreans have decided to test in July, before or after their missile test? Put simply, they have tried many other avenues to bring about positive changes in their external security environment, and none of these steps have worked. They know that China was unable to change the fundamentally hostile American anti-DPRK posture. The DPRK felt profoundly betrayed by China's recognition of South Korea in 1990 without ensuring the cross-recognition of the DPRK by the United States. By testing a missile and prefiguring a nuclear test, perhaps they felt they could increase Chinese leverage on Washington to deliver meaningful outcomes instead of the setbacks incurred since the last round of six-party talks in September 2005. This stratagem would require that China be informed about the pending nuclear test and is consistent with the thesis that the missile test was a shot across China's bow intended to put pressure on Washington.

Conversely, perhaps by early July, Kim Jong Il had come to an irrevocable conclusion that the DPRK had been stifled by China and therefore had to go-it-alone at any price. Asked by American Bob Scalapino ([available here](#)) who was visiting Pyongyang on July 6, the day after the missile test whether China would be upset having opposed the test, Vice Minister Kim Gae Gwan said that "What

I hear is Big Brothers saying to Little Brother 'don't do that;' but we are not a little boy, we have nuclear weapons." The latter position is consistent with the Chinese not being told anything about a pending nuclear test until just before or after the missile test, and having discovered it, acting with fury at the Security Council to cut Kim Jong Il off at the knees. China's top general has admitted publicly that he learned about the missile tests from American media, not from his own channels. No wonder John Bolton was grinning.

If this interpretation is correct, what did the Chinese hope to achieve with the UN Security Council resolution? Perhaps they were still trying to stop a DPRK test by demonstrating to Kim Jong Il the seriousness with which China would view this event and that it was prepared to play it tough should it come to pass. In this view, the Chinese vote prefigures withdrawal of Chinese support for the DPRK in terms of food and oil as well as its buffering effect against escalation of pressure by the United States and Japan intended to cause the collapse of the DPRK regime.

Alternately, China may have concluded that a last ditch effort was futile, not least because such condemnation would drive Kim Jong Il even further toward a test, and that it was better to bank a credit with Japan and China in its UN Security Council guangxi account by taking an anti-DPRK stance now, rather than after a test.

What Next?

The DPRK can now take two paths. It can do nothing for a while, try to obtain the typical late year delivery of food aid from the ROK before winter hits, and hope to muddle through. Or, it can test and hope to adapt its economy in magnificent, nuclear-armed isolation, waiting for the world to adjust to the new strategic reality of North Korea's existence as a nuclear weapons state.

Based on past behavior, having embraced the tiger, the DPRK will now retreat into the mountains for a period. The DPRK leadership will lay low (Kim Jong Il has disappeared from view in DPRK propaganda since the tests) and dither to avoid this fundamental choice for as long as possible while waiting for a new tactical opportunity. How long Kim will wait is unknowable. Some have speculated that he was simply trying to outlast Bush's presidency in the hope that Democrats will be more willing to negotiate. Given the resurgence of a hard-line within the Democratic Party led by Bill Perry, that seems an ineffective strategy.

Alternately, it could test and call the United States and China's bluff. It is not in China's interest to bring about the collapse of a nuclear-armed state on its doorstep, especially if that brings American troops to the border and terminates South Korean economic commitment to China due to the demands of reconstructing a collapsed North Korea.

What is certain is that the DPRK will respond to the UN Security Council resolution. Kim Jong Il cannot allow himself to be cast as cowed by the concert of great powers speaking at the United Nations. It is impossible to know which "stronger physical actions" he will take. After all, all actions are physical, and stronger than what? But we can anticipate that his moves will be strong enough to rattle the American cage, powerful enough to make Japan overreact, and impressive enough to make China and South Korea accommodate the new reality that the DPRK is a nuclear-armed state.

It could fire the second long-range missile reportedly moved to the launching pad in May—but that may misfire in public again, and even if it succeeds, would not reverse the sanctions and ignominy of being condemned by the UN Security Council.

The DPRK could lay the surface cables in a pattern typical of underground nuclear tests in a likely mountainous site, and instigate a guessing game in the hope that this induces the United States to

negotiate, and enhances China's ability to "deliver" the United States in a negotiating mood. In reality, this stratagem would simply reinforce the hard-line position in the United States that holds that negotiating with the DPRK simply prolongs the regime and thereby its nuclear threat. Neither the DPRK nor China is under any illusion at this point that the outcome would be positive and in my view, is unlikely to be the DPRK's next step.

The DPRK could cross other "red lines" such as exporting fissile material or entering into nuclear alliances. It is unclear with whom it would do so at this time and in my view, it will treat its nuclear "deterrent" as an precious asset to be kept strictly for the DPRK's benefit, whether it be used to deter, coerce, or reassure adversaries. The exception will be South Korea. The DPRK has already asserted that its nuclear weapons provide security to South Korea. It will beat this drum more loudly in an attempt to split the US-ROK alliance.

What is certain, however, is that having promised to its own population that it will demonstrate that its deterrent power suffices to keep the United States from attacking the DPRK, the leadership must be seen to act decisively. Totalitarian leaders lie about all sorts of things to their populations, but in general, pending increases in their own military power is not one of them. North Korean domestic propaganda now proclaims to the population that its nuclear weapons have already stopped American attack on the DPRK. Moreover, Kim Jong Il is already engaged in a leadership succession process and may be looking for a way to leave office with an achievement that matches or surpasses the revolutionary legacy of his father. Nuclear weapons are now central to North Korean nationalism, the leadership of Kim Jong, and the fusion of party-military-people in the person of Kim Jong Il. Nothing on offer comes close to matching the symbolic power of nuclear weapons to Kim Jong Il. In short, he needs to add The Bomb to the list of achievements in the recently published paen to his military leadership (see attachment).

Therefore, and dismally, I ask, what other actions could meet these multiple international and domestic imperatives facing the DPRK than a nuclear test? What else could possibly brake Kim Jong Il's free-fall except for a nuclear test?

III. Poem To The NDC Chairman: Kim Jong Il published in Pyongyang by the Rodong Sinmun Daily

It is none other than the National Defense Commission chairman,

General Kim Jong Il [Kim Cho'ng-il] [preceding name in bold as published], the unrivaled heaven-sent General of Mt. Paektu, who

Learned how to govern the world

From a table placed in the Supreme Command for mapping out a plan of operations during the war days,

While hearing the sound of guns coming from a battlefield on Mt. Paektu during the anti-Japanese [struggle] days,

With steely will and gun barrel,

Standing tall at the head of the chuch'e armed forces,

Assuming responsibility for the destiny of the fatherland and the nation,

And led the revolution as a whole,

Along the single-track road from century to century.
It is none other than our NDC chairman,
The powerful and fearless General Kim Jong Il who,
Since no political formula of conventional framework
Or ultramodern scientific and technological means
Could calm the fiery wind of threats and natural disasters,
And the mountains of the most arduous trials,
And because only with the invincible gun barrel could they be broken through,
Lifted up the almighty military-first banner,
Turning the treacherous road of "arduous march"
Into a march toward a paradise, a broad level way out.
A brilliant, invincible military-first command,
A big heart to the tens of millions of soldiers and people when they are united,
A supreme commander well acquainted with the military affairs,
And an invincible NDC chairman to the country.
As no one can casually associate with him
And as he is held at the very top of our Republic,
The mad wind of imperialism stopped struggling and keeps its head down
And my fatherland displays fireworks to celebrate successive triumphs.
It is none other than the NDC chairman,
Our peerlessly superb General Kim Jong Il, who,
Oh, with do-or-die resolve when fighting is inevitable,
With the pluck that he would win victory in all fights without fail,
Standing firmly on a hard bulwark in the anti-US showdown,
With lightning and thunder reverberating throughout the skies,
Overwhelmed the dissonance from the bastards' heated anti-Republic commotion,
With the scream of those being destroyed.
Sacred it is.

My country's sky is blue over the gun barrel
And stacks of all kinds of grain stalks harvested in a bumper crop grow high.
It is none other than our NDC chairman,
The military-first veteran of all battles General Kim Jong Il, who,
Giving priority to the gun barrel and national defense,
Hardened the defense position of the fatherland into a fortress
And pushed towers of great construction up through the sky,
Beating the drum for advance with the sound of national defense hammer,
Raising the height of the fatherland with the launching pad of an artificial earth satellite,
Demonstrating the lofty dignity of the nation of the sun and
The majestic appearance of the powerful state of chuch'e to the whole world.
O, the peerless general who is the general of all generals,
The matchlessly great man who is the greatest of all great men.
It is none other than our NDC chairman, the greatest man in the world,
The brilliant, ever-victorious commander General Kim Jong Il,
The military-first sun admired by the whole world,
The person whom we will forever uphold at the very top of the Republic
And for whom tens of millions of soldiers and people will become guns and bombs to defend him at
the risk of their lives, who,
With his hand,
Has achieved immortal accomplishments
That cannot be built even in a long historical period, even in hundreds of years
On the rock-firm foundation laid for a powerful state of chuch'e.

IV. 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 . 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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