

THE BERLIN AGREEMENT AND THE PERRY REPORT: OPENING A NEW ERA IN U.S.-NORTH KOREA RELATIONS

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Through the Berlin Agreement and the Perry Report, the US and North Korea made a critical decision to go down the road toward mutual threat reduction, normalization of relations, and dismantling of the Cold War on the Korean Peninsula and in Northeast Asia. In order to inquire into the significance of the Berlin Agreement and the Perry Report, this paper reviews the changes in the U.S. policy toward North Korea in the 1990s and North Korea's policy toward the U.S. during the same period, and the positions of both countries in the Berlin deal. Then the paper deals with the responses of Congress to the Clinton Administration's engagement policy toward North Korea including its recent responses to the Berlin agreement and the Perry Report. This paper concludes by predicting that the next U.S. Administration, Democratic or Republican, is likely to continue the hitherto engagement policy, not having much leeway for returning to the policy of confrontation and containment.

I. Introduction

Recent months have witnessed a dramatic development in the relationship between the United States and North Korea. Both countries discussed bilateral relations and other issues of mutual concern, including sanctions and missile issues, from September 7 to 12 in Berlin. They reached an agreement there that each side "would endeavor to preserve a positive atmosphere conducive to improved bilateral relations and to peace and security in Northeast Asia and the Asia-Pacific region."¹

In accordance with the Berlin Agreement, the United States eased economic sanctions against North Korea on September 17,² and North Korea welcomed it on September 21, 1999.³ Previously on September 12, North Korea announced that it would suspend the test launching of its long-range missiles for the duration of negotiations with the United States "in order to create a more favorable atmosphere" for the talks to come.⁴ This announcement was confirmed the next day by North Korea's Foreign Minister at the United Nations General Assembly meeting in New York.⁵ Before this, on September 15, the Perry Report, a comprehensive recommendation for U.S. policy toward North Korea, was delivered to the President and Congress.⁶

This development indicates that both the United States and North Korea made a critical decision to go down the road toward mutual

1 DPRK-US Press Statement, September 12, 1999, Berlin, Germany.

2 "Easing Sanctions against North Korea," Statement by the Press Secretary & Fact Sheet, White House, September 17, 1999.

3 *Korean Central News Agency*, September 21, 1999.

4 *Ibid.*, September 24, 1999.

5 North Korean Foreign Minister Paek Nam-sun's keynote address to the General Assembly of the United Nations, September 25, 1999.

6 "Review of United States Policy Toward North Korea: Findings and Recommendations," a declassified Report by Dr. William Perry, U.S. North Korea Policy Coordinator and Special Advisor to the President and the Secretary of State, Washington, D.C., October 12, 1999 (hereafter referred to as "The Perry Report, October 12, 1999").

threat reduction, normalization of relations, and dismantling of the Cold War on the Korean peninsula and Northeast Asia, thereby ultimately securing peace and stability in the region. History shows critical junctures in time where political leaders make critical choices. In 1994, the United States and North Korea made a critical choice in the Agreed Framework with respect to North Korea's nuclear weapons program. And now in 1999, right on the eve of the 21st century, both countries have begun to take cooperative measures for another critical choice, this time, concerning North Korea's ballistic missile program and beyond.

How significant is the Berlin Agreement between the United States and North Korea and what kind of critical decisions were made in the deal? What is the significance of the Perry Report as a policy recommendation for the United States and North Korea? What was the response of the U.S. Congress to the Berlin Agreement and the Perry Report? What will happen to U.S. policy toward North Korea if the Republican Party wins the Presidential election next year?

In order to address these questions, I will first review the changes in U.S. policy toward North Korea in the 1990s and the changes in North Korea's policy toward the United States during the same period, consecutively. Then I will examine the positions of both countries in the Berlin deal. This will be followed by an analysis of the Perry Report in terms of the similarities and differences between the U.S. policy toward North Korea before the Perry Report and the policy measures advocated in the Report. Then I will review the Congressional response to the Clinton Administration's engagement policy toward North Korea including its recent response to the Berlin Agreement and the Perry Report. Concretely, I will examine a few Congressional bills related to North Korea and the Korean Peninsula Energy Development Organization (KEDO), and the North Korea Advisory Group's report on North Korea, which is a Congressional reply to the Perry Report. Then I will conclude the study by discussing the influence of next year's U.S.

Presidential election on U.S. policy toward North Korea and the prospects for this policy in the 21st century.

II. Changes in U.S. Policy toward North Korea in the 1990s

A better understanding of the Clinton Administration's engagement policy toward North Korea, the Berlin Agreement, and the Perry Report may require a brief review of the changes in U.S. policy toward North Korea in the 1990s. In this regard, I will review a few important developments that have taken place since the 1994 Agreed Framework.

The National Defense Authorization Act for Fiscal Year 1996

It is a well-known fact that the Republican members of the U.S. Congress strongly opposed the Agreed Framework between the United States and North Korea, and they have never dropped their suspicion of North Korea's clandestine nuclear weapons development program for the past five years. One critical development in U.S. domestic politics after the Agreed Framework was the fact that the Clinton Administration faced Congressional opposition to many of its policies due to the unfavorable outcome of the mid-term election in early November 1994. The Congressional election was held on November 8, 1994, which was just barely less than three weeks after the Agreed Framework was signed, and the Republican Party gained a majority in the Congress.

While the 104th U.S. Congress was deliberating on the National Defense Authorization Act for Fiscal Year 1996, in which the Republican members demanded an amendment that required the establishment of the National Missile System by the year 2003,⁷ the Central

7 National Defense Authorization Act for Fiscal Year 1996 (H.R. 1530).

Intelligence Agency (CIA) sent a letter to the Senate in opposition to the amendment on December 1, 1995. The CIA's opposition to the amendment was based on the National Intelligence Estimate (NIE) on the intercontinental ballistic missile (ICBM) threat, which was released in its classified form on November 1995.⁸ The NIE, a new intelligence estimate made by the Clinton Administration after it came to power, stated that "[no] country, other than the major declared nuclear powers, will develop or otherwise acquire a ballistic missile in the next 15 years that will threaten the contiguous 48 States or Canada."⁹

The members of Congress who supported the 1996 defense authorization bill rejected the conclusions of the NIE as "incorrect," pointing out the "flawed assumptions" underlying the NIE. They accused these so-called flawed assumptions of "ignoring plain facts: Foreign assistance is increasingly commonplace [in newer, developing missile threats in North Korea, Iran and Iraq] and will accelerate indigenous missile programs [in those countries]."¹⁰

President Clinton vetoed the 1996 defense authorization bill on December 28, 1995, because the CIA did not foresee a long-range missile threat in the coming decade.¹¹ In May 1998, when the Senate wanted to invoke cloture on the American Missile Protection Act,¹² the Clinton Administration opposed the bill again based on the conclusions of the NIE. The Defense Department's general counsel's letter to the Senate quoted the Intelligence community's conclusion as follows: "a long-range ballistic missile threat to the United States from a rogue nation,

8 NIE 95-19 ("Emerging Missile Threat to North America During the Next 15 Years."). See Sen. Jon Kyl's speech on the Rumsfeld Commission Report delivered on the Senate floor on July 31, 1998 (hereafter referred to as "Sen. Kyl's speech, July 31, 1998") (GPO's PDF, p. S9522).

9 *Ibid.*

10 For the so-called eight flawed assumptions of the NIE, see Sen. Jon Kyl's speech, July 31, 1998 (GPO's PDF, p. S9522).

11 *Ibid.*

12 American Missile Protection Act of 1998 (S. 1873).

other than perhaps North Korea, is unlikely to emerge before 2010," and "the only rogue nation missile in development that could strike the United States is the North Korean Taepodong II, which would strike portions of Alaska or the far-western Hawaiian Islands."¹³

The Rumsfeld Commission Report

The Republican-majority Congress was discontented with the opposition of the Clinton Administration and the CIA to the national missile defense, and it organized a nine-member bipartisan congressional commission including former senior government officials and members of academia led by former Secretary of Defense Donald Rumsfeld.¹⁴ The Rumsfeld Commission was assigned "to examine the current and potential missile threat to all 50 States and to assess the capability of the U.S. intelligence community to warn policymakers of changes in this threat."¹⁵ It is noteworthy that the Rumsfeld Commission would examine the missile threat to "all 50 states," whereas the 1995 NIE and CIA's report included only "the contiguous 48 States or Canada," excluding Alaska and Hawaii.

The Rumsfeld Commission investigated for six months from January to June 1998 and submitted the Rumsfeld Commission Report on missile threats and intelligence shortfalls to Congress on July 15, 1998. The classified report concluded three things unanimously: first, the missile threat to the United States is real and growing; second, the threat is greater than previously assessed; third, the United States may have little or no warning of new threats.¹⁶

13 Sen. Kyl's speech, July 31, 1998 (GPO's PDF, p. S9523).

14 The Rumsfeld Commission was established pursuant to "National Defense Authorization Act for Fiscal Year 1997" (H.R. 3230) (Public Law 104-201).

15 Sen. Kyl's speech, July 31, 1998 (GPO's PDF, p. S9523).

16 *Ibid.*; the comments on Rumsfeld Commission Report on Missile Threat and Intelligence Shortfalls by Sen. Richard C. Shelby, Chairman of the Senate Intelligence Committee, July 15, 1998; "Ballistic Missile Threat to the U.S.," Hearing of the House

The Report paid serious attention to the “newer, developing threats in North Korea, Iran and Iraq” in addition to those threats still posed by the existing missile arsenals of Russia and China.¹⁷ The Report maintained that North Korea was developing the Taepodong II with a 6,200 mile range, which could reach even Phoenix in Arizona and Madison in Wisconsin, and surmised that North Korea would obtain ICBM capacity to reach the U.S. continent within 5 years, while Iraq would develop such capacity within 10 years. It is noteworthy that there is a big gap between the assessment presented by the Rumsfeld Commission and the 1995 assessment provided by the CIA. One of the reasons why the Rumsfeld Commission conclusions were so different from the CIA’s estimate in the 1995 NIE was that the Rumsfeld Commission examined the missile threat to all 50 states of the United States, while the 1995 NIE dealt with only 48 states, excluding both Alaska and Hawaii.¹⁸

The Kumchang-ni Suspicion and North Korea’s Taepodong I

The allegedly growing North Korean missile threat to U.S. security interests served as a background for conservatives in Washington, D.C. to suspect that the underground construction site at Kumchang-ni in North Korea contained suspect nuclear-related facilities.¹⁹ If this sus-

National Security Committee, July 16, 1998.

17 Sen. Kyl’s speech, July 31, 1998 (GPO’s PDF, p. S9523).

18 For the reasons for the gap between the Rumsfeld Commission conclusions and the CIA’s estimate in the 1995 NIE, see Sen. Kyl’s speech, July 31, 1998. For the text of a letter Director of CIA George J. Tenet sent to various members of Congress, July 15, 1998, in regards to the Rumsfeld Commission’s Report, see the CIA Press Release, July 15, 1998. In a somewhat apologetic tone, the letter defended the CIA’s position by arguing that “the differences [between CIA’s March 1998 Annual Report to Congress on Foreign Missile Developments and the Rumsfeld Commission Report] center more on when specific threats will materialize, rather than whether there is a serious threat.”

19 David E. Sanger, “North Korea Site an A-Bomb Plant, U.S. Agencies Say,” *The New*

pect site turned out to contain graphite-moderated nuclear facilities or plutonium-reprocessing facilities, this would be a violation of the 1994 Agreed Framework. In the eyes of Americans, North Korea's test launch of Taepodong I in August 31, 1999 was a "timely confirmation" of the allegation that North Korea had never given up its program for weapons of mass destruction, which was highlighted in the Rumsfeld Commission Report. This developments were immediately followed by another round of "North Korea-bashing" and a clamorous call for a theory of "the Korean peninsula in crisis."

The task before the Clinton Administration appeared to be a formidable one. It was a typical two-level game theoretical situation in which the U.S. negotiators had to deal with both domestic political forces and foreign negotiators.²⁰ Under heavy pressure by congress and opinion leaders in Washington D.C. to review U.S. policy toward North Korea,²¹ the Clinton Administration appointed William J. Perry, former Secretary of Defense, as North Korea Policy Coordinator in November 1998 and put him in charge of producing a review report of the U.S. policy toward North Korea.

On the other hand, succumbing to pressures from both at home and abroad, U.S. Secretary of Defense William Cohen announced on January 20, 1999 that an additional 6.6 billion dollars would be allocated for two programs, National Missile Defense (NMD) and Theater Missile Defense (TMD) for the new budgets for fiscal years 2000 to 2005.²² This additional appropriation increased the budgets for missile defense for fiscal years 2000 to 2005 to a total of 10.6 billion dollars.

York Times, August 17, 1998.

20 Robert D. Putnam, "Diplomacy and domestic politics: the logic of two-level games," *International Organization*, 42, 3 (Summer 1998), pp. 433-435.

21 For instance, see "Letter to the President of the United States from the Independent Task Force on Managing Change on the Korean Peninsula," Council on Foreign Relations, October 7, 1998.

22 Defense Department Announces New Funding for Missile Defenses, January 20, 1999.

A Watershed in Mid-March 1999: Budget for NMD Passed and Visit to Kumchang-ni Site Agreed Upon

On January 11, 1999, the North Korean foreign ministry spokesman stated that North Korea would allow the United States "just one visit" to the underground site at Kumchang-ni as a special favor, "if the United States compensates by providing three hundred million dollars for the slander and blasphemy it has inflicted on North Korea with respect to the underground site at Kumchang-ni." If the United States had difficulty providing the compensation in cash, the spokesman continued, it would have to compensate for the visit "by other economic means" equivalent to the aforementioned amount.²³

Faced with strong opposition from the United States to any compensation in cash, North Korea now demanded two million tons of food instead of three hundred million dollars in cash.²⁴ Both sides informally reached a tentative agreement that they needed to remove the lingering suspicion on the Kumchang-ni site, although they could not come to the agreement on the amount of food aid to provide and the method of verification regarding the suspected underground construction at Kumchang-ni.²⁵ More talks were needed so that more practical arrangements could be made, and North Korea provided the United States with a list of what it wanted.²⁶

Finally, on March 16, 1999, the United States and North Korea reached an official agreement that North Korea would "provide the United States satisfactory access to the site at Kumchang-ni by inviting a U.S. delegation for an initial visit in May 1999, and allowing additional visits to remove U.S. concerns about the site's future use" and that

23 Korean Central News Agency, January 11, 1999; Alexander G. Higgins, "US, N. Korea Discuss Nuclear Site," *The Associated Press*, January 24, 1999.

24 *Hangyore Sinmun*, January 19, 1999.

25 *Dong-A Ilbo*, January 25, 1999.

26 Alexander G. Higgins, "US, N. Korea Discuss Nuclear Site," *The Associated Press*, Jan. 24, 1999; State Department Noon Briefing, January 25, 1999.

the United States would "take a step to improve political and economic relations between the two countries."²⁷ Pursuant to the agreement, the United States would be preparing "to resume moving in the direction envisioned in the Agreed Framework," hoping that North Korea would "take the requisite actions that [would] enable [the United States] to do so." As a way of improving political and economic relations with North Korea, the United States decided to provide North Korea with six hundred thousand tons of food and a bilateral pilot agricultural project involving potato production.²⁸

During the negotiations, the United States laid out for North Korea "a very detailed agenda for what [the U.S.] would like to see occur in order to allow [the U.S.] to lift sanctions" against North Korea.²⁹ Some eight months before, South Korean President Kim Dae Jung had asked U.S. President Bill Clinton to ease U.S. economic sanctions against North Korea when he paid a state visit to the United States in June 1998, but the United States was not so willing to consider an easing of sanctions against North Korea at that time. Having found a solution to the nuclear suspicion around the Kumchang-ni site, both the United States and North Korea now agreed to resume missile talks on March 29, 1999 to find a solution to the North Korean missile problem.³⁰

Here it is particularly noteworthy that the Republican members of Congress succeeded in passing the budget bill committing 6.6 billion dollars for the NMD and TMD on March 17 at the Senate and on March 18 at the House, respectively.³¹ In other words, the Republican-majority Congress successfully achieved its goal of securing budget appropriations for missile defense exactly at the time when the Clinton

27 U.S.-DPRK Joint Press Statement, March 16, 1999.

28 Albright 3/16 on Agreement with N. Korea on Site Access, March 16, 1999; U.S.-DPRK Joint Statement, U.S. Mission, New York, March 16, 1999.

29 Background Briefing, U.S.-DPRK Joint Statement, U.S. Mission, New York, March 16, 1999.

30 Albright 3/16 on Agreement with N. Korea on Site Access, March 16, 1999.

31 National Missile Defense Act (H.R. 4) (S. 257) (Public Law 106-38).

Administration obtained a permit from North Korea to inspect the suspected underground site at Kumchang-ni. This fact explains why the theory of "the Korean peninsula in crisis" lost its steam in mid-March 1999. As a matter of fact, the plan of the Republicans and conservatives to secure budget appropriations for NMD and TMD lay behind the theory of "the Korean peninsula in crisis." It is also noteworthy that the Republican-sponsored Armitage Report released in March 1999 advocated a "comprehensive approach" to North Korea,³² and the approach put forward in the report could be put into perspective against the background of the new developments in mid-March in the relationship between the United States and North Korea.

According to the March 16 agreement, the U.S. inspection team visited the Kumchang-ni underground site on May 18-24, and the outcome of the inspection was announced on June 25, 1999. The underground site was proved not to contain a plutonium production reactor or reprocessing plant, either completed or under construction.³³

William Perry's Visit to Pyongyang

William Perry, the U.S. North Korea Policy Coordinator, visited Pyongyang in late May 1999 and met with top North Korean leaders. Perry and the North Korean leaders had long and serious discussions, according to Perry, "entirely without polemics," and "very much down to business, exploring the alternatives."³⁴

32 Richard L. Armitage, "A Comprehensive Approach to North Korea," March 1999.

33 Report on the U.S. Visit to the Site at Kumchang-ni, Democratic People's Republic of Korea, Statement by James P. Rubin, June 25, 1999.

34 On-the-Record Briefing, Secretary of State Madeleine K. Albright and Dr. William Perry on U.S. Relations with North Korea, Washington, D.C., September 17, 1999 (hereafter referred to "Albright and Perry Briefing, September 17, 1999"); Testimony Before the Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, Dr. William Perry, U.S. North Korea Policy Coordinator and Special Advisor to the President and Secretary of State, Washington, D.C., October 12, 1999

Perry described the four goals of his visit to Pyongyang as follows: first, to make meaningful contact with senior North Korean officials in order to establish a base for future discussions; second, to reaffirm the principles of the nuclear restraint that had been established in the Agreed Framework; third, to explore whether North Korea had an interest in going down a path to normalization; fourth, to explore whether North Korea was willing to forgo its long-range missile program and begin moving with the United States down a path to normal relations.³⁵

According to Perry, the first two goals were achieved at that time without question. The third goal was achieved in the sense that North Koreans were clearly interested, but it was not clear at the time of his visit that they were prepared to take steps going down a path to normalization. As for the fourth goal of making North Korea forgo its long-range missile program, North Korean leaders were not able to agree to that goal while Perry was in Pyongyang, but it was clear that they understood that long-range missiles were an impediment to normal relations.³⁶

Perry explained that the ultimate goal of the United States was “to terminate North Korean missile exports and indigenous missile activities inconsistent with MTCR [(Missile Technology Control Regime)] standards, but that suspending long-range missile testing was the logical first step.” At the time of Perry’s visit, North Korea did not give a clear answer to his proposal, but it subsequently agreed to continue to discuss the issue further.³⁷

In Pyongyang, Perry indicated the U.S. intention to willingly create a positive environment for moving toward normalization by taking a

(hereafter referred to as “William Perry’s testimony before Senate Foreign Relations Committee, October 12, 1999”).

35 *Ibid.*

36 William Perry’s testimony before Senate Foreign Relations Committee, October 12, 1999.

37 *Ibid.*

first step in that direction, that is, by easing some of the sanctions against North Korea. Then he asked if North Koreans would willingly create the same environment by taking a first step of their own, that is, by forgoing the testing of its long-range missiles.³⁸

In other words, even though Perry demanded reciprocal action from North Korea, he proposed a first cooperative move from the American side, not demanding it from North Korea. This was a significant development which could lead to the emergence of cooperation and the release from a vicious circle of mistrust and hostilities between the two sides. Tit-for-tat strategy is a proven strategy for the evolution of cooperation even between enemies.³⁹

Two things loom large in relation to Perry's visit to Pyongyang. First, the fact that Perry has talked to the North Korean leaders and heard from them about how to solve the nuclear and missile problems before he produced his final report, not after, is a significant new development in the relationship between the United States and North Korea. This means that the U.S. government is getting North Korea involved in the process of reestablishing its North Korea policy.

Secondly, Perry carried a joint message fully pre-coordinated between the U.S., South Korea, and Japan to North Korea. Through close coordination, as Kenneth Quinones pointed out, the three countries have removed the possibility that North Korea can play them off against each other and any potential gap that may come about between them as far as their policy toward North Korea is concerned.⁴⁰

The events in May and June 1999 completely silenced the theory of "the Korean peninsula in crisis" and paved the way not only toward solving the North Korean missile threat but also toward improvement in relations between the two countries.

38 Albright and Perry Briefing, September 17, 1999.

39 Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984), pp. 2-5.

40 Haksoo Paik, "The Kumchangni Inspection and Perry's Visit to North Korea," NAPSNet Policy Forum Online (PFO) 99-06, Nautilus Institute, June 4, 1999.

A New Start with North Korea

On July 27, 1999, the Council on Foreign Relations (CFR) released its North Korea policy recommendations in its independent task force report, "U.S. Policy Toward North Korea: A Second Look." Three broad courses Pyongyang could pursue were put forward in the report: first, if North Korea accepts comprehensive engagement; second, if North Korea temporizes; and third, if North Korea spurns engagement. The report then presented policy options for each course. One of the policy options for the second course - that is, in case North Korea temporizes - was "selective engagement," which was recommended as "the most prudent policy course if the status quo continues." One of the elements of this policy of selective engagement was the following: "Lift sanctions under the Trading with the Enemy Act, with the clear stipulation that they will be reinstated (in concert with other actions) in the event of a second Taepodong launch or other egregious provocation."⁴¹

The CFR's recommendation of a unilateral lifting of sanctions against North Korea on the part of the United States was a significant recommendation, because it called for the Clinton Administration to take a first cooperative move from its own side, laying a foundation for breaking out of a vicious circle of decades-long mistrust and hostilities between the two sides. In retrospect, the recommendation of the CFR, a prestigious non-governmental public policy-advising organization, to lift sanctions against North Korea was sort of an eagerly-sought policy recommendation for the Clinton Administration to move, albeit belatedly, in the direction of "normalization of political and economic relations" as promised in the 1994 Agreed Framework.

In early August 1999, the United States and North Korea continued

41 "U.S. Policy Toward North Korea: A Second Look," Independent Task Force Report, Sponsored by the Council on Foreign Relations, Co-Chaired by Morton I. Abramowitz and James T. Laney, Project Directed by Michael J. Green, July 27, 1999.

to make efforts to strike a deal concerning the removal of the North Korean missile threat and easing of U.S. economic sanctions against North Korea at a high-level meeting in Geneva. Finally, on September 12, both countries reached an agreement in Berlin with respect to the problems at issue. This new start with North Korea was, in William Perry's words, "the beginning of a path to normalization, which after decades of insecurity, will finally lead to a Korean Peninsula which is secure, stable, and prosperous."⁴²

III. Changes in North Korea's Policy toward the United States in the 1990s

The changes in U.S. policy toward North Korea went in tandem with those in North Korea's policy toward the United States in the 1990s. I will examine how North Korea policy toward the United States went through various stages in the 1990s.

Critical Choice in the Early 1990s

North Korea made a critical choice in its external relations in the early 1990s in order to survive after the collapse of the former Soviet Union and East-Central European socialist system. The choice was to expand and strengthen its contacts and cooperation with the advanced Western countries, particularly the United States and Japan. In fact, North Korea took measures that could ultimately lead to "opening" and "reform" of North Korea, even though it never intended to do so and therefore never used such terms in describing its new policy trend.

In the external economic realm, North Korea installed a special economic and trade zone in Rajin-Sonbong, introduced a new trade sys-

42 William Perry, Press Conference, Seoul, September 22, 1999.

tem, advocated the trade-first policy as one of the three first policies, and formulated various legal and regulatory measures to create a favorable trade and investment environment for foreign capital and technology. In the external political realm, North Korea obtained membership in the United Nations together with South Korea and signed the Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation with South Korea.⁴³

The 19th Plenum of the Central Committee of the 6th Congress of the Korean Workers' Party in December 1991 allegedly conducted a heated debate on what North Korea should do for survival, that is, how to survive the political and economic difficulties North Korea faced and maintain the North Korean system. The doves or moderates allegedly won the debate basically due to the treacherously deteriorating situation in North Korea. They allegedly argued for normalization with the United States and Japan and then with South Korea as a means of solving the economic difficulties and the problems of diplomatic isolation. They even argued in favor of the use of North Korea's nuclear program as a bargaining chip at the negotiation table. The hawks criticized the doves as "very naive," arguing that the United States, Japan, and South Korea were the very countries that wanted to see North Korea collapse.⁴⁴ The Supreme Leader Kim Il Sung and the Dear Leader Kim Jong Il must have sided with the moderates in the whole debate.

The Nuclear Problem and the Agreed Framework

Despite North Korea's efforts to improve relations with the United

43 Hak Soon Paik, "Problems and Prospects for North Korea's Transformation in the 1990s," Un-Chul Yang, ed., *The Political Economy of Korean Unification: Agenda Preparation* (Sungnam, Korea: The Sejong Institute, 1998), pp. 54-57.

44 Selig S. Harrison, "How to Deal with North Korea," *Sejong Colloquium*, Sejong Institute, Korea, May 6, 1999.

States and Japan, North Korea's nuclear weapons program posed a formidable obstacle. Because maintaining and extending the Nuclear Non-Proliferation Treaty (NPT) was one of the most important national interests of the United States at that time, the North Korean nuclear problem emerged as one of the biggest issues of the time and bore global security implications.

The first high-level talks between the United States and North Korea were held in New York in January 1992 with Arnold Kanter and Kim Yong-Sun representing the governments of the United States and North Korea, respectively. Unfortunately, however, this meeting ended without any meaningful results. However, North Korea was seriously searching for a way to make a deal with the United States, suspending its nuclear program during the years 1992-93.⁴⁵ Despite time-consuming negotiations and delayed a outcome, it is noteworthy that the North Korean doves continued their efforts to improve their relationship with the United States and Japan.

The basic problem between the United States and North Korea was that neither side was willing to make the cooperative first move, due to a lack of trust. Thus a vicious circle of mistrust and hostilities to each other continued. Under such circumstances, the solution the United States and North Korea that was found was a "compromise solution" to the North Korean nuclear problem - the Agreed Framework of October 21, 1994.

The Agreed Framework reached in Geneva was basically "defensive" in character for North Korea. Due to a lack of trust in the United States, North Korea did not give up its nuclear weapons program and decided to watch if the promises made by the United States in the Agreed Framework would be kept faithfully, including the provision of the light-water reactor (LWR) project, heavy fuel oil, and normalization of political and economic relations. Only when those promises had

45 Leon V. Segal, *Disarming Strangers: Nuclear Diplomacy with North Korea* (Princeton: Princeton University Press, 1998), Part II.

been fulfilled would North Korea cooperate with the United States in putting an end to the North Korean nuclear problem by taking measures to dismantle the graphite-moderated nuclear power plants, including the verification of the accuracy and completeness of North Korea's initial report on all nuclear material in North Korea.

When the U.S. House election of November 1994 produced a Republican-majority Congress, the Clinton Administration suddenly fell into a situation where it had serious difficulty in carrying out the Agreed Framework due to the opposition of the Republican-majority Congress to the Agreed Framework and its implementation. The provision of the LWR project and heavy fuel oil were behind schedule, which drew strong criticism from North Korea against the intentions of the United States. A cosmetic, limited easing of sanctions against North Korea by the United States just after the Agreed Framework has been the main source of North Korea's discontentment with the United States. This was particularly so because North Korea was undergoing an unprecedented economic crisis. In addition, both sides did not open a liaison office in the other's capital. In other words, the promise made in the Agreed Framework that "the two sides will move toward full normalization of political and economic relations" was not fully kept due to the lack of U.S. cooperation mainly resulting from domestic political reasons.

The Kumchang-ni Site and Test Launch of Taepodong I: Calling a Bluff

As soon as the Agreed Framework was concluded, the North Korean leadership was never free from the uneasiness that the United States might lose its interest in faithfully implementing the Agreed Framework since the United States had already obtained its goal of containing the North Korean nuclear weapons program. Since North Korea had made a critical choice of improving relations with the United

States and Japan in the early 1990s as a choice for its survival, any U.S. negligence on the implementation of the Agreed Framework would bring about serious negative economic implications. It was for this fear that North Korea did not lose time in criticizing the United States whenever a U.S. delay in the LWR construction and delivery of heavy fuel oil occurred.

In mid-1998, North Korea became extremely concerned about the implementation of the Agreed Framework on the part of the United States because of various domestic political developments in the United States. The Rumsfeld Commission Report, which was released on July 15, 1998, was an enormous, explicit challenge to the implementation of the Agreed Framework.

In mid-August 1999, *The New York Times* reported that the detected underground complex at Kumchang-ni was a site at which it was "intended to build a new reactor and reprocessing center" in order "to revive the country's frozen nuclear weapons program."⁴⁶ The United States suddenly suspected that the Kumchang-ni underground construction site might be a nuclear site potentially capable of violating the Agreed Framework.

Confronted with these two events, North Korea appeared to have felt that a critical juncture had arrived and that it had to choose between two alternative options: whether to continue to withhold the test-launch of a multi-stage ballistic missile or to test-fire it. It appears that the North Korean leadership finally elected to test-launch the Taepodong I mainly in order to bring the United States toward the negotiation table and begin anew the process of normalization of political and economic relations with the United States, as promised in the Agreed Framework five years ago. North Korea elected to choose the test-launch of the long-range missile, and it served the purpose without fail. That is, the United States, realizing that North Korea would not

46 David E. Sanger, "North Korea site an A-Bomb Plant, U.S. Agencies Say," *The New York Times*, August 17, 1998.

collapse in the immediate future and had obtained an added capability of weapons of mass destruction, came to the negotiation table. As explained above, in January 1999 the United States and North Korea informally reached a tentative agreement on the inspection of the Kumchang-ni site and came to an official agreement in March 1999.

North Korean Vice Foreign Minister Kim Gye Gwan expressed his satisfaction with the U.S.-North Korea joint statement on March 16, 1999.⁴⁷ U.S. Secretary of State Madeleine Albright also expressed her satisfaction that the agreement addressed "all" of U.S. concerns and her hope that the removal of U.S. suspicions concerning Kumchang-ni would enable the United States to resume progress in the U.S.-North Korean relationship "as outlined in the Agreed Framework."⁴⁸ This last point was significant because it meant that the March 16 agreement would pave the way for the easing of U.S. sanctions against North Korea⁴⁹ and ultimately political and diplomatic normalization between the two countries. Having found a solution to the nuclear-related problem, both sides also agreed to resume missile talks on March 29, 1999 in Pyongyang.⁵⁰

Pursuant to the March 16 agreement, a U.S. interagency team "visited" the Kumchang-ni underground site on May 18-24, and North Korea provided the U.S. delegation with "good cooperation," allowing it to conduct the visit "in the manner the U.S. deemed necessary." On June 25, the United States announced that the site at Kumchang-ni was nuclear-free, and declared that "at present, the underground site at Kumchang-ni does not violate the 1994 U.S.-DPRK Agreed Framework." Following this, the U.S. decided to make next visit to the Kumchang-ni site in May 2000.⁵¹

47 U.S.-DPRK Joint Statement, New York, March 16, 1999.

48 Statement by Secretary of State Madeleine K. Albright, March 16, 1999.

49 Background Briefing, U.S.-DPRK Joint Statement, U.S. Mission, New York, March 17, 1999.

50 Statement by Secretary of State Madeleine K. Albright, March 16, 1999.

A New Start with the United States

William Perry, the U.S. North Korea Policy Coordinator, visited Pyongyang in late May and met with many top decision-making leaders in the security and diplomacy realm. Perry's explanation about his visit to North Korea at the U.S. Senate hearing later in October 1999 clearly showed that North Korea was making efforts to improve its relationship with the United States. It is worth recalling that North Korea's efforts were also demonstrated in the March 16 agreement on the inspection of the suspected Kumchang-ni construction.

As was revealed by Perry's testimony, when Perry visited Pyongyang in late May the North Korean leaders was ready to discuss matters of mutual concern "entirely without polemics" and "very much down to business, exploring the alternatives."⁵² Perry made meaningful contacts with North Korean senior officials and established a base for future discussions with them, but it also held true of the North Korean leaders the other way around. According to Perry, the North Korean leaders reaffirmed their commitment to the Agreed Framework to Perry. They were clearly interested in going down a path to normalization with the United States, but it was not clear that they were prepared to take steps in that direction. They were not able to agree to forgo their long-range missile program, but they clearly understood that the long-range missiles were an impediment to normal relations.⁵³

At the time of Perry's visit, the North Korean leaders did not give a clear answer to his proposal that North Korea "terminate" its missile

51 "Report on the U.S. Visit at Kumchang-ni, Democratic People's Republic of Korea," Statement by James P. Rubin, Spokesman, U.S. Dept. of State, June 25, 1999.

52 Albright and Perry Briefing, September 17, 1999; William Perry's testimony before Senate Foreign Relations Committee, October 12, 1999.

53 William Perry's testimony before Senate Foreign Relations Committee, October 12, 1999.

exports and indigenous missile activities inconsistent with MTCR standards, and "suspend" its long-range missile testing as the logical first step. But they agreed to continue to discuss the issue further.⁵⁴

In a sense, North Korea was willing to respond positively to Perry's suggestion that if the United States willingly creates a positive environment for moving toward normalization by taking a first step of easing some of the sanctions against North Korea, North Korea should create the same environment by taking a first step of its own by suspending the test-launch of its long-range missile.⁵⁵

In Berlin on September 12, 1999, North Korea finally agreed on a new start with the United States: North Korea and the United States decided to take the road toward reducing the mutual threat, normalizing political and economic relations, and dismantling the Cold War structure on the Korean Peninsula and Northeast Asia. Pursuant to the Berlin Agreement, the United States unilaterally eased sanctions against North Korea, and North Korea reciprocated such U.S. cooperative moves by suspending the long-range missile testing while both sides conducted negotiations for the improvement of the relationship between them.

IV. Positions of the United States and North Korea at the Berlin Agreement

What were the positions of the United States and North Korea when they reached the Berlin Agreement, in which both sides would willingly reciprocate each other's favor or cooperative move? An analysis of the positions of both countries at Berlin will reveal the driving forces that underlie how both sides will make decisions in their future negotiations.

54 *Ibid.*

55 Albright and Perry Briefing, September 17, 1999.

The United States' Position

When the United States and North Korea signed the Agreed Framework in October 1994, U.S. negotiators did not believe that North Korea would survive until 2003 when the provision of the LWR project to North Korea was completed. The theory of North Korea's "early collapse" represented the U.S. judgement and hope in this regard.

But North Korea has not collapsed for the past five years, despite its unprecedented food shortage and economic crisis. There is no evidence that North Korea will collapse in the near future. Instead, North Korea has held its nuclear weapons program albeit frozen, increased its long-range missile capability, posed a security threat to the United States and its allies in the Northeast Asia, and disturbed the relatively stable security balance in the region.

Meantime, American negotiators including William Perry have realized how seriously the United States has posed a military and security threat to North Korea and how sincerely the North Korean leadership has been interested in improving its relationship with the United States. The Americans have also realized that, without North Korea's help and cooperation, the United States cannot guarantee its own security interests in the Korean Peninsula and Northeast Asia.⁵⁶

Thus, the American negotiators have concluded that U.S. policy must deal with the North Korean government "as it is, not as [the U.S.] might wish it to be,"⁵⁷ and that the United States should cooperate with it in order to have a mutual threat reduction, normalization of relations, and an ultimate end to the Cold War structure in the region. Based upon this conclusion, U.S. negotiators have rejected various policy options such as maintaining the status quo with North Korea, undermining North Korea, reforming North Korea, or "buying" U.S.

56 The Perry Report, October 12, 1999; William Perry's testimony before the Senate Foreign Relations Committee, October 12, 1999.

57 *Ibid.*

objectives.⁵⁸

Instead, they elected to choose a "comprehensive and integrated approach" to their negotiations with North Korea, which is a two-path strategy. The first path is joint cooperation for a mutual threat reduction. If the first path does not work, the second path is in order. The second path was designed to "contain the threat that [the United States] has been unable to eliminate through negotiation." The Perry Report points to the advantages of the two-path strategy as follows: "By incorporating two paths, the strategy devised in the review avoids any dependence on conjectures regarding DPRK intentions or behavior and neither seeks, nor depends upon for its success, a transformation of the DPRK's internal system."⁵⁹

It is a significant development that it was the United States, the only remaining superpower, that took the first cooperative move from its own side by easing economic sanctions against North Korea, not the other way around. This means a much higher probability that the negotiations between the two sides will result in a more successful outcome.

A lack of trust in North Korea on the part of the United States, however, was reflected in the scope of easing sanctions against North Korea, which was announced on September 17, 1999. The easing of sanctions did not affect U.S. counter-terrorism or nonproliferation controls on North Korea, which prohibited exports of military and sensitive dual-use items and most types of U.S. assistance. In addition, statutory restrictions, such as U.S. missile sanctions, and multilateral arrangements - for example, the Wassenaar Arrangement - were not affected by the U.S. easing of sanctions against North Korea. This easing measure did not address claims settlements issues regarding North Korean assets in the United States currently blocked under the Trading with the Enemy Act.⁶⁰

58 *Ibid.*

59 *Ibid.*

North Korea's Position

Behind North Korea's decision in the Berlin Agreement lay the North Korean leadership's highly political calculation to restore its legitimacy that plummeted among its people and keep the system going at any cost as well as its urgent practical need to feed its people and stop its economic downturn.

The official food distribution system in North Korea has been restored to a meaningful extent in 1999 in North Korea, and average North Koreans are known to have recognized the improved food situation for this year. It is also known that more factories have begun operation this year compared to previous years. This new development would allay the discontentment of the people with the Kim Jong Il government.

The North Korean leadership is well aware that the North Korean crisis is not a security crisis but an economic crisis. Kim Jong Il appears to be determined to keep the recently created momentum going by providing more food to his people and instilling hope for economic recovery through economic and political normalization with the United States.

However, more fundamentally behind the Berlin deal with the United States lay North Korea's political and economic dynamics in the 1990s. As already noted above, North Korea made a critical choice in the early 1990s to take a road in the direction of reform and opening, particularly in the external realm, even though it did not use such terms explicitly. But it did not make any more moves in that direction during 1994-97 due to the death of Kim Il Sung and the crisis brought about by the extreme food shortage and ensuing large-scale death of people from starvation. Kim Jong Il was afraid of any policy that would result in changes in North Korea.

60 "Easing Sanctions against North Korea," Statement by the Press Secretary & Fact Sheet, White House, September 17, 1999.

Only after securing his power base in the military and party, Kim Jong Il opened a new era of his own in 1997-98. He assumed the General Secretaryship of the Korean Workers' Party in October 1997, revised the Constitution and reshuffled the government's organization in September 1998, and took the Chairmanship of the National Defense Commission of North Korea. North Korea has resumed its road toward reform and opening, particularly in the external economic realm, and this development has been supported by the United States and South Korea.

In this historical context, North Korea has sought to conduct negotiations with the United States by using its missile program as a bargaining chip, and it is trying to obtain more food, overcome economic crisis, and sustain its system. It may take years to have a complete settlement of the problems at issue between the two countries, but it is more than significant that North Korea has chosen "to cooperate" with the United States in the Berlin deal, abandoning "confrontation" with it. Normalization of relations between the United States and North Korea will inevitably lead to the improvement of relations with South Korea and Japan as well.

V. The Perry Report: U.S. North Korea Policy for the 21st Century

What are the similarities and differences between U.S. policy toward North Korea before the Perry Report and the policy measures advocated in the report? First, there is a big difference in the assumptions upon which both policies were based. The U.S. policies before the Perry Report assumed that North Korea might collapse rather early considering its dire food and economic situation. However, the U.S. policy manifested by the Perry Report assumes that North Korea may not collapse in the imminent future.

Second, as a corollary of the assumption that North Korea may not

collapse in the foreseeable future, the Perry Report accepts North Korea "as it is," not depending on "conjectures regarding DPRK intentions or behavior," that is, not depending on "specific North Korean behavior or intent" nor seeking "a transformation of the DPRK's internal system."⁶¹ The Perry Report is based on "a hardheaded understanding" of military realities and a firm determination to protect the interests of the United States, South Korea, and Japan. In other words, the Perry Report has taken a more realistic understanding of North Korea compared to the previous understanding of North Korea.

Third, the United States has adopted a give-and-take principle in dealing with North Korea. The United States has already taken a first cooperative measure toward North Korea through easing of sanctions against North Korea, and North Korea reciprocated it by suspending the test launch of its long-range missiles. These acts of reciprocating good will and favors to each other will lead to the evolution of cooperation between the two countries. In the due course, the United States will take measures for "a comprehensive relaxation of political and economic pressures" against North Korea, and North Korea will cooperate in finding a solution to the weapons of mass destruction and dissipating the North Korean nuclear and missile threat for the United States.

Fourth, the Perry Report recommends a "comprehensive and integrated approach" to negotiations with North Korea. This approach deals with both paths: the first path of North Korea's cooperation and the second path of North Korea's rejection of the first path. No doubt the United States clearly prefers the first path to the second. But both paths were delineated while aiming to protect the key security interests of the United States. The United States has established an approach which can deal with the possibility of North Korea's defection and protect its security interests by acting "to contain the threat" cannot able to be eliminated through negotiation and by taking "firm but measured

61 The Perry Report, October 12, 1999; William Perry's testimony before the Senate Foreign Relations Committee, October 12, 1999.

steps to persuade North Korea that it should return to the first path and avoid destabilizing the security situation in the region."⁶²

Fifth, the new policy of the United States builds on the Agreed Framework and combines the near-term with long-term objectives of the United States and its allies. That is, the Perry Report aligns the near-term objectives concerning North Korea's nuclear and missile activities with the long-term objectives for a lasting peace on the Korean Peninsula and the Asia-Pacific region. In the 1994 Agreed Framework, the United States and North Korea had promised to each other to move beyond cooperation in the nuclear field to broader, more normal U.S.-North Korea relations. Unfortunately, however, there has not been much progress in fulfilling that promise. Now the new policy implied by the Perry Report "seeks to realize the long-term objectives of the Agreed Framework."⁶³

Sixth, the Perry Report recommends that the United States government "take steps to create a sustainable, bipartisan, long-term outlook toward the problem of North Korea." Compared to the previous policies, the Perry Report emphasizes the importance of obtaining the support of Republican lawmakers in Congress for this new policy toward North Korea to succeed.

Finally, the new policy appreciates close coordination among the United States, South Korea, and Japan as to their policy toward North Korea. Compared to the period before the problems of the suspected underground site at Kumchang-ni and North Korea's long-range missile launch came up, the three countries' close consultation and coordination of their overall strategy and policy toward North Korea through the Trilateral Coordination and Oversight Group (TCOG) since March 1999 is a notable development. In particular, such coordinated policies toward North Korea have built on South Korea's engagement policy with North Korea.

62 *The Perry Report*, October 12, 1999.

63 *Ibid.*

VI. Congressional Opposition to the Engagement Policy toward North Korea

Many Republican members of Congress, particularly, Rep. Benjamin Gilman, Chairman of the House International Relations Committee, has opposed the Clinton Administration's engagement policy toward North Korea ever since the 1994 Agreed Framework. Particularly after the suspect underground construction at Kumchang-ni was reported in *The New York Times* and North Korea test-fired a multi-stage missile over Japan in August 1998, Congress "observed the growing gap" between North Korea's threatening actions and the Clinton Administration's representation that North Korea's behavior was accommodating key American interests.⁶⁴

The Republican-majority Congress attached various provisos to the bills related to North Korea, sponsored anti-North Korea bills, and opened hearings on North Korea. In order to see how the Republican-majority Congress has hindered the Clinton Administration's effort to engage North Korea, I will analyze (1) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999; (2) the North Korea Threat Reduction Act of 1999; (3) the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2000; (4) House Hearings and other actions regarding North Korea; and (5) the North Korea Advisory Group's Report on North Korea.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (KEDO Bill for 1999)

As North Korea's security threat was newly highlighted by the suspected underground site at Kumchang-ni and the test launch of the long-range missile, the Republican-controlled Congress began to work

64 North Korea Advisory Group, Report to the Speaker of the U.S. House of Representatives. November 1999.

on budgets that would prevent the Clinton Administration from pursuing an engagement policy toward North Korea.

The Senate passed "the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1999" (hereafter referred to as "the KEDO bill for 1999"), on September 2, 1998. This bill appropriated a maximum of 35 million dollars for KEDO, and was passed with five provisos for the budget to be available to KEDO.⁶⁵ The House passed the KEDO bill for 1999 on September 17, but, to make matters more complex, the bill was passed without any appropriation for KEDO. According to the bill, "none of the funds" was to be used for a voluntary contribution to, or assistance for, KEDO.⁶⁶

The Senate-House Conference Committee passed a compromised bill on KEDO on October 19, 1998, with all of 35 million dollars revived but with multiple strict provisos.⁶⁷ First, none of 35 million dollars may be made available until March 1, 1999.

Second, of the funds made available for KEDO, up to 15 million dollars may be made available prior to June 1, 1999 if the President certifies and so reports to Congress that progress, compliance, cooperation, and/or full engagement has been made with respect to the Joint Declaration on the Denuclearization of the Korean Peninsula, North-South dialogue, the Agreed Framework and the Confidential Minute, the canning and safe storage of spent fuel from the graphite-moderated nuclear reactors, no significant diversion of U.S. assistance, and U.S. full engagement in efforts to impede North Korea's development and export of ballistic missiles.

65 For the provisos, see "Nonproliferation, Anti-Terrorism, Demining and Related Programs" in "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999" (S. 2334).

66 "Korean Peninsula Energy Development Organization" in "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999" (H.R. 4569).

67 Conference Report on H.R. 4328, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, House of Representatives, October 19, 1998 (Public Law 105-277).

Third, of the funds made available for KEDO, up to 20 million dollars may be made available on or after June 1, 1999 if the President certifies and so reports to the Congress the following: initiation of meaningful discussions with North Korea on implementation of the Joint Declaration on the Denuclearization of Korean Peninsula, agreement with North Korea on the means for satisfying U.S. concerns regarding suspected underground construction, and significant progress in negotiations with North Korea on reducing and eliminating the North Korean ballistic missile threat, including its ballistic missile exports.

This Senate-House conference agreement, however, allowed the President to "waive" the certification requirements of the above-mentioned provisos, "if the President determines that it is vital to the national security interests of the United States."⁶⁸ This is the so-called "national security interests waiver," which is a part of almost every foreign policy bill ever enacted.

The conference agreement also provided that "a very senior presidential envoy is now necessary to help restore confidence in the Administration's North Korea policy, as well [as] to engage the North Korean government at the most senior levels," and that "no later than January 1, 1999, the President shall name a 'North Korea Policy Coordinator.'"⁶⁹ Pursuant to the conference agreement, President Clinton appointed William Perry as North Korea Policy Coordinator on November 12, 1998.⁷⁰

68 *Ibid.*

69 The duty of the North Korea Policy Coordinator was to "conduct a full and complete interagency review of United States policy toward North Korea,...provide policy direction for negotiations with North Korea related to nuclear weapons, ballistic missiles, and other security related issues, and...also provide leadership for United States participation in KEDO." See Conference Report on H.R. 4328, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, House of Representatives, October 19, 1998.

70 State Dept. 11/12 on New North Korea Policy Coordinator," USIA Text, November 12, 1998.

The North Korea Threat Reduction Act of 1999

Just after the U.S. inspection team departed for Kumchang-ni in North Korea, and just one day before William Perry's plan to visit to Pyongyang was announced, Rep. Benjamin Gilman, Chairman of the House International Relations Committee, introduced "the North Korea Threat Reduction Act of 1999" on May 18, 1999,⁷¹ "despite the State Department's pleas to wait until Perry returns next week."⁷²

This act authorized appropriations of as much as 55 million dollars for fiscal year 2000 for assistance to KEDO as the Clinton Administration requested, which meant an increase of 20 million dollars for assistance to KEDO compared to the previous year.⁷³ This bill specified conditions for the release of funds by attaching as many as eight provisos, which are far more difficult to meet compared to the provisos attached to the KEDO bill for 1999.⁷⁴

The North Korea Threat Reduction Act of 1999 has two important

71 North Korea Threat Reduction Act of 1999 (H.R. 1835). North Korea Threat Reduction Act of 1999 was introduced in the Senate on July 13, 1999 by Sen. Jesse Helms, Chairman of the Senate Foreign Relations Committee. See North Korea Threat Reduction Act of 1999 (S. 1352).

72 "Commentary by Anonymous Congressional Staff Member," May 20, 1999, Special Report, Northeast Asia Peace and Security Network, Nautilus Institute. (<http://www.nautilus.org/pub/ftp/napsnet/special%5Freports/congressional%5Flegislation%5Fon%5Fdprk.txt>)

73 Hon. Benjamin A. Gilman, "Introduction of H.R. 1835, North Korea Threat Reduction Act of 1999," May 19, 1999.

74 The provisos are concern the following: implementation, pursuit and/or compliance of the Joint Declaration on Denuclearization, the North-South dialogue, the Agreed Framework, canning and safe storage of spent fuel from North Korea's graphite-moderated nuclear reactors, prohibition of the diversion of U.S. assistance, agreement regarding suspect underground construction, North Korea's development or aquisition of the capability to enrich uranium or any additional capacity to reprocess spent nuclear fuel, and significant progress on eliminating the North Korean ballistic missile threat, including its ballistic missile exports. See North Korea Threat Reduction Act of 1999, Sec. 3.

sections: restrictions on nuclear cooperation with North Korea and the continuation of restrictions on transactions with North Korea pending progress on ballistic missile issues.⁷⁵ The section on "restrictions on nuclear cooperation with North Korea" specified seven provisos regarding the enforcement of any agreement for nuclear cooperation between the two countries; license/approval for the direct or indirect export, transfer or retransfer of any nuclear materials, facilities, components, or other goods, services, or technology to North Korea. The provisos look almost impossible to meet considering the current state of affairs in U.S.-North Korean relations.⁷⁶

The section on "the continuation of restrictions on transactions with North Korea pending progress on ballistic missile issues" deals with conditions on continuation, termination, and reimposition of restrictions on transactions and activities with North Korea. The bill attached seven provisos to the termination of restrictions and five provisos to the reimposition of restrictions.⁷⁷ Again these provisos look extremely difficult to meet.

The North Korea Threat Reduction Act of 1999 stipulates the withholding of funds pending solicitation of all potential donor governments to KEDO. That is, an amount appropriated in excess of 35 million dollars may not be made available to KEDO until the United States has asked all potential donor governments, including Taiwan, to contribute to KEDO; no contributions offered unconditionally by such governments to KEDO have been declined; and even after such contributions are received, KEDO will have financial requirements in fiscal year 2000 that can only be met through the provision of more than 35 million dollars in assistance from the United States.⁷⁸ This bill also imposes serious restrictions on food aid to North Korea, ballistic mis-

75 *Ibid.*, Secs. 5 & 6.

76 For the seven provisos, see *Ibid.*, Sec. 5.

77 For the seven provisos for the termination of restrictions, see *Ibid.*, Sec. 6.

78 *Ibid.*, Sec. 3.

sile defense in the Asia-Pacific region, and refugees from North Korea.⁷⁹

Special attention should be paid to the stipulation concerning a new requirement that the President should certify that "North Korea is not seeking to develop or acquire the capability to enrich uranium" as an alternative source of fissile material.⁸⁰ This bill demanded North Korea's stricter compliance with its obligations under the Agreed Framework before key U.S. nuclear components could be transferred to North Korea in connection with the construction of two light water nuclear reactors. The bill also demanded that North Korea institute a total ban on missile exports and terminate its long-range missile program.⁸¹

One remarkable thing about this bill was its refusal to allow the President the so-called "national security interests waiver." It is worth comparing this refusal with other foreign policy bills that have been enacted. Chairman Gilman demanded that Perry's policy recommendations address the issues identified in the bill "if the Administration hopes to garner the support of Congress and the American people."⁸² No doubt the North Korea Threat Reduction Act of 1999 was the most anti-North Korea bill ever introduced in the U.S. Congress since the Agreed Framework.

Chairman Gilman stated that he did not anticipate moving the bill forward through the legislative process until he received Perry's recommendations regarding U.S. policy toward North Korea.⁸³ Of the bill, the part of "restrictions on nuclear cooperation with North Korea" was accommodated in the Gilman-Markey amendment of "the American Embassy Security Act of 1999"⁸⁴ and was passed in the House on July

79 *Ibid.*, Secs. 4, 7, & 8.

80 Hon. Benjamin A. Gilman, "Introduction of H.R. 1835, North Korea Threat Reduction Act of 1999," May 19, 1999.

81 *Ibid.*

82 *Ibid.*

83 *Ibid.*

21, 1999. This amendment “restrict[ed] all nuclear cooperation with North Korea until the President determines and certifies to the Congress that North Korea is complying with all international agreements pertaining to nuclear proliferation and has terminated its nuclear weapons program.”⁸⁵ In other words, the amendment was “to remove any hope the North Koreans may have that they can get away with less than full compliance with their obligations under the 1994 agreement with the United States.”⁸⁶

The Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2000 (KEDO Bill for 2000)

Of North Korea Threat Reduction Act of 1999, the part on assistance for KEDO was accommodated in “the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2000” (hereafter referred to as “the KEDO bill for 2000”).⁸⁷ This bill was introduced to the House on July 23, 1999; amended in the House on August 3, 1999; amended in the Senate on August 4, 1999; coordinated at the conference committee on September 27, 1999; passed in the House by 214 votes to 211 on October 5 and in the Senate by 51 votes to 49 on October 6, respectively; and sent to the President on October 6, 1999.

It is noteworthy that the bill was passed in Congress by a very narrow margin, which means that many of Republican members of both the House and the Senate did not agree with hawks like Chairman Gilman in opposing an engagement policy toward North Korea. The KEDO bill for 2000 does not provisoes as tough as the North Korea

84 American Embassy Security Act of 1999 (H.R. 2415).

85 H. AMDT. 324

86 “House Amendment Placed Conditions on Nuclear Aid to North Korea,” Washington, July 22, 1999.

87 “Korean Peninsula Energy Development Organization,” in “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000” (H.R. 2606).

Threat Reduction Act of 1999, and it is similar to the KEDO bill for 1999 as far as funding for KEDO is concerned. It also allows the President to exercise the "national security interests waiver," which was not allowed by the North Korea Threat Reduction Act of 1999.

The KEDO bill for 2000 allows a maximum of 35 million dollars for KEDO. This means that Congress cut the Administration-requested budget by 20 million dollars compared with the budget appropriated for KEDO in the North Korea Threat Reduction Act of 1999.⁸⁸

Of the funds made available for KEDO, up to 15 million dollars were made available prior to June 1, 2000 but with five provisos regarding the implementation of the Joint Declaration on Denuclearization of the Korean Peninsula, the pursuit of the North-South dialogue, compliance with the provisions of the Agreed Framework, no diversion of U.S. assistance for purposes for which it was not intended, and North Korea's development or acquisition of the capabilities to enrich uranium, or any additional capability to reprocess spent nuclear fuel.⁸⁹

Of the funds made available for KEDO, up to 20 million dollars were made available on or after June 1, 2000, but with four provisos concerning the canning and safe storage of spent fuel from North Korea's graphite-moderated nuclear reactors; compliance with the U.S.-North Korean agreement of March 16, 1999 on access to the suspected underground construction at Kumchang-ni; North Korea's termination of its nuclear weapons program; and progress on eliminating the North Korean ballistic missile threat, including further tests and its ballistic missile exports.⁹⁰

What are the notable features of the KEDO bill for 2000 compared with the KEDO bill for 1999? First of all, the KEDO bill for 2000 allows the Clinton Administration to use 15 million dollars from the first day

88 *Ibid.*

89 *Ibid.*

90 *Ibid.*

of the year 2000, if necessary, compared to the previous year's proviso that none of 35 million dollars was available until March 1, 1999. This signifies that Congress as a whole has become more tolerant than before, since the suspected underground site at Kumchang-ni turned out to be nuclear-free and the Berlin Agreement of September 12, 1999 provided a tangible clue to the solution of the North Korean ballistic missile problem.

Second, unlike the KEDO bill for 1999, the KEDO bill for 2000 lists one by one the elements of the Joint Declaration on Denuclearization of the Korean Peninsula concerning nuclear weapons and nuclear reprocessing or uranium enrichment facilities: the bill text includes the following: "not to test, manufacture, produce, receive, possess, store, deploy, or use nuclear weapons, and not to possess nuclear reprocessing or uranium enrichment facilities." This is a special emphasis on the prohibition of any attempt for a nuclear weapons program.

In addition, one of the provisos reads: "North Korea is not seeking to develop or acquire the capability to enrich uranium, or any additional capability to reprocess spent nuclear fuel." All of this demonstrates Chairman Gilman's concern about North Korea's potential development or acquisition of the capability to enrich uranium as an alternative source of fissile material.⁹¹

Third, the KEDO bill for 2000 adds a new, tougher condition regarding the North Korean nuclear weapons program. The bill provides that "North Korea has terminated its nuclear weapons program, including all efforts to acquire, develop, test, produce, or deploy such weapons." The expression "has terminated" signifies that Congress did not want to see the North Korean nuclear problems come up again no more since the Kumchang-ni had been proved to be nuclear-free.

But this demand is not easy to meet at all because the North Korean nuclear program has been frozen, not terminated, in accordance with

91 Hon. Benjamin A. Gilman, "Introduction of H.R. 1835, North Korea Threat Reduction Act of 1999," May 19, 1999.

the Agreed Framework, and will be frozen until the LWR project is provided to North Korea, that is, probably until 2007 if North Korea accepts the new target date of 2007.

Fourth, compared to the KEDO bill for 1999, the KEDO bill for 2000 puts a special emphasis on significant progress on eliminating the North Korean ballistic missile threat, including further missile tests and its ballistic missile exports. The KEDO bill for 1999 focused on U.S. full engagement in efforts to impede North Korea's development and export of ballistic missiles. Thanks to the Berlin Agreement, the KEDO bill for 2000 could now tighten U.S. demand for the elimination of the North Korean missile threat.

Fifth, the KEDO bill for 2000 also puts a special emphasis on the pursuit of North-South dialogue by singling it out as an independent proviso in the bill text.

Lastly, the KEDO bill for 2000 is stricter than the previous year's bill in preventing any U.S. assistance to North Korea from being diverted for purposes for which it was not intended. Whereas the KEDO bill for 1999 simply did not allow "significant" diversion of assistance, the KEDO bill for 2000 straightforwardly did "not" allow any diversion at all.

The House Hearings and Others Regarding North Korea

Following a House International Relations Committee meeting with North Korea Policy Coordinator William Perry on September 15, 1999, Chairman Gilman issued a statement that he opposed the easing of U.S. sanctions against North Korea because he believed that "lifting sanctions will provide a long-term benefit to North Korea in exchange for their short-term concession of halting missile tests."⁹² This was followed by another statement after President Clinton's decision to ease

92 "Gilman Opposes Easing Sanctions on North Korea," Press Release from the House International Relations Committee, September 15, 1999.

sanctions against North Korea was announced on September 17, 1999. In the statement, Chairman Gilman warned that the approach put forward in the Perry Report did not have support in Congress and would not be sustainable into the next administration.⁹³

At a committee hearing on North Korea in the House on October 13, 1999, Chairman Gilman, complaining that "North Korea arguably is the largest proliferator of missiles and enabling technology in the world today," stated that "despite the Agreed Framework, North Korea may still be pursuing a nuclear program," adding that North Korea "may be seeking a parallel program based on a highly enriched uranium which strongly suggests that North Korea never intended to curb its nuclear ambitions."⁹⁴ The expression "may still be pursuing" or "may be seeking" is an expression which demonstrates that Chairman Gilman attacks North Korea and U.S. policy toward North Korea based on his own conjectures or intent, not on any concrete evidence. Chairman Gilman's fear was, in a nutshell, that North Korea would combine its "covert" nuclear weapons program with an intercontinental ballistic missile capable of striking the United States, and that U.S. policy may fail to prevent it.⁹⁵

Based on the report of the General Accounting Office (GAO),⁹⁶ Chairman Gilman accused North Korea of diverting heavy fuel oil and food assistance provided by the United States for purposes for which they were not intended. But the GAO's report uses the following

93 "Gilman Reacts to Lifting North Korea sanctions; urges bipartisan approach," Press Release from the House International Relations Committee, September 17, 1999.

94 "U.S. Policy Toward North Korea I: Perry Review," Full Committee Meeting, International Relations Committee, House of Representatives, October 13, 1999.

95 *Ibid.*

96 GAO Report to the Chairman, Committee on International Relations, House of Representatives, "Status of Heavy Fuel Oil Delivered to North Korea Under the Agreed Framework," Sept. 30, 1999 (hereafter referred to as "GAO Report on Heavy Fuel Oil, Sept. 30, 1999"); GAO Report to the Chairman, Committee on International Relations, House of Representatives, "North Korea Restricts Food Aid Monitoring," October 8, 1999.

expression: "reports have alleged that North Korea has diverted some of this heavy fuel oil for purposes not specified in the Agreed Framework, including resale abroad."⁹⁷ Again, the expression "have alleged" shows that the GAO, the investigative arm of Congress as a Congressional support agency, did not have any concrete evidence of the diversion of the heavy fuel oil.

Rep. Christopher Cox, Chairman of House Policy Committee, contended that "U.S. policy is conducting a one-sided love affair with the regime in North Korea," helping it build nuclear reactors that would produce enough plutonium to make "hundred nuclear bombs a year."⁹⁸ Rep. Joe Knollenberg also attacked the Clinton Administration's North Korea policy by citing a GAO report on North Korea's misuse of the heavy fuel oil provided by the United States.⁹⁹

It is noteworthy that Rep. Tony Hall presented a dissenting view on North Korea's food aid monitoring in his testimony on the House International Relations Committee hearing on North Korea on October 27, 1999,¹⁰⁰ and in his remarks at the House floor on November 3, 1999.¹⁰¹ He argued that the loss rate in food distribution in North Korea by the United Nations World Food Programme was "well within the two percent average loss rate that the WFP maintains in its operation worldwide." North Korea recorded a 1.7 percent loss rate, according to him, which was "not a bad record" at all compared to the more than 10 percent loss rate in Haiti or 6 percent in Honduras.¹⁰²

Chairman Gilman delivered a speech on North Korea at the Asia Society on October 21, 1999.¹⁰³ He repeated his criticism that North

97 GAO Report on Heavy Fuel Oil, September 30, 1999.

98 David Briscoe, "Republicans Attack N. Korea Policy," *Associated Press*, Oct. 13, 1999.

99 *Ibid.*; GAO Report on Heavy Fuel Oil, September 30, 1999.

100 "U.S. Policy Toward North Korea II: Misuse of U.S. Aid to North Korea," Full Committee Meeting, International Relations Committee, House of Representatives, October 27, 1999.

101 Extension of Remarks of U.S. Representative Tony P. Hall, November 3, 1999.

102 *Ibid.*

Korea, the largest recipient of U.S. foreign aid in East Asia, still remained a significant threat to U.S. security interests. He presented statistics on U.S. aid to North Korea: North Korea received almost 750 million dollars since 1995 from the United States, and will receive over 270 million dollars for this year, totalling over 1 billion dollars by the year 2000.¹⁰⁴

Chairman Gilman addressed issues of mutual concern: the North Korean nuclear weapons program, the development and proliferation of ballistic missiles, the recovery and repatriation of remains from the Korean War, the provision of food aid to North Korea, and other problems such as the history of North Korea-sponsored state terrorism, human rights in North Korea, and North Korea's production and trafficking of narcotics and counterfeiting of U.S. dollars.¹⁰⁵

Chairman Gilman offered a few of his ideas about guiding principles for U.S. policy toward North Korea¹⁰⁶ and specific policy recommendations of his own.¹⁰⁷ But he basically recognized and tacitly admitted that the President is in charge of foreign policy and accepted the policy review and policy recommendations made by the Perry Report as the policies of the United States. For example, he stated that "the Clinton Administration must retain a senior, high-visibility presi-

103 Rep. Benjamin Gilman, "America's North Korea Policy is at the Crossroads," *Asia Society*, October 21, 1999.

104 *Ibid.*

105 *Ibid.*

106 The guiding principles were that: (1) U.S. policies must be firm, (2) they do not undermine U.S.' fundamental security, (3) they are willing to undertake tough measures toward North Korean belligerence, and (4) they do not encourage in any way North Korea to miscalculate U.S.' resolve. See *Ibid.*

107 Four specific policy recommendations were: (1) retain a senior, high-visibility presidential envoy to implement the results of the policy review; (2) work closely with Tokyo, Seoul and others to implement a coordinated, coherent multilateral policy; (3) base any new North Korea policy on conditional reciprocity; and (4) ensure that deterrence and military superiority remain front and center of our policy towards North Korea. See *Ibid.*

dential envoy to implement the results of the policy review." He continued to say that Americans "have a unique opportunity to go down a different road with North Korea," and that "it is a journey that [Americans] should embark upon."¹⁰⁸

The North Korea Advisory Group's Report on North Korea

On August 23, 1999, House Speaker J. Dennis Hastert appointed Chairman Benjamin Gilman to form a Republican "North Korea Advisory Group" (NKAG) to study and report on North Korea's threat to the United States and its allies. Responding to this direction, Chairman Gilman and eight other Republican members of the House began to prepare a report in early September upon the return of Congress.¹⁰⁹

NKAG transmitted its report to Speaker Hastert on October 29, 1999, and released it on November 3, 1999. The question that NKAG was asked to answer: "Does North Korea pose a greater threat to U.S. national security than it did five years ago?"¹¹⁰ NKAG's answer to the question was that the comprehensive threat posed by North Korea to the U.S. national interests has increased since 1994. NKAG did not make specific recommendations in the report because it was not asked to do so by the Speaker of the House.¹¹¹

The NKAG report basically repeated what Chairman Gilman had hitherto contended. For example, the report strongly argues that "there is significant evidence that undeclared nuclear weapons devel-

¹⁰⁸ *Ibid.*

¹⁰⁹ "Key Lawmakers Join to Review North Korea Policy," Press Release from the House International Relations Committee, August 23, 1999: "U.S. Policy Toward North Korea I: Perry Review," Full Committee Meeting, International Relations Committee, House of Representatives, October 13, 1999.

¹¹⁰ For the five concrete questions derived from this comprehensive question, see the North Korea Advisory Group, Report to the Speaker of U.S. House of Representatives, November 1999.

¹¹¹ *Ibid.*

opment activity continues [in North Korea], including efforts to acquire uranium enrichment technologies and recent nuclear-related high explosive tests." The report continues to argue that "the United States cannot discount the possibility that North Korea could produce additional nuclear weapons outside of the constraints imposed by the 1994 Agreed Framework."¹¹²

The NKAG report strongly suggested that the Speaker of the House direct the relevant committees to review the following five issues and report back to him with their specific legislation for Congressional action by a certain date: (1) current U.S. policy is not effectively addressing the threat posed by North Korean weapons of mass destruction, missiles and their proliferation; (2) U.S. assistance sustains a repressive and authoritarian regime, and is not effectively monitored; (3) the current U.S. policy is not effectively addressing the issues posed by international criminal activity of the North Korean government, such as narcotics trafficking, support for international terrorism and counterfeiting; (4) current U.S. policy does not effectively advance internationally-recognized standards of human rights in North Korea, including liberating political prisoners and abolishing prisons for hungry children; and (5) current U.S. policy does not effectively encourage the political and economic liberalization of North Korea.¹¹³

VII. Conclusion

The United States and North Korea have now decided to go down a road toward normalization based on a newly-built predictability and trust between them. This new development was brought about through their initial cooperation in a series of negotiations and events of this past year: the March 16 agreement, the Kumchang-ni inspection,

¹¹² *Ibid.*

¹¹³ *Ibid.*

William Perry's visit to Pyongyang, the Berlin Agreement, and finally the Perry Report. As the Perry Report points out, "a confluence of events this past year" has provided "a unique window of opportunity for the U.S. with respect to North Korea," and it may be, historically, one of the "best opportunities to deal with key U.S. security concerns on the Korean Peninsula for some time to come."¹¹⁴

The Berlin Agreement is a concrete, positive sign that the North Korean leadership is seeking a way out of its dire food and economic crisis and looking to improve its relationship with the United States. The Perry Report is a manifestation of the U.S. policy to engage North Korea more fully in the years to come for the security and broader interests of the U.S. and its allies. In other words, both the United States and North Korea have made critical decisions through the Berlin Agreement and the Perry Report.

With the Presidential election coming up next year, the Clinton Administration is willing to go down the road of normalization with North Korea fast enough to enable it to have some more tangible achievements in its North Korea policy, saleable to the voters in the Presidential campaign. Also, the North Korean leadership basically appears to be thinking along the same lines, hoping to secure more of its demands from the U.S. side until the U.S. Presidential election in November 2000.

What will happen to U.S. policy toward North Korea if the Republican candidate wins the Presidential election next year? I would argue that the next U.S. Administration, Democratic or Republican, may not have much leeway for returning to the policy of confrontation and containment. As far as the "North Korean problem" continues to exist and poses a threat to U.S. interests in the Korean Peninsula and Northeast Asia—that is, without fundamental changes in U.S.-North Korean relations in the political, economic, and security realm—the new U.S. Presi-

114 *The Perry Report*, October 12, 1999.

dent may be obliged to continue its engagement policy toward North Korea, which has already produced some important initial results.

Since the United States and North Korea share an interest in mutual threat reduction, normalization of relations, and an ultimate end of the Cold War structure on the Korean Peninsula and Northeast Asia, both countries will exercise caution and patience in the coming negotiations. It is always possible that the road to normalization will be bumpy and take much time to walk down, but this does not mean that either side is likely to take the steam out of this momentum and return to the previous state of confrontation and hostility. Therefore, the prospects for the U.S.-North Korean relations look bright in the months and years to come.