


# **Policy Forum 12-05: The DPRK, the Nuclear Issue and the International Community: What Went Wrong, Why, What can be done in the Future**

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## **Recommended Citation**

Colin McAskill, "Policy Forum 12-05: The DPRK, the Nuclear Issue and the International Community: What Went Wrong, Why, What can be done in the Future", NAPSNet Policy Forum, March 06, 2012, <https://nautilus.org/napsnet/napsnet-policy-forum/policy-forum-12-05-the-dprk-the-nuclear-issue-and-the-international-community-what-went-wrong-why-what-can-be-done-in-the-future/>

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By Colin McAskill

March 6, 2012

Nautilus invites your contributions to this forum, including any responses to this report.

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## **I. Introduction**

Colin McAskill's experience, dealing with as well as for-and-on-behalf-of the DPRK at the highest level, spans more than three decades. He has a deep-seated knowledge, understanding and first-hand experience of the DPRK, its strategies and tactics. He acted as an advisor for a decade during the period of the 'Bullion Shipments' into London; arranged training schedules for DPRK delegations in the UK; acted as the mandated representative for the DPRK during the 'Defaulted Debt' negotiations with the DPRK's 'London Club' creditors; acted as a mandated representative for the DPRK during the Banco Delta Asia banking crisis in Macau, as well as many other individual assignments. He made his first visit to the DPRK in 1979 and has been a regular visitor to the country over the years.

In this article Colin writes, "The stability established by a smooth transition of power has created a window of opportunity to put the past behind and re-open a new phase of negotiations to put in place a lasting agreement that would launch a nuclear free Korean Peninsula, and usher in a new era of peaceful coexistence. Given KJ-U's young age, this opportunity may not reoccur for a very long time."

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## **II. Report by Colin McAskill**

-“The DPRK, the Nuclear Issue and the International Community; What Went Wrong, Why, What can be done in the Future”

by Colin McAskill

The death of the DPRK's 'Dear Leader' Kim Jong-Il (KJ-I) and the dynastic succession of his youngest son Kim Jong-Un (KJ-U) brings negotiations over the DPRK's nuclear program and objectives full circle.

When KJ-I succeeded his father there was then, just as now, no agreement in place that brought the DPRK's perceived nuclear programs and future ambitions under the auspices and supervision of any international nuclear monitoring authority.

There is general consensus that the leadership succession, after KJ-I's death, has been well orchestrated and is being methodically implemented ushering in a period of stability which could and should be exploited and developed:

1. The unsuccessful 'Talks about Talks' currently underway between the US & the DPRK should be

abandoned immediately and the parties return to fresh direct bi-lateral negotiations on the most important issue; to make the Korean Peninsula a safe and nuclear free zone.

2. As an interim measure the parties could revive and return immediately to the 'Agreed Framework'. There is no reason why the DPRK cannot now be persuaded to put the weapons it already developed 'beyond use' and to halt and continue to dismantle its nuclear program under the control and supervision of the International Atomic Energy Authority (IAEA) as it had signed up to in 1994. This would take the nuclear weapons issue 'off the table' while a wider more permanent all encompassing agreement is negotiated and put in place.

3. The DPRK can and should be coaxed into the global economic community by immediately opening up the international banking system [\[Note 1\]](#) and to gradually lift all sanctions that are unrelated to the 'nuclear issue'. This will allow and encourage western companies to invest directly in the DPRK to develop its economy and export the vast mineral resources it is known to possess.

4. The funds generated would allow the DPRK to wean itself off humanitarian aid, trade its way out of stagnation and re-establish its credibility in the western financial markets.

There are precedents, the DPRK has and can once again be convinced to enter into and abide by agreements properly negotiated, strictly adhered to and rigidly administered.

Irrespective of how the West chose to judge him, there is no doubt that the late 'Great Leader' Kim Il-sung (KI-S) was an elegant, charismatic and statesmanlike leader who had a clear vision of the DPRK as an economic 'Tiger' that was part of the global community, a vision that was instilled in his son and grandson. He also believed that a dynastic succession was the 'glue' which would hold such a system together and set about putting it in place. Though dynastic succession may be an anathema to the West, it is a philosophy that sits well within the Asian culture generally.

By contrast KJ-I's own succession in July 1994 was entirely different. When he took over on his father's death the country was besieged by serious internal political unrest, disastrous economic instability, and confrontation with the US over the country's perceived nuclear ambitions. Although he was declared successor and leader, KJ-I did not automatically inherit immediate full control of the main organs of power, the party, the executive and the economy, immediately.

The economic policy so judiciously set up under his father as his main powerbase [\[Note 2\]](#) came to an abrupt end and was dismembered at the end of 1993. To preserve his father's vision of a hereditary succession, a very tenuous powerbase was established for him with the military.

Many analysts believe it was only through the forethought of his father making him head of the military at the end of 1993 that he was able to succeed at all in July 1994 and it was at this point the policy of 'Songun' (*Military First*) was conceived and put in place, shrewdly maintained, and perpetually strengthened.

The present leadership transfer was organized and put in place as a matter of urgency by KJ-I personally after the stroke he suffered in 2008 to avoid the serious and near terminal disruptions he encountered during his own long 'apprenticeship' under his father. Despite his untimely death so soon after, the smoothness and rapid transition of power and the lack of any serious signs of instability encouraged many pundits to welcome this period of stability as a window of opportunity for fresh direct engagement with the new leadership.

The most serious crisis KJ-I inherited when he took over as leader was the deterioration in relations with the US over the DPRK's suspected nuclear weapons programme. Yet, within the first six months of his leadership he engaged the US, negotiated and signed the 'Agreed Framework' which essentially froze the DPRK's nuclear program and brought it under the control and supervision of the International Atomic Energy Authority.

The 'Agreed Framework' was hugely criticised as being inadequate and was indeed breached on many occasions by both sides. Nonetheless, its main provision, '*to freeze the DPRK's existing nuclear program and bring it under the control and supervision of the IAEA*' held firm and was not violated by the DPRK until 2001 when the US irrevocably breached the main terms of the Agreement giving KJ-I cause to abandon it completely, restart its nuclear programme and accelerate its development of nuclear weapons. Leaving us where we are now.

In the fullness of time history might well put a different interpretation on and better understand the accomplishments of a leader whose objectives and motives were so clearly misread, misunderstood or deliberately ignored by ideological opponents trying to achieve their own ends through the ill-advised process of 'Regime Change'.

Because of its isolation and inward-looking policy, dealing with the DPRK is unlike dealing with any other entity, be it political or commercial. Normal rules of engagement simply do not apply and it is essential to always remember that the DPRK is incredibly *self-referential*; it does not always put things in peninsular, regional or even global contexts, since it is focused simply and solely on its survival and the furtherance of its own interests.

Nevertheless the DPRK has and can once again be convinced to enter into and abide by agreements [\[Note 3\]](#). The key is for the counterparty, if it is a single entity, to settle on its negotiating strategy, establish its bottom-line, and then complete the negotiations and sign off the agreement. If, on the other hand, the counterparty is a group, it is wise to agree a single representative of the whole group, establish its negotiating strategy incorporating the collective interests of the whole group, determine the bottom-line and then negotiate, complete and sign off the agreement. Once the agreement is signed and ratified it must be strictly adhered to and rigidly administered.

Having now come full circle with the death of KJ-I and the installation of KJ-U as his successor with no supervisory or restraining agreement in place the DPRK is, for a variety of reasons, regarded as a much greater threat than it was before. The Global political and economic arena has also changed dramatically from what it was when the 'Agreed Framework' was first put in place.

The stability established by a smooth transition of power has created a window of opportunity to put the past behind and re-open a new phase of negotiations to put in place a lasting agreement that would launch a nuclear free Korean Peninsula, and usher in a new era of peaceful coexistence [\[Note 4\]](#).

Given KJ-U's young age, this opportunity may not reoccur for a very long time. Instead we might well see not an 'axis of evil' but the emergence of a well organised, highly efficient 'Axis of Ideology' between China, Russia and the DPRK. After all, this axis of ideological neighbours has in abundance what the western ideology so sadly lacks; China has cash, Russia has oil and the DPRK strategic minerals.

### **Note 1: The Banco Delta Asia Freeze**

The 'Agreed Framework' was aborted in its entirety by the US administration of President G.W. Bush in 2001 to adopt and implement a totally different, more aggressive, strategy with the goal of destabilising the DPRK through economic/financial sanctions and so bring it to its knees and hopefully cause 'Regime Change'.

In support of this the US Treasury (UST) clandestinely despatched senior officials around the world to discourage banks through intimidation, coercion and sometimes outright threat from doing any

business with the DPRK. This culminated in 2007 with the listing of the Banco Delta Asia Bank in Macau (BDA) by the US government (USG) as a bank conducting criminal activities and freezing all DPRK assets held at that bank. The USG claimed without providing any substantiation or proof at the time that the DPRK was a criminal state and that all DPRK funds frozen at the bank were the proceeds of criminal activities such as the counterfeiting of US currency, drug smuggling, illicit arms and bullion sales, etc.

The DPRK banking system was in virtual meltdown having no electronic links to the Western banking system as it was operating a predominantly 'cash' economy. The BDA was the only Western bank it still maintained any links with, thereby providing a vital but very limited 'lifeline' to the West.

The only way to prevent further deterioration in US/DPRK relations (*then at its lowest ebb*) was to publically discredit these outrageous claims, convince the Macau Monetary Authorities and the international financial press of its futility, and obtain the release of the funds and their return to their rightful owners.

This was achieved by collating all the facts with substantiating proof and making it public in such a way that the USG had no option but to reverse this policy. The funds were eventually returned to its rightful owners and it was not long before some form of accommodation and interim accord was established which temporarily eased the escalating tension.

This policy has since been thoroughly discredited and proven to be totally ineffective, unworkable, and reflects a fundamental misunderstanding of both the resilience of the DPRK and how to negotiate with it successfully. Having clandestinely intimidated, coerced, and even threatened the international banking community into complicity the USG never publicly stated that it has reversed this policy and consequently some five year later the DPRK remains excluded from using it for fear of a repetition elsewhere of what happened in Macau.

## **Note 2: The DPRK and the London Bullion Market (LBM)**

From the very start of KJ-I's 'apprenticeship' under KI-S, an important part of his training and a specific brief from his father was to focus on reforming and expanding the economy of the DPRK along Western lines and so establish an Economic Powerbase. The best officials were recruited from key state institutions to a commercial 'Chaebol' specifically set up for this purpose and started to seek out working arrangements with Western economies.

From the beginning of 1983 until the end of November 1993 the DPRK mined, smelted and refined high grade (999.999) gold bullion and shipped one tonne of it to London every month and sold through the London Bullion Market (LBM).

Bullion assayed by the Pyongyang refinery of the Central bank of the DPRK was accepted by the LBM as 'good delivery'.

This business was contracted with the DPRK at the very highest level and handled continuously by a major London banking group for ten uninterrupted years without incident of any kind. The proceeds generated from these sales were held in the UK at the disposal of the DPRK through the international banking system.

These unbroken transactions were widely regarded as an example of the DPRK's ability to enter into and abide by agreements properly negotiated, strictly adhered to, and rigidly administered.

It was not to be too long before the 'Chaebol' had virtual control of key elements of the DPRK's

economy, especially its export-orientated foreign currency generating extraction industry. Delegations were despatched to London and elsewhere in Europe to learn the workings of Western financial markets and how it could be utilised to modernise its economy at home.

This initiative exacerbated a problem the country was bedevilled with at that time. Some of the officials recruited were the same officials who (*in their former positions*) negotiated substantial loans from groups of European and UK banks which were later defaulted on. Contrary to the general belief at the time these loans were not DPRK 'sovereign' (*Paris Club*) debt but were various trade related loans/financing in different currencies with varying maturities spread amongst two London Bank Syndicates (LBS) and classified as commercial, inter-bank, (*London Club*) debt.

Default on these debts severely restricted the DPRK's ability to obtain new 'trade' related credit/financing from Western banks to facilitate the programme to regenerate its economic recovery and needed to be dealt with.

### **Note 3: DPRK-LBS Loan Negotiations**

In 1987 an independent London based intermediary (*with deep seated knowledge and first-hand experience of the DPRK, its strategies and tactics*) was appointed and mandated by the DPRK to negotiate a settlement with its 'London Club' creditor banks.

A new consolidated loan to repay the old loans was eventually agreed. Heads of Agreement quantifying and outlining the terms of the new loan were signed by both sides as a prelude to a formal loan agreement to be drafted by the LBS and formally executed at an agreed future date.

The main provisions in the new loan were:

1. All previous defaulted currency loans from both syndicates were to be consolidated into one single settlement amount, converted to US\$ and subscribed to pro-rata by all members in both syndicates;
2. The proceeds would be utilised solely for repayment in full and final settlement of the old defaulted loans;
3. The new loan would be guaranteed by the Central Bank of the DPRK for and on behalf of the government and repaid over 25 years, so designating the new loan as sovereign 'Paris Club' debt.

Serious delay (*more than nine months*) by the LBS preparing the prescribed documentation and setting a date for execution made certain 'up front terms' particularly onerous for the DPRK to fulfil because market currency conversion conditions had gone against them. When the conference eventually took place in Vienna (*which the intermediary attended but withdrew from after it opened and did not take any further part in*) the head of the DPRK delegation decided to raise this issue first. The LBS conceded the concerns of the DPRK delegation which promptly created an unprecedented serious impasse. A simple document approval and signing ceremony turned into a five month renegotiation marathon which eventually ended in acrimony with legal action threatened by the LBS.

Sensing these renegotiations might well have been instigated without the direct consent of or authority from Pyongyang the LBS decided to call on the intermediary to intervene directly with the senior authorities in Pyongyang which he very reluctantly agreed to undertake. After direct consultation with the authorities in Pyongyang the delegation in Vienna was immediately recalled and the LBS formally advised that the intermediary's mandate was still in place and fully effective with full authority to re-enter and regain control of the negotiations as the DPRK's mandated

representative. The intermediary insisted on the nomination of one single negotiator representing all members of both syndicates with full authority to negotiate and complete a fresh binding agreement which the LBS accepted and negotiations started afresh.

Conditions in the political arena and in the financial markets at the time made it virtually impossible to put in place any long term 'sovereign' type loan. A short term more workable market orientated solution based on the history and record of the ongoing bullion shipments already in place was agreed upon. A new consolidated loan with basically the same main provisions as before, but over a much shorter period and heavily discounted to reflect current market conditions, was quantified and a fresh agreement prepared for submission to the respective principals for approval.

Both sides approved and agreed to sign the new agreement, the LBS however with the proviso that the signed agreement would have to be ratified at a meeting of representatives of all members of both syndicates as required in the original loan agreements.

A senior official from the DPRK and the nominated representative of the LBS met with the intermediary in Vienna and signed the new agreement. Just days before the scheduled meeting called by the LBS to ratify the new agreement the intermediary received an urgent call from the LBS to say that a major obstacle had occurred which could jeopardise ratification of the new agreement. Some of the leading participants in both bank syndicates were expressing serious concern and feared a repetition of what had occurred in Vienna over the first agreement and were now seeking some form of guarantee the DPRK would adhere to and implement the new agreement once it was ratified by the banks. A form of 'up front' cash deposit to be held in escrow by one of the agent banks pending the ratification and implementation of the new agreement was proposed.

In a very rare display of tolerance and understanding the DPRK agreed and immediately made the payment on the condition and understanding that the deposit would be held in escrow pending ratification and implementation by the LBS; and

If the banks failed to ratify and implement the agreement the funds would be returned to the DPRK plus accrued interest immediately; or

On the other hand, should the banks ratify and implement the agreement and the DPRK, having already signed and ratified the agreement fail to implement it, the funds held in escrow would be forfeited and retained by LBS.

The fact that the LBS now had a new agreement signed, ratified and with an escrow payment held by the LBS agent bank to ensure the DPRK's full participation, the LBS failed to ratify and were therefore unable to implement the agreement. Furthermore, having failed to agree amongst themselves and complete their side of the agreement the LBS categorically refused to return the payment held in escrow.

The DPRK on the advice of the intermediary did not, for the time being, insist on the immediate return of the escrow funds in the hope that the LBS would resolve its internal problems and ratify the agreement.

This was not to be and the matter remains unresolved to this day though the escrow funds plus accrued interest were, on the insistence of the intermediary, eventually returned to the DPRK.

Notwithstanding the actions of the LBS consignments of Bullion continued to be shipped uninterrupted and without incident into London and sold through the LBM.

#### **Note 4: Next Steps for Negotiations**

A fresh round of direct talks between the DPRK and the US, the first under new leader KJ-U since the death of KJ-I, is scheduled to take place in Beijing on February 23. It is the third set of talks since last summer to try to resume negotiations under the Six Party Talks (6PT) to get the DPRK to dismantle its nuclear armoury.

The five other members of the 6PT are still adopting the same posture as before i.e. for the DPRK to suspend all activities at its nuclear sites and allow international inspectors access to verify a freeze as a pre-condition for resuming talks on a wider agreement that would provide economic and other assistance in exchange for surrendering and dismantling its nuclear weapons programme' (talks about talks).

Two previous rounds of exploratory talks in New York and Geneva made no progress and there is every reason to believe that this third round will end in much the same way. Since KJ-I's death, the Obama administration has suggested that it was 'open to diplomacy' with the new leadership in Pyongyang, yet it still insists that the DPRK must first improve relations with the Republic of Korea (ROK). In other words, the USA is 'open to diplomacy' as long as all parties will agree to their rules. The DPRK, on the other hand, has stated quite categorically that it will not, under any circumstances, enter into negotiations with the ROK under the present administration. Thus, yet another Impasse has emerged before the next round of talks even starts.

Unlike the DPRK leadership, the leadership in the US and the ROK is hostage to upcoming domestic political events;

President Obama, nearing the end of his first term and seeking to be elected for a second term; and

President Lee Myong-bak is actually coming to the end of his full term as the head of the ruling party which must field a credible successor if it wants to be elected as the ruling party again.

It was somewhat different in July 1994; US President Bill Clinton was only in his second year of office with everything to negotiate for and the 'Agreed Framework' is now generally regarded as one of the major foreign policy achievements of his administration.

Not surprisingly it became one of the first casualties of the incoming administration of US President G.W. Bush in 2001. The 'Agreed Framework' was aborted in its entirety by the G.W. Bush administration to initiate and adopt a totally different, more aggressive, strategy against the DPRK through sanctions focused on achieving 'Regime Change'.

This policy has since been thoroughly discredited and proven to be totally ineffective, unworkable and reflects a fundamental misunderstanding of both the resilience of the DPRK and how to negotiate with it successfully.

The expansion of the DPRK's nuclear arsenal and the ongoing instability that pervades the Korean Peninsula can almost certainly be attributed to this single change of strategic policy.

The DPRK is of course not entirely blameless but to abandon what was largely an effective bi-lateral agreement and then try to substitute and impose a different type of multi-lateral agreement in its place gave the DPRK the ideal opportunity to take full advantage and exploit it for its own ends.



Accepting the logic that the DPRK embarked on its nuclear path in the first place because it had itself been publically threatened by the USA with such an attack (*a key point forgotten by almost all diplomats and remembered only by historians*), is it any wonder that it is unlikely to surrender such an effective deterrence before it is totally satisfied of its future security?

In this context the DPRK has drawn a sobering lesson from what has happened as a result of the USA's exploits in Iraq, Afghanistan, and covertly in Libya, and might well happen in Iran if it accedes to a 'surrender-your-weapons-first' demand.

However, there is no reason why the DPRK could not be persuaded and encouraged to secure and to 'put beyond use' under strict supervision procedures the weapons it has already developed, and to halt and continue to dismantle its existing nuclear weapons program as it did under the 'Agreed Framework'. In return, all sanctions both UN and others, except those pertaining to the DPRK's nuclear weapons program, could be eased and eventually lifted in its entirety to give the DPRK the opportunity to wean itself off humanitarian aid and, as a country endowed with considerable natural resources, to 'Trade its Way' out of its economic quagmire.

The DPRK is widely known to possess very substantial mineral resources which if it were allow to develop would be of tremendous benefit not only to its own economic development but to the recovery of the global economy as well.

### **III. Nautilus invites your responses**

The Northeast Asia Peace and Security Network invites your responses to this report. Please send responses to: [bscott@nautilus.org](mailto:bscott@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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