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1. Nuclear Proliferation and International Security

Edited by Morten Bremer Mærli and Sverre Lodgaard

Nuclear Proliferation and International Security

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7 North Korean proliferation and the end of US nuclear hegemony

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In this chapter, I examine why one small state, North Korea (the DPRK), developed nuclear weapons, and also survived sustained US pressure to abandon its nuclear-weapons programme. The DPRK has loudly asserted that it has nuclear weapons while keeping its actual capacities almost completely hidden. On 9 October 2006, the DPRK conducted a nuclear test (Hayes 2006; Hayes and Kang 2006; Hayes and Savage 2006).

My principal argument is that while the Cold War threat environment persisted, the United States was able to construct and sustain a system of nuclear hegemony that revolved around shared understandings of the role played by US nuclear weaponry in deterring Soviet and Chinese nuclear threats to regional states. These understandings were shared by both Washington's allies and its antagonists, the Soviet Union and China. The United States used its overwhelming power to curtail the nuclear aspirations of its allies in the midst of the Cold War, and entered into an explicit bargain wherein local elites surrendered their nuclear sovereignty in return for not only extended deterrence but also the assurance that they would not be faced by further nuclear proliferation in their neighbourhood. However, this system was to prove completely incapable of encompassing North Korea, a country profoundly affected by decades of nuclear threat from the United States and insulated by virtue of its geopolitical position from any external influence that might have been exerted by its erstwhile allies, the Soviet Union and China, until it was too late.

The DPRK nuclear challenge came at the same time that US nuclear strategy became highly contested within its own alliance system. Allied elites were increasingly disaffected by US unilateralism, on the one hand, and the inability of the global non-proliferation regime to halt the spread of nuclear weapons on the other. A DPRK nuclear breakout nullified the bargain underpinning US nuclear hegemony in the region. Ironically, the DPRK first tried to use the nuclear threat to establish a dialogue and eventually achieve a security relationship with its nuclear arch-enemy, the United States. The latter notion was so improbable that almost the entire US security elite was unable to discern, recognize or respond to the North Koreans except in orthodox strategic terms of projecting more nuclear threat, thereby almost guaranteeing that the DPRK would proliferate. The more the DPRK tried to evoke a response from the United States

with nuclear threat, the more it was spurned; this in turn generated even more outrageous responses from North Korea, until it finally left the non-proliferation regime.

In this context, the IAEA-NPT system simply offered targets of opportunity whereby North Korea attempted to force the United States to negotiate at critical junctures, with some success. Far from fearing inspections, Pyongyang found that frustrating or evicting IAEA inspectors set off alarm bells in Washington, making Americans pay attention to a small state that was seeking to negotiate an end to a protracted conflict.

The IAEA was not merely an innocent bystander caught in this crossfire. The IAEA's own concerns in the post-Iraq nuclear inspections debacle and its determination to re-establish the credibility of its own safeguards and inspection system led it to move the goalposts for North Korea in ways that can only be construed as political and discriminatory. The IAEA did nothing to address Pyongyang's security concerns in the face of a US nuclear threat against a NPT member-state, and the other great powers and nuclear-weapons states party to the conflict did nothing to offset US power in the IAEA process or to insulate the DPRK against US nuclear threat. The more the IAEA insisted that the DPRK conform to its discriminatory standards, the more the latter attacked core IAEA institutions in order to force the United States to address its concerns on a bilateral basis. Thus the IAEA not only complicated US diplomacy – the standard US complaint about how it behaved during the negotiations with North Korea – but also intervened in ways that worsened North Korea's nuclear insecurity and supported the US nuclear threat against that country.

Unsurprisingly, North Korea's 'stalker' strategy was bound to fail. In part, the United States was unmoved because it had other, more important concerns and could afford simply to ignore North Korea's threat and rely on raw power to respond to rather than negotiate on Pyongyang's terms. At a strategic level, therefore, the DPRK's use of nuclear weapons to stalk the United States in an attempt to obtain a security relationship was flawed from the start – extortion can only breed distrust and worsen relations – and left the DPRK in an exhausted, ruinous condition, possibly near collapse and uncertain as to its ability to survive in the long term.

Conversely, the failure of the nuclear hegemon to overcome nuclear threat from a small state has damaged badly US leadership in the region as well as the global non-proliferation system. North Korea's apparently successful proliferation of nuclear weapons poses the possibility of a chain reaction of proliferation in East Asia involving Japan, Taiwan, South Korea and possibly Australia, Indonesia and even Burma in the long run as states abandon their acquiescence to US nuclear hegemony.

North Korea's nuclear quest

Looking back at US nuclear war-planning and now available intelligence analysis in the 1970s and 1980s, we may say that the United States was amazingly

to use the nuclear issue as a way to better relations between the United States and his country (Martin 2004: 437).⁴

As the Bush Sr administration came to an end, it was clear that it had failed to contain the DPRK nuclear proliferation threat and to avoid the downward spiral toward confrontation with and proliferation by the DPRK (see IAEA 2003a; Bernstein *et al.* 1992).

Clinton's nuclear roller-coaster ride

After President Clinton entered the White House in January 1993, the IAEA collided head-on with North Korea. When talks failed to move Pyongyang to accept IAEA demands for access to disputed sites, the Agency called for special inspections and a special Board of Governors' meeting to endorse its demand that the DPRK accede to special inspections. The Board met on 22 February 1993; after reviewing US satellite images of DPRK nuclear facilities, it called on Pyongyang on 25 February to comply within a month by allowing access to two disputed sites (but did not specifically refer to special inspections in order to keep China's support) (Wit *et al.* 2004: 18–21). IAEA Director Hans Blix requested that inspections start on 21 March, at which point the DPRK referred ominously to counter-measures of self-defence to preserve sovereignty, which clearly prefigured its dramatic 12 March 1993 declaration of intent to withdraw from the NPT. On 1 March 1993, the IAEA Board of Governors found the DPRK to be in non-compliance. On 4 April, after much manoeuvring among member-states, the UN Security Council president expressed concern and called on all parties to resolve the issues.

The United States sought to strengthen the role of IAEA in how the nuclear issue with the DPRK was resolved, whereas the North Koreans viewed the IAEA as a US pawn and attempted to weaken it while seeking direct dialogue with Washington to resolve the nuclear issue. The IAEA wanted to preserve continuity of safeguards via existing monitoring systems at the Yongbyon nuclear sites; resolve the discrepancies as to past plutonium reprocessing; monitor the announced shutdown of the DPRK's research reactor in May; and assert the continued validity of the 1977 pre-NPT ratification inspection agreement with the DPRK, should the latter act on its announced withdrawal from the NPT in June (Wit *et al.* 2004: 43). Each of these objectives was an excellent target for DPRK attack to increase pressure on the United States.

Thus, Pyongyang did not accept or reject the IAEA's new category of inspections aimed at preserving the 'continuity of safeguards' that were not *ad hoc*, regular, or special inspections. Instead, it invited the inspectors back and proposed a meeting to discuss these inspections beforehand while informing the IAEA that the research reactor de-fuelling – which US negotiators had told the DPRK was the most critical step to avoid – had been postponed. On 10 May, the IAEA's fourth inspection in the DPRK began, and Pyongyang cooperated in ways indicating that it intended to keep open the option of return to the NPT/IAEA fold even if it actually withdrew from the NPT on 12 June. Thus, to

Wit *et al.*, the DPRK treated the IAEA as a 'calibrated means' to shape how the United States would approach the DPRK on the nuclear issue (Wit *et al.* 2004: 45).⁵ In that sense, therefore, the IAEA was peripheral to the main game for Pyongyang – which had always been to engage Washington.

Faced with the prospect of the DPRK's breakout from the NPT, the Clinton administration was forced to elevate the issue in its internal decision-making, including special staffing led by Robert Galluci. Washington shifted its emphasis from making the DPRK admit its past reprocessing to the IAEA to pushing Pyongyang to comply with the still binding inter-Korean Denuclearization Declaration. But even as the United States offered a permanent end to Team Spirit and support for a Korean nuclear-free zone, the DPRK began to argue that US extended deterrence to the ROK was now an issue (Wit *et al.* 2004: 47–9). On 2 June bilateral talks began aimed at averting the DPRK's pending NPT withdrawal. Pyongyang's lead negotiator Kang Sok Ju proposed that, rather than returning to the NPT, the DPRK would implement the Denuclearization Declaration and dismantle its fuel cycle in return for the provision of light water reactors (Wit *et al.* 2004: 51). As US negotiators noted at the time, it was evident that obtaining some form of security guarantee was Pyongyang's highest priority (Wit *et al.* 2004: 57).

By 11 June 1993, the day before the DPRK's ninety-day withdrawal period was up, the two sides struck a deal that kept the DPRK inside the NPT. The IAEA would implement 'impartial' safeguards in the DPRK, and the United States reiterated existing commitments to non-aggression under international law. As tension subsided, the DPRK reduced the volume of its anti-US propaganda and in July returned the remains of US soldiers missing in action since the Korean War. Thus, however clumsy, the DPRK's threat to withdraw from the NPT with its implicit nuclear threat to the United States and its allies forced Washington to negotiate and address Pyongyang's security concerns. The DPRK thereby turned the tables on the United States, which was more used to wielding the nuclear bludgeon against small, non-nuclear states than being on the receiving end.

As the NPT withdrawal crisis subsided, the two arch-adversaries continued to talk about the specific terms of the 11 June bargain. The DPRK was willing to trade its nuclear programme for light water reactors, and agreed that the IAEA could visit suspected sites but not conduct special inspections. It also committed itself to implementing the Denuclearization Declaration (which includes an inspection arrangement), but then demanded that the United States commit itself to providing light water reactors, rather than merely discussing this option – at which point the negotiations came close to total collapse. Galluci indicated that the United States would 'support' the introduction of light water reactors to the DPRK, and the DPRK suggested that it would then consult the IAEA with regard to how safeguards would be implemented to the Agency's satisfaction. Thus, by July 1993, the two antagonists had already defined the broad shape of the US–DPRK Agreed Framework that was to be finalized in October 1994 after Jimmy Carter's crisis-driven visit to Pyongyang in July 1994 (Wit *et al.* 2004: 71–4).

The next twelve months were spent in endless manoeuvring for tactical advantage by Pyongyang, and attempts by Washington to avoid 'front loading' the benefits to be provided to the DPRK in any deal. The IAEA's 'continuity of safeguards' became a splendid opportunity for the DPRK to split hairs instead of atoms, enraging the Agency and keeping the United States locked into a tactical duel. The DPRK insisted that any IAEA inspections must flow solely from the bilateral US-DPRK talks, not its NPT/IAEA safeguards obligations, whereas the IAEA argued the opposite, seeking to link the two and to expand the scope of the otherwise undefined category of inspections for 'continuity' (Wit *et al.* 2004: 80).

As stop-start inspections continued in August and the Board of Governors met in September, the DPRK knew that if the IAEA declared that continuity was broken, that would undercut US diplomacy; but if it delayed such a declaration, then restoring it would require even more intrusive inspections, not less, as demanded by Pyongyang. Thus the IAEA had little leverage and allowed its disdain for the DPRK to become apparent to the entire world. To many, it seemed that the IAEA, or at least a significant fraction of its member-states and officials, preferred that the DPRK should remain outside the NPT/IAEA system altogether, rather than dilute the system itself in order to accommodate the DPRK.

With continuity deadlines looming, the United States and the DPRK resumed talks in New York, with the former seeking a nuclear freeze, expanded IAEA inspections and North-South dialogue, whereas the latter wanted first and foremost to end the Team Spirit exercise in South Korea in return for minimal inspections and eventual resumption of North-South Korean talks. Finally, on 19 December 1993, the United States and the DPRK reached agreement on resumption of inspections with simultaneous North-South talks and suspension of the Team Spirit exercise, but leaving unresolved the scope of the IAEA inspections.

In early 1994, the deteriorating situation led the United States to try a private presidential intermediary to communicate directly with DPRK President Kim Il Sung, in the person of evangelist Billy Graham. The result of this and other similar messages was that Pyongyang accepted all measures proposed by the IAEA in February, but when the inspections began, the DPRK stopped inspectors from taking samples or allowing gamma mapping at the reprocessing facility. By now it was clear to US negotiators that insisting on special inspections could lead to the DPRK withdrawing from the NPT and making nuclear weapons in short order, or to war, and was therefore unrealistic (Wit *et al.* 2004: 140). In March, the IAEA inspectors withdrew from the DPRK to prepare for a Board of Governors meeting on the twenty-first of that month, at which time Blix declared that continuity of safeguards was not broken but that the Agency could not conclude that no fissile material had been diverted as the inspectors' access to the reprocessing plant had been blocked by the DPRK.

The DPRK escalated by threatening to de-fuel the research reactor without IAEA inspectors present (see Wit *et al.* 2004: 172). Now the issue that generated

heat between the IAEA and Pyongyang was how to remove and segregate fuel rods so as to preserve the record of past plutonium production in the reactor core. Unwilling to allow the inspectors to do more than merely monitor the unloading, the DPRK began to de-fuel the reactor, which forced the IAEA to send inspectors to attend on Pyongyang's terms. Any prospect of US-DPRK talks resuming evaporated, and on 30 May the UN Security Council called on the DPRK to preserve the physical record of past nuclear activity and for Pyongyang and the IAEA to consult with each other immediately (Wit *et al.* 2004: 187).

On 2 June, Hans Blix declared that the way in which the DPRK had de-fuelled the reactor had destroyed its history of operation (although in reality there are other ways of determining the operating history of a graphite moderated reactor). Any prospect for further cooperation had come to an end. Instead, there was talk of sanctions and war. The IAEA took a final parting shot on 10 June, when it approved cutting off non-medical technical assistance to the DPRK. Thereupon Pyongyang announced it was withdrawing from the IAEA and threatened to expel the IAEA inspectors from Yongbyon.

Faced with a free fall towards war, former President Jimmy Carter embraced Kim Il Sung on 17 June 1994 on a private visit to Pyongyang approved by the White House. After announcing on CNN that sanctions would not work, Carter outlined the essence of the deal that was to become the US-DPRK Agreed Framework of October 1994. In return for the US promise of normalization of relations and a set of sequenced energy and nuclear cooperation measures, the DPRK undertook to immediately restore continuity of safeguards and to freeze and then dismantle all its nuclear facilities.

Months of negotiations between Galluci's team and the North Koreans ensued over how to interpret and implement an agreement based on the Kim-Carter formula. The action shifted almost completely away from the IAEA, to intense discussion as to what packages of assistance would be provided in return for what set of sequenced actions by Pyongyang to prevent production of more plutonium, to dismantle the DPRK's nuclear fuel cycle, to implement IAEA safeguards and the Denuclearization Declaration, and last (if not least for the Americans), how to preserve the past history of reprocessing by deferring special inspections until such time as the nuclear steam supply system of the light water reactors to be delivered as part of the deal were ready for shipment to the DPRK.

Although the IAEA played no role in these negotiations, niceties were observed. Rather than referring directly to special inspections in the Agreed Framework, Galluci consulted Blix, who preferred that the IAEA should decide what the DPRK had to do to satisfy the IAEA when the time came (Wit *et al.* 2004: 309). The IAEA also gained a new mission of monitoring Pyongyang's compliance with the nuclear freeze, a role mandated in November 1994 by the UN Security Council, which requested that the IAEA undertake to re-establish 'continuity of safeguards'.⁶ In turn, the IAEA played an important political role by undertaking and defending this mission in public, thereby allaying the

concerns of hawks who feared that Pyongyang would cheat on this agreement and who worried about precedents set by any accommodation of the global NPT regime to DPRK non-compliance.

By the end of 1994, the DPRK had managed to build an almost complete nuclear fuel cycle, including an operating nuclear reprocessing plant at Yongbyon. The IAEA's forensic chemistry had alerted the international community to the possibility that the DPRK had conducted multiple reprocessing campaigns, and could by that time have already separated up to two weapons' worth of plutonium from the research reactor (Albright and O'Neill 2000). But the United States and the IAEA had come to terms with deferring resolution of past discrepancies while placing first priority on stopping additional plutonium production in the DPRK – a position advocated most strongly by the military in the US administration's internal debates. In short, the NPT/IAEA regime adjusted to the DPRK's bottom line, which was to retain up to two nuclear weapons' worth of plutonium, not the other way around.

The Clinton administration took a different tack from that of the Bush Sr administration. Instead of relying on a third party to pressure the DPRK to change its behaviour, Clinton dealt directly with Pyongyang. After an initial learning period, Clinton put diplomacy in the driver's seat, backed up by carefully calibrated economic and military pressure, including detailed preparations for a military strike on the Yongbyon facilities that embodied the new counter-proliferation concept at the Pentagon (see Perry and Carter 1999).

The tentative cooperative engagement represented by the energy cooperation projects implemented by the Korean Peninsula Energy Development Organization (KEDO) supplanted the notion that North Korea somehow could be forced to fulfil its NPT and IAEA obligations. Thus the US–DPRK Agreed Framework was a stopgap measure and did not address directly the strategic motivation of the DPRK leadership – the need for a security relationship.

For Pyongyang, the most important aspect of the Agreed Framework was not energy assistance via KEDO, but the prospect of normalized relations with the United States and the guarantee that the United States would provide a negative security assurance when North Korea came back into NPT/IAEA compliance. Since the DPRK remained an ally of nuclear-armed China (although its alliance with the former Soviet Union had been summarily terminated by the Russian Federation), it remained subject to the threat of US nuclear attack, regularly planned and exercised in various branches of the US military (see Kristensen 2001).

By 1998, both the DPRK and the United States were unhappy with the slow implementation of each other's commitments in the Agreed Framework. Prompted by the August 1998 test-firing of a DPRK rocket above Japan, Washington initiated the 'Perry process' to realign the DPRK-related cooperation between United States, South Korea and Japan as well as to shore up domestic support for the Agreed Framework. In addition to coordinating US and allied strategy, Perry set out to restore the convergence of US and North Korean strategic intentions and actions, both of which had strayed some distance from the sequential and reciprocal steps contained in the Agreed Framework.

The DPRK argued relentlessly that the IAEA was back in the DPRK solely in order to inspect its compliance with the nuclear freeze provisions of the US–DPRK bilateral Agreed Framework. It was clear that Pyongyang viewed the IAEA simply as a way to put pressure on Washington, declaring that: 'Whether we implement the safeguards accord with the IAEA entirely depends on how the US implements the framework agreement with the DPRK' (KCNA 1998).

The Clinton administration made a last-ditch attempt to resolve the conflict by signing an agreement to end hostility between the United States and the DPRK. According to the US–DPRK 12 October 2000 joint statement issued in Washington: 'As a crucial first step, the two sides stated that neither government would have hostile intent toward the other and confirmed the commitment of both governments to make every effort in the future to build a new relationship free from past enmity' (US State Department 2000a). Perry's groundwork made it possible for then US Secretary of State Madeleine Albright to visit Pyongyang in 2000 to try to achieve a breakthrough on missiles and nuclear weapons. She met with Kim Jong Il, who struck her as being 'someone who is practical, decisive, and seemingly non-ideological', but the results of the visit amounted to too little, too late, for both sides. The Clinton administration had simply run out of time to explore whether cooperative engagement and reassurance might move the DPRK to abandon nuclear-weapons development (US Department of State 2000b).

Key officials in the Clinton administration believed that time was on the side of the United States, and that Pyongyang's strategic motivation did not matter – US policy simply had to achieve US goals whatever reasoning prompted the DPRK to pursue nuclear weapons, whether the latter was strategic, venal or the result of madness or confusion (Wit *et al.* 2004: 382).⁷ Unfortunately, Pyongyang's objectives did matter. Frustrated at its inability to move the United States from its unremitting hostility, the DPRK began to pursue uranium enrichment technology more actively in 1998, thereby setting in motion an unconstrained second pathway for obtaining nuclear-weapons technology (US Central Intelligence Agency 2002).

Although the DPRK had signalled that it was ready to transform its absolute antagonism to the United States into a security relationship, including entertaining at the highest level that US military forces might stay in Korea on a 'non-partisan' basis, it was increasingly restive. The United States was plainly not interested in shifting from humanitarian food aid to development assistance, and continued to designate the DPRK as a 'terrorist' state, thereby effectively blocking all but the most risk-taking Western firms from doing business there. De facto, therefore, the United States was applying economic pressure on the DPRK to capitulate on the nuclear issue and other issues such as missile exports – and this proved to be a sure-fire exercise in non-proliferation failure.

Bush Junior: malign neglect and rollback

In March 2001, shortly after taking office, President George W. Bush met with ROK President Kim Dae Jung and told him directly that he did not agree with

the latter's assessment of Kim Jong Il as someone with whom one could do business (see White House Press Office 2001). Many observers viewed this as insulting to South Korea and evidence of a careless 'cowboyism' that undermined US leadership of its erstwhile ally (Wilkerson 2005).⁸

This opening salvo across South Korea's bow was followed by twelve months of malign neglect during which the United States reluctantly delivered heavy fuel oil as required by the Agreed Framework and allowed the light water project to proceed, but otherwise sat on its hands in terms of fulfilling US commitments. In October 2002, the administration sent diplomat James Kelly to Pyongyang, where he informed the DPRK that its uranium enrichment programme rendered the Agreed Framework defunct and demanded that the DPRK admit to this activity.⁹ The DPRK first rejected Kelly's claims altogether, and then reactivated its plutonium-producing fuel cycle after the United States ended heavy fuel oil deliveries. However, it allowed US nuclear experts who were involved with spent fuel canning under the Agreed Framework to stay until late December 2002. Citing US nuclear pre-emptive targeting of the DPRK, Pyongyang also evicted IAEA inspectors, arguing that they were only in the country by virtue of their role in monitoring the DPRK's nuclear freeze in the 1994 US–DPRK Agreed Framework. As one German commentator noted trenchantly, the DPRK was dancing a nuclear solo striptease act aimed at getting US attention, and tweaking the IAEA was the perfect ploy for unveiling its nuclear intentions (Bork 2002).

From the outset, the Bush administration was deeply divided internally over how to manage the DPRK nuclear threat. This 'bipolar disorder' in the Bush White House mirrored the earlier split during the Clinton administration between advocates of immediate freeze and dismantlement who supported reassurance and cooperative engagement with the DPRK versus non-proliferationists who held that the only acceptable way forward was immediate DPRK compliance with its non-nuclear obligations. In the Bush White House, the split revolved around ultra-hardliners who argued that the DPRK leadership was always hell-bent on obtaining nuclear weapons, would never give up its nuclear capacities, and was secretly pursuing them anyway – that is, lead with a stick and endure the regime until it collapses – versus hardliners who believed that it was still possible to negotiate a reversal of Pyongyang's nuclear programme at an acceptable cost – that is, lead with carrots but carry a big stick (Hayes 2003a).

The terrorist attacks of 11 September 2001 on the United States led to the prosecution of the global war on terror, and the occupation of Iraq because of its alleged nuclear-weapons capacities. Thus the 'ultras' became dominant at a critical juncture in relation to Korea. Bush listed the DPRK as one of three rogue states that could be dealt with only by isolation, pressure and, by implication, by 'regime change'. In one interview, he even called Kim Jong Il a 'pygmy'. The US military reinvigorated its nuclear doctrine by updating the 'adaptive planning' created after the collapse of the Soviet Union with pre-emptive nuclear strike options aimed at rogue states, rogue leaders and even non-state actors who

might pose a threat of WMD against US or allied targets (see Arkin 2002; Ruppe 2005).

The response of the Bush administration, already consumed with the global war on terror and the escalating costs of the occupation of Iraq, was to launch in April 2003 multilateral negotiations involving the two Koreas, Russia, Japan, China and the United States, hosted by China. By December 2005, four rounds of these six-party talks had failed to deliver any concrete commitment by Pyongyang to reverse its nuclear-weapons programme. Instead, faced with US obduracy, the DPRK escalated first by hinting, then declaring with increasing volume, that it had made weapons-grade plutonium metal (even handing a leading US nuclear-weapons expert a chunk of the metal to examine in January 2004) and averring that it had 'weaponized' this material (see Hecker 2005). For its part, the United States continued (as of September 2006) to refuse to engage the DPRK on a bilateral basis, insisting that China and the other regional powers should wrestle the DPRK to the ground on the nuclear issue.

Faced with the virtual abdication of the US superpower in dealing directly with the DPRK, regional states began to cut their own deals with Pyongyang. The nascent strategic bifurcation of North East Asia into a China-led bloc including the two Koreas and a countervailing US–Japan bloc became apparent in 2005. The refusal of the United States to lead, its increasingly unilateral actions in the war on terror and its insistence on faux diplomacy by insisting on the form of the Six Party Talks without any real content in 2003–05 may prove to have been the low point in the decline of US nuclear hegemony. For the regional powers, it was obvious that the United States had no genuine intention of achieving the denuclearization of the DPRK, and no coercive capacity to impose it either.

For its part, by mid-2005 the DPRK had thrown out IAEA inspectors, broken the seals on the spent fuel stored at Yongbyon and reprocessed that spent fuel, thereby acquiring perhaps eight to ten nuclear weapons' worth of fissile material. In February 2005, it declared outright that it had constructed nuclear weapons; and on 31 March, Kim Il Sung was cited as blessing Pyongyang's nuclear deterrent strategy as the way to achieve denuclearization of Korea in DPRK domestic propaganda, thereby fusing North Korean nationalism with nuclear weapons (Institute for Science and International Security 2005; Korean Central Broadcasting Station 2005).¹⁰ The DPRK demanded co-equal treatment from the United States as a nuclear-weapons state.

Thus the core deal underlying US nuclear hegemony – that it would stop proliferation of nuclear weapons by adversaries of US allies on the one hand; and between NWS that it would not foster the spread of nuclear weapons among such key US allies as Germany and Japan on the other – had all but failed. By 2006 it was clear to all parties to the Korean nuclear conflict that the United States was strategically adrift in the region. The Bush administration's last hurrah has been to try to press the Kim regime to capitulate on a range of peripheral matters such as narco-criminal and counterfeiting issues, but even this strategy seems to be backfiring, as it is forcing the rapidly expanding legitimate trade

in North Korea into corruptible channels rather than getting Pyongyang back to the Six Party Talks. Since the end of 2005, the United States has imposed financial and shipping sanctions, and is now attempting to squeeze the DPRK leadership into submission or into collapse.

NPT withdrawal pains

The DPRK's NPT withdrawal directly attacks the basis for US nuclear hegemony which rests upon its ability to keep states in the NPT/IAEA system or to enforce compliance should a state break out of the system and proliferate nuclear weapons.

The DPRK's non-compliance with IAEA safeguards agreements and its subsequent withdrawal from the NPT raise formal and substantive legal and political questions for the NPT and the IAEA. First, the basis for its declared withdrawal on 10 January 2003 without ninety days' notice was that it had already given this notice in 1993 and had run down the clock at that time to eighty-nine days before suspending its withdrawal in June 1993 (du Preez and Potter 2003). The DPRK argues that it had a special status in having not retracted the original withdrawal, basically being in limbo, and therefore could simply give one day's notice.

Analysts noted that, once Pyongyang had linked its withdrawal to the earlier notice, the legal basis for the final withdrawal also therefore rested on the original grounds, not the issues that the DPRK cited as motivating its actions in 2003. The original grounds were objections to US military exercises threatening the DPRK, and the IAEA inspector's demands for special inspections-related access, and the allegedly partisan basis of the IAEA's demands that the DPRK comply with its safeguards obligations (Bunn and Timerbaev 2005).

Although the IAEA did refer the DPRK's non-compliance on safeguards to the UN Security Council, Pyongyang's NPT withdrawal was and is not an issue for the IAEA. UNSC action on this score rests on general Security Council mandates related to the maintenance of international peace and security and threats arising from prospective or actual proliferation of nuclear weapons, rather than non-compliance with the NPT itself.

Towards the end of 2006, however, the Security Council has yet to act in a way that holds Pyongyang to fulfil its NPT obligations, a repeat of its 1994 deliberations on the DPRK. In effect, it has been left to the withdrawing state, that is, to the DPRK, to define what constitutes 'extraordinary events, related to the subject matter of this Treaty, [that] have jeopardized the supreme interests of its country' (Article X of the NPT). Part of the UNSC responsibility faced with a declared intention or actuality of withdrawal is to consider the possibility of alternative measures short of withdrawal to address and resolve the circumstances cited by the withdrawing party.

This is particularly incumbent on the Security Council when the justification cited or the extraordinary circumstances derive from a threat projected by the nuclear weapons of a UNSC member-state (the United States), as was the case

with the DPRK, which, in its withdrawal notice to NPT member-states, declared that its withdrawal from the treaty was due to its being designated by the United States as part of the 'Axis of Evil' and being targeted by the US pre-emptive strike policy – both of which are true (see du Preez and Potter 2003). The Security Council completely failed to address this core issue, which is at the basis of the deal between nuclear weapons and non-nuclear-weapons states that are party to the NPT.

Assessing nuclear intentions

Three US administrations have failed to avoid North Korean breakout from the Non-proliferation Treaty and a gaping hole in the IAEA safeguards system. Nuclear war is once again conceivable in Korea after a brief interlude in the early 1990s when this prospect all but disappeared. Even South Korea – thought to be squeaky-clean in terms of IAEA safeguards and non-nuclear credentials – proves to have continued to acquire its own nuclear weapons-related enrichment and other capacities in apparently uncontrolled scientific research throughout the 1990s and ending only in 2003 (Hayes *et al.* 2005a).

In light of this dismal record, two questions need answering. First, why did US nuclear hegemony fail so completely to curtail Pyongyang's nuclear challenge? Second, was this outcome inevitable, or are there lessons from this decade of nuclear confrontation that might lead the DPRK to abandon its nuclear weapons?

After the fourth round of Six Party Talks, the DPRK lambasted Washington's intentions but also reaffirmed that it wants to build confidence with the United States (via concrete measures such as US provision of light water reactors) and to shift from hostile relations to coexistence if not friendly relations (Hayes *et al.* 2005b: appendix 2).

To most US policy-makers, such DPRK claims to be recognized as an equal partner and to be willing to move from a hostile to friendly relationship at this late stage seem preposterous, and are discounted as bizarre. Some view it as impossible for the DPRK to make such a move due to the state's alleged narco-criminal character (see Chestnut 2005; Asher 2005). Others believe that the 'simplest' explanation of Pyongyang's behaviour – that the leadership has and always will put acquiring a strategic nuclear arsenal first and foremost in its priorities – is preferable until proven otherwise (Eberstadt 2004). Such analysts simply ignore any anomalies that are inconsistent with this approach or that indicate that DPRK motivations may be more nuanced and conflicting. Yet other analysts view statements from senior party figures, and even from Kim Jong Il himself, to the effect that a non-partisan US military might stay in Korea, as totally incredible and purely tactical in nature, aimed at splitting US alliances with South Korea or Japan. As one former US official who met with Kim Yong Sun put it, there may be less to this North Korean position than meets the eye.

It is useful, therefore, to return to the fundamental question of North Korean motivations in obtaining nuclear weapons. North Korea has not enunciated a

nuclear doctrine for its claimed nuclear weapons. Translating an inferior and relatively tiny nuclear-weapons arsenal of untested reliability into political and military terms may prove difficult. North Korea is not the only NWS (assuming its claims to have nuclear weapons are true) to face the daunting problem of converting a fourth-rate nuclear force into the currency of power and capacities in a way that can actually strengthen the regime once the first flush of nationalist pride wears off. Arguably, India faces a similar problem.

Yet Pyongyang's slow-motion proliferation is not easily explained by the theories that it is simply intent on gaining nuclear weapons, or that it was induced to delay this programme by a relatively small pile of carrots under the Agreed Framework. The US ability to coerce the DPRK on objective power ratios has increased with time, not decreased. Pyongyang had nothing to gain by delaying its proliferation efforts by nearly a decade under the Agreed Framework, and there was little or nothing that the United States could have done in the mid-1990s to stop it. Thus, an alternative explanation is in order.

In my view, the DPRK used nuclear threat as a form of compulsion of its own, to force the very much larger nuclear power, the United States, to engage it on critical security and regime survival issues. Such threats have been left deliberately ambiguous and its capacities to act on these implicit and explicit threats remain very opaque and uncertain. However, it is clear that the DPRK could threaten vital US interests with a nuclear weapon on the brink of a war in Korea, either directly in Korea or in Japan, or even against the United States itself.

It also plays on the fear, linked for many to the post-9/11 mentality, that the DPRK might sell nuclear materials or even whole weapons to other states or to non-state terrorist organizations (Hayes 2003b).¹¹ In the case of the DPRK, the nuclear weapon is a weapon of the weak and the desperate, but one with a very unusual levelling capacity due to its exceptional power. Given the rigid and unusual levelling capacity due to its exceptional power. Given the rigid and tenacious US stereotypes about the DPRK's inability to change from a nightmarish child of the Cold War into something more compatible with post-Cold War international norms of state behaviour, Pyongyang used the nuclear threat to batter away at the American door.

This challenge to nuclear inequality goes to the heart of the Nuclear Non-proliferation Treaty. As Kim Yong Sun, then in charge of nuclear strategy in the Korean Workers' Party, explained to me in Pyongyang in 1991:

I'd like to compare the need for discussion between ourselves and the United States on the nuclear issue with two people sitting at a table, one wearing a big visible knife and the other unarmed. Is it acceptable for the armed one to demand inspection of the pockets of the unarmed one? We see that this is a superpower demand on a non-nuclear small country to be imposed unilaterally. . . . There might be big and small nations, but there can't be superior and inferior nations. There might be developed and developing countries, but there can't be dominating and dominated countries.¹²

(Hayes 1991)

The DPRK has sought to use nuclear weapons not only to counter the US nuclear threat and other interrelated insecurities derived from the Korean division and war, a typical negative use of nuclear weapons. Pyongyang has also tried to gain a security relationship with Washington, due to its perception that it needs distant great-power allies to offset the proximate power of Japan, China and Russia; and because it wants to avoid being crushed by South Korea, which is twice as large in population and fifty times bigger in terms of its economy – and which has already been recognized by both China and Russia.

This positive use of nuclear weapons by an adversary rather than an ally is incomprehensible to Americans – that the North Koreans could imagine that they could be security partners with the United States. Yet this is what senior North Koreans have consistently said, and there is no reason to disbelieve them. There is no place in US nuclear ideology for an adversary who uses nuclear weapons to try to assert its right to achieve a security relationship with Washington. For this reason, US nuclear hegemonists failed to perceive what the North Koreans were doing, over and over again. Their stereotypes simply precluded this possibility. In my view, they were mistaken in shunning the various overtures from Pyongyang, such as that made by the now deceased party leader Kim Yong Sun, who said in 1993, referring to the need to put aside the profound conflicts dividing North Korea and the United States, 'It is possible and probable to solve the nuclear issue by this direct dialogue. Koreans have a saying: "Sword to sword: ricecake to ricecake". It is time to throw away the sword and hold up the ricecake' (quoted in Hayes 1993c).

Of course, there are other reasons that explain why Americans may not have heard – or believed if they did hear – when DPRK leaders (including Kim Il Sung and Kim Jong Il) and diplomats stated that they were attempting to achieve a political breakthrough with the United States as their highest priority. The long stream of DPRK propaganda denouncing the United States in vitriolic terms, the propensity to use endless salami-slicing tactics in negotiations, maximalist demands to retain 'give-away' options in last-minute final compromises and Pyongyang's action-reaction negotiating style, drowned these signals or rendered them incredible to US policy-makers. The harder the North Koreans beat their drums, the more difficult it became to hear what they were saying. The less Americans heard what they were saying, the more the United States responded with classical Cold War deterrence or compellence strategies, except for brief interludes of limited reassurance.

Conclusion

Barring a miraculous change in political culture and orientation in Washington and/or Pyongyang, the only way to repair the damage is for an authentically regional system of nuclear non-proliferation to be developed by local states, consistent with the global NPT/IAEA system. Such a system can be attached to the latter, but it must be developed and tailored to the needs of regional states to reduce the nuclear threat emanating from within the region. Over time, such an

approach may render Pyongyang's nuclear-weapons programme less salient, and eventually lead to its dismantlement as part of inter-Korean rapprochement.

The obvious starting point for such an approach is to expand the scope and participation in the existing Korean NWFZ declared in 1992 by the two Koreas to cover parts of China, the Russian Far East, Japan and Taiwan. At the outset, this could be as simple as attaching protocols for non-Korean signature to the Joint Denuclearization Declaration. Over time, other states could partly or completely accede to the commitments made in that declaration and apply these conditions to part or all of their territory (Endicott *et al.* 1997; Umebayashi 2004).

In this regard, maintaining the ROK's non-nuclear commitments is now the highest non-proliferation imperative in the region. In the interim, it is critical to ensure that Japan does not seek nuclear weapons in response to a blatant demonstration of North Korean nuclear weapons capacity such as a nuclear test. In both instances, the role of independent policy analysts and the emergence of more influential civil society organizations may prove to be the essential missing ingredient for reinstating the non-nuclear status of these countries, currently deeply implicated in the nuclear alliance system and complicit in the US nuclear hegemony.

Finally, the impact of the North Korean breakout on US nuclear hegemony – built around the core deal that extended nuclear guarantees to allied states against nuclear threats from nuclear great powers, and promised to halt the spread of nuclear weapons to local enemies – is devastating. Many Americans still manage to delude themselves that the Six Party Talks somehow represent a masterpiece of US diplomacy that facilitated the 'coming out' of China as a responsible regional power. Some have even speculated that these talks might lay the foundations for a regional institutional framework for managing security issues.¹³

In reality, nothing could be further from the truth. The reputation of the United States as a superpower and nuclear hegemon lies in tatters in East Asia. In effect, the United States has abdicated from its hegemonic role, and left the locals to fend for themselves. Not surprisingly, they are doing so, and nowhere more so than in South Korea, now determined to stabilize nuclear-capable and possibly nuclear-armed North Korea, and to diversify its great-power interdependences away from almost sole reliance on the United States. Military procurement in South Korea now includes substantial purchases from the Russian Federation, much to the chagrin of US arms manufacturers (Sanzhiev 2005).

Does it matter that a small hermitic state with almost no awareness of or commitment to international norms of political and interstate behaviour has nuclear weapons? Leaving aside the global cost of establishing that states not in compliance can get away with pulling out of the NPT, and ignoring the cost of on-going division and instability in Korea to Koreans and non-Koreans alike – a nuclear North Korea increases the risks of nuclear next-use in the coming decades.

The first question that must be addressed concerns motivation. If the DPRK has become a nuclear 'stalker state' that seeks to redress past wrongs and use

nuclear leverage to force the United States to treat it in a less hostile and more respectful manner, then the United States will have to ask itself whether continued isolation and pressure on the regime are more likely, or less so, to ameliorate stalking behaviours in time of crisis, when the risk of nuclear next-use becomes urgent. Like a repeat offender, the DPRK is likely to continue to use nuclear threat to stalk the United States until it achieves what it perceives to be a genuine shift in Washington's attitude. Unlike an individual who stalks, there is no simple way to lock up a state that stalks another with nuclear threat.

Currently, the United States has no common language for discussing nuclear weapons with the North Korean military in the context of the insecurities that bind the two sides together at the Demilitarized Zone. Continued rebuffing of Pyongyang's overtures may lead to more 'nuclear stalking' – that is, the development of creative and unanticipated ways of using nuclear threats, deployments and actual use in times of crisis or war. There are no grounds to believe that the DPRK will employ a US or Western conceptual framework of nuclear deterrence and crisis management in developing its own nuclear doctrine and use options. Indeed, US efforts to use 'clear and classical' deterrent threats to communicate to North Koreans that 'if they do acquire WMD, their weapons will be unusable because any attempt to use them will bring national obliteration' – as Condoleezza Rice put it in her *Foreign Affairs* essay (Rice 2000) – serve to incite the DPRK to exploit this very threat as a way to engage the United States, with terrible risks of miscalculation and first-use on both sides.

In fact, the scenario of nuclear next-use in Korea that is most worrisome is not the result of war involving the United States with its allies, and the DPRK: rather, it involves the consequences of the DPRK falling into a state of war with itself. Should the DPRK collapse violently, then its nuclear weapons or fissile material might be commandeered either for provocative use in order to draw the ROK into such a war by one or other faction in the DPRK, or simply spirited out of the country by the residual narco-criminal networks operating out of the DPRK and become available to another proliferating state or a non-state actor with nuclear aspirations. For this reason alone, it is urgent that the international community cooperate to stabilize the political and economic situation of the North Korea. Such is the awesome power of nuclear weapons that there is no alternative.

Notes

- 1 Wit *et al.* 2004 note that a US satellite first monitored construction of the 5 MW reactor in 1980. See also CIA 1986 which states that 'Whether the current nuclear developments in North Korea reflect a nuclear-weapons programme, they represent a considerable developing capability', p. 15.
- 2 Author's communication with D. Fischer, 17 November 2005.
- 3 As stated by a North Korean official to the author and recounted in Hayes 1993d.
- 4 Recount by a defector. This defector's account of Kim Yong Sun's role, the decision-making process, and the strategic motivation of Kim Jong Il and the role played by Kim Yong Sun, accords with what I was told privately by senior North Koreans in Pyongyang in 1991 and 1992.

- 5 The authors state that the DPRK used the IAEA as a calibrated means to 'shape the political environment'. I interpret the latter phrase to mean how the United States responded to the DPRK.
- 6 The full text of the US-DPRK Agreed Framework and all the related agreements to implement it can be found in Hayes and Kihl 1997 and at www.nautilus.org/DPRKBriefingBook/agreements/index.html.
- 7 According to Wit *et al.*, they were agnostic as to DPRK strategic motivation; to them, all that mattered was that the United States should realize its strategic objectives.
- 8 See the devastating account of this meeting by Colin Powell's former chief of staff (Wilkerson 2005).
- 9 Kelly informed the DPRK that its uranium enrichment programme rendered the Agreed Framework defunct and demanded that the DPRK admit to this activity. However, no affirmative evidence has been tabled regarding such HEU activities.
- 10 Kim Il Sung, cited by KCNA at 'DPRK Foreign Ministry Spokesman on Denuclearization of Korea', Pyongyang, 31 March (KCNA).
- 11 In my view, this is extremely unlikely.
- 12 Briefing from an interview with Kim Yong Sun, chairman of the Korean Anti-Nuclear Peace Committee and International Affairs Department of the Korean Workers' Party and the International Affairs Committee of the DPRK Supreme National Assembly, Pyongyang, 1 October 1991.
- 13 See e.g. Schoff *et al.* 2004.

8 Israel and a Nuclear Weapon-Free Zone in the Middle East

Marvin Miller and Lawrence Scheinman

Various Nuclear Weapon-Free Zones (NWFZ) exist, and their contribution to regional and international security has been widely acknowledged. However, no NWFZ has been established in a region that includes the territory of any of the five weapons states that are party to the Treaty on the Non-proliferation of Nuclear Weapons (NPT) as well as the three states – Israel, India and Pakistan – that are not.

The obvious reason for this is that not one of these eight states has agreed to relinquish its nuclear weapons. Moreover, the prospects for this happening in the foreseeable future are unlikely, despite the NPT Article VI commitment to disarmament by the five NPT weapons states, as well as occasional statements by the three non-NPT weapons states about the desirability of a nuclear weapons-free world. Indeed, there is almost no discussion of pursuing an NWFZ in any region that includes a nuclear-weapons state – except in the Middle East, where it has been on the international diplomatic agenda since 1974, when Iran, supported by Egypt, introduced a resolution in the UN General Assembly supporting the creation of such a zone.

Israel joined the consensus on this resolution in 1980, and supports the concept of an NWFZ rather than the Non-proliferation Treaty (NPT) as the appropriate vehicle for denuclearization in the Middle East. However, Israel has refused to begin negotiations towards creation of an NWFZ until a just and comprehensive peace is established between it and the Palestinian people as well as neighbouring states. At the moment, this seems a distant prospect, which has led to considerable scepticism about the utility of discussions about an NWFZ in the region, especially in the face of widespread concern that Iran is attempting to acquire nuclear weapons under the cover of a civilian nuclear programme.

An additional complication in realizing an NWFZ in the Middle East is the fact that many countries in the region are suspected of possessing chemical and biological weapons. While the lethality of such weapons is rarely of the same order as that of nuclear weapons, they can cause significant casualties among unprotected military formations and civilian populations, and thus they must also be accounted for in any attempt to rid the region of nuclear weapons. This motivated President Mubarak of Egypt to propose a Weapons of Mass Destruction Free Zone (WMDFZ) in the Middle East in 1990. This proposal has