

A STEP FORWARD IN THE SIX-PARTY PROCESS

B. C. Koh

(Professor Emeritus, University of Illinois at Chicago)

For the second time in three months, the familiar pattern of a positive development followed by a setback in the Six-Party Talks aimed at the denuclearization of the Korean Peninsula has entered a hopeful phase. The impasse that was broken this time, however, had been more alarming than any of its predecessors. For the North had stopped the disablement of its nuclear facilities and begun restoring its reactor and reprocessing capability in Yongbyon. If fully implemented, the North's action would have led to the production of weapons-grade plutonium sufficient for a half dozen bombs.

Origins of the Impasse

Before attempting a preliminary assessment of the end of the standoff, let us review briefly how the latter materialized in the first place. The most important thing to note is that at the Heads of Delegation Meeting of the Sixth Round of the Six-Party Talks held in Beijing from June 10 to 12, no agreement was reached on a verification protocol for the declaration submitted by the North on its nuclear programs. Nor, it needs to be stressed, was there any explicit agreement, either oral or written, between the U.S. and the North that the latter's acceptance of a robust verification regime would be a precondition for Washington's delisting of the DPRK from the U.S. government's blacklist of state sponsors of terrorism.

What happened nonetheless was that the Bush administration pressed the North to accept an intrusive verification protocol that the latter strenuously resisted. According to the *Washington Post*, the U.S. proposal called for "full access to all materials" at sites that the U.S. suspected "might have had a nuclear purpose in the past" as well as "full access to any site, facility or location" deemed relevant to the nuclear program. Under the U.S. proposal, "investigators would be able to take photographs and make videos, remain on

site as long as necessary, make repeated visits and collect and remove samples.” This plan, which was later toned down somewhat, had reportedly been opposed by Christopher Hill, the chief U.S. delegate to the Six-Party Talks, but he was overruled. David Albright, a former weapons inspector in Iraq told the *Washington Post* that the U.S. proposal would be “completely unacceptable to any country’s sovereignty” and amounted to “a verification wish list” and “a license to spy on any military site they have.” He noted that “Iraq agreed to such provisions in the 1990s only after it was bombed.”

What the North expected would happen was that since it had submitted a declaration of its nuclear programs, Washington would reciprocate by delisting it from the terrorism blacklist by August 11, the date on which that could be done under U.S. laws. When the date passed with no action on the Bush administration’s part, however, the North decided to take a counter-measure. Although the North took such measure on August 14, it did not reveal what it had done until August 26. In a statement issued by its Foreign Ministry spokesman, the North stressed that Washington’s failure to remove the DPRK from the blacklist was a violation of the “action for action” principle enshrined in the agreements emanating from the Six-Party Talks.

In response to such violation by the U.S., the North said it was compelled to take the following counter-measures:

- (1) It decided to “immediately suspend the disablement of its nuclear facilities that had been under way since the October 3, 2007 agreement.” This step, the North said, took effect on August 14 and the parties concerned had already been notified of it.
- (2) It “will consider soon a step to restore the nuclear facilities in Yongbyon to their original state as *strongly requested by its relevant institutions.*” [emphasis added]

The North later revealed that the “relevant institutions” that had “strongly requested” the countermeasures noted above were the military authorities. The subsequent disclosure that the North’s supreme leader, Kim Jong Il, was incapacitated by illness lends support

to the assumption that the military establishment led by the DPRK National Defense Commission may be calling the shots in Pyongyang.

Washington Removes the North from its Blacklist

It was against this backdrop that intense behind-the-scenes negotiations took place between the two adversaries. By all accounts, Christopher Hill's visit to Pyongyang from October 1 to 3 proved to be a turning point. He had been invited by the North and met or conducted negotiations with both civilian and military leaders. What he brought back from Pyongyang, however, required a lengthy process of consultations with the other parties in the Six-Party Talks—namely, Beijing, Moscow, Seoul, and Tokyo—as well as approval from his bosses in Washington—notably, Secretary of State Rice and President Bush. It was only after the latter two signed the agreement—Bush in the late afternoon or early evening of October 10, and Rice around 7:30 a.m. on October 11—that the Spokesman for the U.S. Department of State, Sean McCormack disclosed its contents, of which the centerpiece was the formal delisting of the DPRK from the U.S. government's list of state sponsors of terrorism in exchange for the North's acceptance of a verification protocol and commitment to resume the disablement of its nuclear facilities in Yongbyon.

Before examining and assessing the agreement, as disclosed by Washington, however, one needs to keep in mind that it is a strictly bilateral agreement between the U.S. and the DPRK. It remains to be officially accepted by the Six-Party Talks, which is expected to resume in the coming weeks. Nonetheless, the core elements of the agreement—the removal of North Korea from Washington's blacklist, which now consists of Cuba, Iran, Sudan, and Syria and the resumption of the disablement process in Yongbyon—are already in effect.

In announcing this breakthrough, the Bush administration took pains to underscore that the North had agreed to “every nuclear inspection demand” it had sought. Significantly, the documents released to the press during the press conference on October 11 included a two-page list of “Existing Sanctions and Reporting Provisions Related to North Korea.”

The latter consisted of sanctions imposed on the North for proliferation activities, for human rights violations and for its October 9, 2007 nuclear detonation.

What, then, are the specific verification measures the North and the U.S. have agreed on?

They include the following:

- Experts from all Six Parties may participate in verification activities, including experts from non-nuclear states;
- The International Atomic Energy Agency (IAEA) will have an important consultative and support role in verification;
- Experts will have access to all declared facilities, and *based on mutual consent*, to undeclared sites;
- Agreement on the use of scientific procedures, including sampling and forensic activities;
- All measures contained in the verification protocol will apply to the plutonium-based program and any uranium enrichment and proliferation activities.
- In addition, the monitoring mechanism already agreed by the Six Parties to monitor compliance with the Six-Party documents applies to proliferation and uranium enrichment activities.

The qualifying phrase, “based on mutual consent,” [italicized above] implies that the North reserves the right to modify or even nullify some of the preceding agreements. This applies to the inspection of “undeclared sites” and verification of uranium enrichment and proliferation activities.

Gains and Losses

Assuming that the agreement outlined above will be “guaranteed and formalized by all the Six Parties,” one can argue that it is a win-win proposition. To begin with the North, in addition to the economic and other benefits it will receive in accordance with the previous Six-Party agreements, its removal from Washington’s blacklist entails both symbolic and substantive gains. Symbolically, the stigma of a state sponsor of terrorism

that the world's most powerful state had tagged on the North for over two decades has now been removed. This can only be a welcome development to the fiercely proud state that is North Korea. Substantively, the delisting from the blacklist opens the way for the North to join the International Monetary Fund (IMF), the World Bank, and the Asia Development Bank. For the U.S., which exercises a virtual veto in all these institutions, will no longer be bound by its domestic law to block the admission of the DPRK into any or all of them. Once the North joins the World Bank, for example, it will qualify for long-term loans administered by the International Development Association, a component unit of the bank, which are practically interest-free (with service fees only). All this, however, will take time; hence, it should be counted as medium-term benefit.

One may argue that the cost for the U.S. of removing the North from its blacklist is modest. The main cost has to do with its relations with Japan, which tried hard to keep the North on the U.S. list, as long as the abduction issue remains unresolved. Given the determination of the Bush administration to go ahead with its deal with the North, however, Japan reluctantly went along with Washington. The gain for the Bush administration pertains to the salvaging of the denuclearization deal; even though it is unlikely to be implemented in full in the few months remaining in Bush's term, keeping it alive will be one of the few legacies of his administration that are positive.

As for the prospects for the implementation of the new agreement, one can only express cautious optimism. The road to disarming the North remains as bumpy as ever. Hence one should lower one's sights, counting the disablement of the North's nuclear capability as a worthy goal in the short and medium term. The completion of the second phase of denuclearization may have a better chance of materializing than the achievement of the third phase goals, which must include the dismantlement of the North's nuclear programs and arsenal and an accounting of uranium enrichment and proliferation activities. The only way to keep these goals alive is keep the Six-Party process from falling apart.