

A Japanese Perspective on North Korea: Troubled Bilateral Relations in a Complex Multilateral Framework

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Abstract

North Korea's missile and nuclear tests in 2009 highlighted the strategic environment of Northeast Asia as well as the current tactical calculation of countries involved. North Korea is benefiting from its relative strategic weakness and lack of policy and tactical coordination among members of the Six-Party Talks. Without the effective military capability to deal with the North Korean threat, Japan relies heavily on economic sanctions to deal with the issue. This paper argues that Japan's North Korea policy is currently regarding the abduction issue as its foremost priority; its policy in approaching North Korea is becoming static and inflexible. Without a diplomatic solution in sight, Japan has established non-military means to pressure North Korea, as well as a contingency plan to deal with incoming threats. Under the auspices of UN Security Council Resolution (UNSCR) 1718 and its domestic arrangements, Japan virtually curtailed economic relations with North Korea. Furthermore, Japan prepared crisis arrangement exercises which may be applicable to bio-terrorism and pandemics. Recently, there have been some political debates regarding options to attack defensively. These debates reflect Japan's activism in regional affairs, and the seriousness of threat posed by North Korea. Along with other members of the Six-Party Talks, Japan may have to seek an appropriate balance between pressure and negotiation in order to maintain the status quo and reduce the threats posed by North Korea.

Key Words: Japan's North Korea policy, Japan's approach towards the Six-Party Talks, economic sanctions, crisis management, UNSCR 1718

Introduction: Negotiations with the DPRK

Military action may bring unintended consequences to the regional security environment. The message attached to military actions may not accurately be conveyed to the intended audience; this represents the most difficult part of diplomacy through military means. This is most true when those actions are conducted under the myriad of bilateral and multilateral relations, since security and domestic implications differ for each state.

North Korea (Democratic People's Republic of Korea, DPRK) conducted multiple cases of military provocations that include nuclear tests in 2006 and 2009, multiple launches of ballistic missiles in 2007, and a Taepodong-2 missile launch in 2009. The intention of the DPRK on these events is deductively analyzed as a diplomatic provocation aimed at gravitating U.S. attention to extract a U.S.-DPRK bilateral negotiation out from the Six-Party Talks. In spite of the calculated provocation, the outcome of these actions had brought no significant diplomatic victory for the DPRK.

There may be two reasons. First, a nuclear test and ballistic missile launch by the DPRK showed the development of military capabilities since the early 1990s, but was not strong enough to cause a strategic reconfiguration in the region. Second, related countries had already elevated tactical readiness (both domestic and international) so that the isolated incidents by North Korea were dealt with through established political frameworks. Not denying the security impact of independent incident, but there are concurrent patterns in dealing with the DPRK and military provocations by the DPRK.

The issue that remains is how to coordinate the strategic and tactical maneuvering of the countries related that is the most difficult part of dealing with the DPRK. The parties to the Six-Party Talks have different priorities, along with different negotiation tactics and approaches

that give the DPRK a chance to dismantle cohesion among parties who aim to solve the nuclear and other related issues.

The intricacy is from the unreliability of promises by the DPRK. In a different context, there would not be any building blocks towards an overall solution of the cases since an agreement from a single round of negotiations will be ignored and utilized by the DPRK in future rounds of negotiations.¹

Doubts over a lack of transparency and a repeated deception on the negotiated deal create suspicion among countries concerned and force them to account for verification and certification in the next round of negotiations. The disappointing results were anticipated in advance by the U.S. compromise in the Banco Delta Asia case in 2006 and the delisting of the DPRK from the U.S. State Department's country supporting terrorist list in 2008 showed that the DPRK will not honor reciprocal pledges. However, within an existing negotiation scheme with the DPRK, it is inevitable that the countries concerned must bargain future payoffs with current offerings and expect that an agreement will be kept. If strict verification is introduced, the DPRK will leave the negotiation table and walk away until the political tide is favorable.²

Under these circumstances, negotiators with the DPRK must face two opponents, the skillful diplomatic tactics of the DPRK and a frustrated (but not infuriated) multilateral coalition who is in the position

¹-Leon V. Sigal, "North Korea Is No Iraq: Pyongyang's Negotiating Strategy," *Arms Control Today* (December 2002), pp. 8-12; Nobuo Okawara and Peter J. Katzenstein, "Japan and Asian-Pacific Security: Regionalization, entrenched Bilateralism and Incipient Multilateralism," *The Pacific Review*, Vol. 14, Iss. 2 (June 2001), pp. 165-194.

²-Bong-Geun Jun states, "North Korea bears much of the responsibility for this litany of failures. North Korea has a habit of reopening negotiations in order to squeeze out additional rewards or delay the fulfillment of its own obligations. Even worse, North Korea also tends to renege and withdraw from agreements once the cream is skimmed off the top or pressure is gone." Bong-Geun Jun, "North Korean Nuclear Crises: An End in Sight?" *Arms Control Today*, Vol. 36 (January/February 2006).

to support the efforts of the negotiators.³ The irony in this picture is that a negotiator must convince the parties to the Six-Party Talks in order to implement a successful bilateral agreement with the DPRK.

The DPRK is a tough negotiator and the other negotiators must provide the DPRK incentives to conclude the negotiations, but it will provoke security and political concern and dissatisfaction among the allied parties. On the contrary, if a negotiator listens to the opinions of the allied team, the DPRK will not consent to the deal. If the priority is to conclude an agreement with DPRK then a multilateral cohesion does more harm to DPRK negotiations than good.

The same political standoff continues since the revelation of the DPRK's nuclear development in the early 1990s. However, the Sunshine Policy of the Republic of Korea (ROK) gave the DPRK an economic opportunity and invalidated economic pressure towards the Pyongyang regime. In another case, Prime Minister Koizumi's surprise visit to Pyongyang partially paved the way to solve the abduction issue, but raised U.S. concerns over a Japanese unilateral solution that might sacrifice a comprehensive solution to DPRK issues.

In the last years of the Bush administration, the U.S. reversed a previous policy that included the DPRK in an Axis of Evil, and employed a policy of enhanced engagement. According to Joel Wit, enhanced engagement articulates a positive vision for the Korean peninsula and Northeast Asia, seeks to rapidly identify common ground with Pyongyang, builds productive communication, sets negotiating priorities, establishes realistic nuclear objectives, and creates a successful, sustained process of implementation that holds the best chance to resolve the crisis and secure U.S. interests.⁴

³-Gilbert Rozman, "The North Korean Nuclear Crisis and U.S. Strategy in Northeast Asia," *Asian Survey*, Vol. 47, No. 4 (July/August 2007), pp. 601-621.

⁴-Joel S. Wit, "Enhancing U.S. Engagement with North Korea," *The Washington Quarterly*, Vol. 30, No. 2 (Spring 2007), p. 53.

This did not please Japan who expected U.S. to take a hard-line policy, and led to less coordination and criticism towards the U.S. negotiator, Undersecretary of State Christopher Hill. In examining the appeasement-like style towards the DPRK, some Japanese commentators and bloggers enjoyed calling him 'Kim Jong-Hill.'⁵ Furthermore, in a Washington, DC interview with the *Washington Post* in February 2009, Japanese Prime Minister Taro Aso openly expressed direct dissatisfaction on the handling of North Korea issue in the concluding days of the Bush administration and called on the Obama administration to reverse the course.⁶ Prime Minister Aso criticized that excessive compromise or appeasement towards the DPRK will only consume diplomatic assets without gaining major concessions.

Volatility on the foundations of the Six-Party Talks (which rely heavily on the negotiation tactics of the DPRK) complicates Japanese tactical calculations. If Japan continues to assume the 'bad cop' role in the good and bad cops scenario, the DPRK would also continue to ignore the strategic priorities of Japan and try to isolate Japan within the negotiation scheme and condemn Japan for posing a security threat against the DPRK. However, if Japan takes an appeasement-like policy towards the DPRK, any Japanese government will face a severe domestic political setback from an already upset public that is angry over abduction of Japanese citizens by the DPRK.

Under this unfortunate deadlock, Japan is establishing institutions and preparing legal exercises to hedge security threats potentially coming from the Korean peninsula. While rejecting the temptation to 'go nuclear,'

⁵ - The name 'Kim Jong-Hill' first reported in South Korea's *Chosun Ilbo*. The report said that unnamed Japanese diplomat called Christopher Hill this name in criticizing his negotiation style with the DPRK, <http://english.chosun.com/w21data/html/news/200805/200805270019.html>.

⁶ - Glenn Kessler, "Japanese Premier Cautious on North Korea: Economy Restricts Options, Aso Says," *Washington Post*, February 25, 2009.

Japan is making a break from the past on many political and psychological barriers self-imposed after the second World War.⁷ Even if the DPRK tries to eject Japan from current Six-Party Talks or if the U.S. tries to make a negotiated settlement of the issue while sacrificing interests of the other parties, Japan is confident on its indigenous political and military capability since Japan understands a potential impact of its policy shift, which may cause a significant financial and political turmoil in the region.

Framework of the DPRK Issue

The missile launch by the DPRK in April 2009 resurrected an old pattern of action. The timing of the missile launch by the DPRK coincided with the eve of reappointment of Kim Jong-il as the chairman of the National Defense Commission. The choice of the timing typical for the DPRK. In the past cases of missile launches and nuclear tests, they were conducted when Kim Jong-il needed to appeal to the domestic audience through a military success and please the DPRK military. In addition, the past case shows that the military provocation was attempted when international attention towards the DPRK was waning.

After the launch, Japan, the U.S., and South Korea expressed concern and brought the case to the United Nations. The UN has proceeded with the UNSC statement of its President (Presidential assignment in April was Mexico) on April 14 (Japan Time).⁸ The U.S. and Japan took a tough position at the Security Council, but were also

⁷-Christopher W. Hughes, "North Korea's Nuclear Weapons: Implications for the Nuclear Ambitions of Japan, South Korea, and Taiwan," *Asia Policy*, No. 3 (January 2007), pp. 75-104.

⁸-The statement reaffirmed UNSC Resolution 1718 (October 2006), which condemned the nuclear test by the DPRK for "such a test would bring universal condemnation of the international community and would represent a clear threat to international peace and security." The UNSCR 1718 also "demands that the DPRK not conduct any further nuclear test or launch of a ballistic missile."

realistic about the inability to avoid a veto by China or Russia who are increasingly reluctant to impose strict sanctions against the DPRK. The U.S. immediately restarted efforts to resume the Six-Party Talks to implement a joint statement concluded in September 2005 that set a path to the “verifiable denuclearization of the Korean peninsula in a peaceful manner.”⁹ Japan also made a realistic compromise and business returned to normal. The disruptive actions of the DPRK remain within a scope of prediction. The framework of the issue and the means to deal with provocations by the DPRK will remain the same unless military sanction is considered by the UNSC. Three security implications are found in this case and show a repeated pattern in security issues regarding the DPRK.

First, despite the fact that the DPRK has the military capability to strike Japan and South Korea (possibly with compact nuclear warheads) and challenge global initiatives on non-proliferation, the military capability of the DPRK is not strong enough to threaten U.S. security interest, let alone minimum security deterrence. The missile and nuclear issues have profound implications for the security of the Asia-Pacific region, but still lack a universal appeal since the repeated failures of the tests show that the Taepodong-2 may not have the capability to strike the U.S. mainland.

This fact created a wedge between the allies (in particular between Japan and the U.S.) on policy priorities over the DPRK.¹⁰ The U.S. deems

⁹-“Joint Statement of the Fourth Round of the Six-Party Talks,” September 19, 2005, <http://www.state.gov/tr/pa/prs/ps/2005/53490.htm>.

¹⁰- The wedge emerges when assessing the nuclear capability of the DPRK. The U.S. and Japan share security information and risk assessment, but differ on security implications. The Japanese public tends to demand an ‘absolute security’ that comes the absence of nuclear weapons and they are attracted to a ‘nuclear-free zone’ concept proposed by some NGOs. However, Japanese government decision makers understand the delicacy of the strategic balance and importance of the U.S. extended deterrence. The reliability of the extended deterrence is now being questioned by the Japanese academic community. Peace Depot, “A Model Treaty on the Northeast Asia

DPRK's proliferation activities of nuclear materials and missiles that may be motivated by their economic interest as a major security *concern*, while Japan looks at DPRK nuclear possession and missile deployment as serious security *threat*.¹¹ Indeed, these different perceptions on missile and nuclear capability and the security implications between the U.S. and Japan are a source of conflict. Unless the U.S. formally commits to the defense of Japan and South Korea the network of the bilateral alliance will be weakened.¹² A consensus is yet to be reached among related countries of whether the provocation by the DPRK is deemed serious enough to impose a substantial punishment. However, the U.S. and other members of the Six-Party Talks still have time and room to pursue a diplomatic solution.

Second, a threat perception among parties of the Six-Party Talks on the missile and nuclear threat of the DPRK differs significantly and in policy priorities as well. For example, both Japan and South Korea face security threats from the Rodong missile (a medium-range ballistic missile) since the first test of the missile in 1993. It is reported that the Rodong missile is already deployed by the DPRK and is estimated to consist of approximately 200 weapons.¹³ However, it has been pointed

Nuclear-Weapon-Free Zone," *Working Paper No. 1* (November 2005).

¹¹-Defense Secretary Donald Rumsfeld said the U.S. should focus on nuclear transfer. Kristin Roberts, "Rumsfeld Eyes ICBMs in Terror War," *Reuters*, August 27, 2006.

¹²-During the Bush administration, Secretary of State Condoleezza Rice said "I think it is extremely important that Japan knows that the United States is going to fully defend Japan and live up to the commitments that we have taken, beginning with the 1960 mutual defense treaty; that we would use the full range of our capabilities to deter and defend attacks or threats against Japan." Under the Obama administration, Secretary of State Hilary Clinton said, "well, first, as to the question about our nuclear umbrella, we have and continue to support a policy of extended deterrence that provides protection as part of our alliance with Japan. It remains as strong as it has ever been. We are absolutely committed to it, and we'll be discussing that and other matters with Japanese officials." "Overview of Trip to Asia," Remarks by Secretary Clinton En Route to Tokyo, Japan, February 15, 2009.

¹³-General Walter Sharp said, "The North Korean ballistic missile threat to the ROK, and its allies are very real. They have 800 increasingly sophisticated missiles, and have tested a missile that many think could reach the United States. The ROK does not

out that the threat perception of South Korea is slightly different from Japan since the ROK shares the same national heritage with DPRK. Japan (in regards to historical issues) is often described as common enemy of the ROK and DPRK; and both countries form a common front against Japanese influence.

John Feffer points out in *Foreign Policy in Focus*, “While all three countries make ritual obeisance to the principle of trilateral coordination, they each have different priorities. Japan is transfixed by the abduction issue; South Korea has focused more on economic cooperation and the conventional military threat from the North; and the United States has cared above all about North Korea’s nuclear program.”¹⁴ The DPRK is benefiting from this divergent perspective from among the three countries. In addition, Japan, South Korea, and the United States are also pursuing independent internal agendas. The Obama administration needs to reestablish trilateral cooperation if it wants to implement the Six-Party Talks, but ironically it is not necessarily a desirable policy for the interests of the respective countries.

The diversion of political priorities is most evident in the abduction issue. Although it is suspected that the DPRK abducted not only Japanese but also citizens from around the world, the issue raises especially strong animosity towards the DPRK in Japan. According to Kazuhiro Araki (Chairman of the NGO Investigation Commission on Missing Japanese Probably Related to North Korea) it is estimated that hundreds of South Korean citizens were abducted by the DPRK, however government support to the families of abductees is limited compared to Japan.¹⁵ A political consideration of improving North-

currently have a robust missile defense capability in place and this would likely be one of the bridging capabilities the U.S. would provide until the ROK improves this capability.” “Gen. Walter Sharp’s written interview with *Korea Times* (Q & A).”

¹⁴- “What’s Up with North Korea?” *Foreign Policy in Focus*, April 5, 2009.

¹⁵- See <http://www.chosa-kai.jp/> for a detailed report on the activities of the committee.

South relations is often prioritized in South Korea. On the contrary, the Japanese government is pushed by domestic opinion to commit to this issue so that Japanese political and diplomatic maneuvering lacks flexibility.

Third, current economic and diplomatic sanctions imposed against the DPRK (which include sanctions under UNSCR 1718) are not strong enough to change the behavior of the DPRK. The DPRK has been subject to severe economic sanctions since the Korean War.¹⁶ For example, the U.S. imposes economic sanctions against the DPRK based on Export Administration Act and other related acts and provisions.¹⁷ Japan imposes financial and trade sanctions based on the Foreign Finance and Foreign Trade Law.¹⁸ Combined with other diplomatic sanctions and with certain domestic arrangements to press the North Korean community living in Japan (*Zainichi*) to block economic support for the DPRK, the nexus of economic sanctions become comprehensive and pervasive. It is believed that the *Zainichi* exported funds and technology that enabled DPRK nuclear and missile development.

Japan and the United States closely monitor the normal and illicit trade by the DPRK on items regarding the production and development of Weapons of Mass Destruction (WMD). For example, the Proliferation

¹⁶- See Dianne E. Rennack, "North Korea: Economic Sanctions," *CRS Report to Congress* (October 2006). Rennack reports that the U.S. imposes economic sanctions against the DPRK for four reasons: national security (Trading with the Enemy Act and National Emergencies Act), state sponsor or supporter of international terrorism (Export Administration Act of 1979), Marxist-Leninist state (Export-Import Bank Act of 1945, Foreign Assistance Act of 1961), and proliferation of weapons of mass destruction (Arms Export Control Act, Export Administration Act of 1979, and Iran, North Korea, and Syria Non-proliferation Act of 2000).

¹⁷- The contents of U.S. sanctions are constantly changing based on negotiations with the DPRK. For the debate over the ways and means of the sanctions refer to Ian Fergusson, *The Export Administration Act: Controversies and Debates* (New York: Novinka, 2006); Ruediger Frank, "The Political Economy of Sanctions against North Korea," *Asian Perspective*, Vol. 30, No. 3 (2006), pp. 5-36.

¹⁸- For the comprehensive outlook of Japanese sanctions against the DPRK, see http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/seisai.htm.

Security Initiative (PSI) is a newly introduced initiative (started during the Bush administration and now inherited by the Obama administration) to prevent the illicit transfer of WMD and its related technologies by sea, land, and air.¹⁹ The PSI became active after the U.S. and Italian Navy failed to seize a DPRK missile export to Syria off the coast of Yemen in 2002.²⁰ The UN imposed sanctions on even luxury goods, since these are believed to be used by Kim Jong-il to maintain the support of high-ranking government officials.²¹ The results have shown (unfortunately) that these sanctions are either weak or ineffective to change the military provocations of the DPRK.

In essence, there is a strange vacuum surrounding the standoff in the Korean peninsula. The nuclear and missile developments by the DPRK has global and regional implications. For example, nuclear development challenges the global norm on nuclear non-proliferation, and is counterproductive to the nuclear-zero proposal of the Obama administration. Obviously, it will be detrimental to the 2010 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons (NPT), and a possible reconfiguration of nuclear non-proliferation regime, since the DPRK will claim a nuclear weapon state status.

For the regional implications, the nuclear and missile developments of DPRK will produce a sense of insecurity in Japan, and debates over how to mitigate the threat will be serious and practical. South Korea

¹⁹- At the Prague speech by president Obama, the PSI was referred to as an important policy initiative to prevent the proliferation of WMD and related technologies. Gilles Andréani, "America's New Nuclear Disarmament Policy and the Transatlantic Relationship," *Policy Brief*, May 4, 2009, http://www.gmfus.org/doc/Gilles_Obama_April5_Speech_FINAL.pdf.

²⁰- Steven A. Hildreth, "North Korean Ballistic Missile Threat to the United States," *CRS Report to Congress*, January 24, 2008.

²¹- See [http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/downloadfiles/topics/n-korea/hinmoku-list\(19.1.1\).pdf](http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/downloadfiles/topics/n-korea/hinmoku-list(19.1.1).pdf) for a list of luxury items prohibited by the Japanese government under UNSCR 1718.

faced 20 years of deterioration in the joint declaration of a nuclear-free Korean peninsula and it now sees the emergence of nuclear equipped North Korea. This situation leads to a likelihood that an arms race will start soon. China now faces an uncontrollable DPRK that once represented a faithful buffer state between a capitalist-state, South Korea.

Measures to deal with the DPRK challenge are weak. The level of economic sanctions is set at maximum and there remains little room to impose further sanctions. The PSI should represent flexible steps to enforce sanctions, but unpredictability still remains. However, a military option under the auspice of UN Charter Chapter 7 is not a convenient tool for instant adoption as the DPRK states that it would counterattack Japan and South Korea. Furthermore, there is no clear cost-analysis of an ex-DPRK Korean peninsula. Therefore, a party to the Six-Party Talks may be frustrated over provocative behavior of the DPRK, but acknowledges that no effective measures are in place at this moment.

North Korea and Domestic Politics of Japan

From the Japanese perspective, a public uproar against the kidnapping of Japanese youth by the DPRK in the 1970s and 1980s defines the current relations with the DPRK. Japan-DPRK relations and Japanese domestic opinions have been exacerbated over the 1990s in a reflection of the North Korean missile and nuclear development. According to a Japanese government public opinion survey on Japan-DPRK relations in 2008 (multiple answer), 88.1% name the abduction of Japanese citizens as a top issue in bilateral relations, followed by the nuclear issue (69.9%) and missile issue (51.5%).²² Dislike and distrust

²² See <http://www8.cao.go.jp/survey/h20/h20-gaiko/2-1.html> (in Japanese) for the full results. According to this survey, the top issue has remained the same since it first

against North Korea surfaced when the abduction cases became evident and criticism of the DPRK was no longer taboo.

Without having effective countermeasures to the DPRK military threat, Japan remained in a position to support U.S. policy towards the DPRK.²³ A defensive attack option against the DPRK military targets was discussed every occasion since the DPRK first launched the Rodong in 1993, but a consensus has not been reached.²⁴ A lack of domestic consensus on how to effectively deal with the DPRK threat is preventing Japan from making strategic decisions, except for strengthening the U.S. security alliance and the establishment of domestic contingency plans. Both policy options are part of the larger strategic policy to expand the Japanese role in regional and international affairs out in the allied transformation and initiatives related to the war on terror.²⁵

started to include the DPRK issue in the survey in 2002.

²³-In the common strategic objectives defined in Joint Statement of the Security Consultative Committee, "Alliance Transformation: Advancing United States-Japan Security and Defense Cooperation" (May 1, 2007), both governments agreed to "achieving denuclearization of the Korean peninsula through the Six-Party Talks and fully implementing the Joint Statement of September 19, 2005, which envisions progress in other areas, including the normalization of relations between North Korea and the United States and Japan, respectively; resolution of humanitarian issues, such as the matter of abductions and commitment by all Six Parties to join efforts for lasting peace and stability in Northeast Asia." See <http://www.mofa.go.jp/region/n-america/us/security/scc/joint0705.html>.

²⁴-A defensive attack option has been considered as constitutionally legitimate. For example, after the nuclear test by the DPRK in May 2009, Prime Minister Aso answered the question of Ichita Yamamoto, Diet member from LDP, in the Upper House's Budget Committee, on May 28, 2009, about a defensive attack on the DPRK missile site. Prime Minister Aso made a statement arguing that, if Japan had no option other than attacking the enemy's missile site to ensure its security, Japanese government follow constitutional interpretation of Prime Minister Ichiro Hatoyama in 1956 who defined the action is legally permissible under right of self-defense. However, Prime Minister Aso also stated that Japan currently lacks military capability to consider them as a policy option. For the full statement of Prime Minister Aso, refer to <http://kokkai.ndl.go.jp/>. *Mainichi Shinbun*, May 28, 2009.

²⁵-The National Defense Program Guideline in 2005 defines the basic principle of the Japanese security policy as "the first objective of Japan's security policy is to prevent any threat from reaching Japan and, in the event that it does, repel it and minimize any damage. The second objective is to improve the international security environment so as to reduce the chances that any threat will reach Japan in the first place.

Abduction Case and Domestic Politics

The long suspicion over kidnappings of Japanese by the DPRK came to light when Kim Jong-il publicly recognized a claim and apologized to Prime Minister Junichiro Koizumi during his official visit to Pyongyang in September 2002. At that time, a bilateral negotiation between the DPRK and the United States (as well as Six-Party Talks) was stalled due to the Bush administration's inclusion of the DPRK in the State of the Union Address on January 30, 2002. In this speech, President Bush named North Korea, Iran, and Iraq and said "states like these, and their terrorist allies, constitute an Axis of Evil, arming to threaten the peace of the world." North Korea was desperate to resume diplomatic negotiations with United States, and the promotion of reconciliation with Japan was one of the options to stimulate DPRK-U.S. relations.

There is a recurrent pattern in DPRK diplomacy. Both political concessions and military provocations are utilized by the DPRK as diplomatic tools to resume a direct dialogue with United States. Those actions are conducted at convenience, and no cyclical pattern is observed. If a single policy option does not work, then the DPRK tends to freeze further negotiations and move forward with other options. The release of kidnapped Japanese and the overture of returning the Yodo-Go hijackers and their families were a sign of reconciliation and concession to Japan by the DPRK.²⁶

The miscalculation of the DPRK was that the Japanese public was not satisfied by the decision of Kim Jong-il to allow abductees to return

Japan will achieve these objectives by both its own efforts as well as cooperative efforts with the United States, Japan's alliance partner, and with the international community."

²⁶ - It is reported that Japanese new left activists who hijacked Jal Yogdo-Go and fled to North Korea were involved in the kidnapping case. They worked as operatives of the DPRK by cooperating in the abduction. Patricia G. Steinhoff, "Kidnapped Japanese in North Korea: The New Left Connection," *Journal of Japan Studies*, Vol. 30, No. 1 (2004), pp. 123-143.

and this becomes a symbol of the brutality and untrustworthiness of the Kim regime. Japanese political dynamics changed in the late 1990s since Prime Minister Tomiichi Murayama, a socialist since Prime Minister Tetsu Katayama who took office in 1947, stepped down in 1996. The Japan Socialist Party (JSP) has been dissolved and the members absorbed into the Democratic Party of Japan (DPJ) and the Social Democratic Party (SDP). Most of the pro-DPRK members of the JSP (including Takako Doi, the former Chairman of the Lower House) have moved to the SDP, which has had less support in subsequent general elections.

The decreased influence of the DPRK over Japanese domestic politics reflects a decline of SDP influence in the Japanese Diet. It is related to the actions of the DPRK towards Japan. After stepped down from the government, the SDP gained four additional seats in the Lower House in the 2000 general elections. However, in October 2001, the SDP opposed an amendment to the Coast Guard Law that enabled the Coast Guard to fire on spy boats that do not obey orders and was criticized as being excessively soft on the criminal activities of the DPRK. The position of the SDP looked odd, since an amendment was supported by the Japanese Communist Party. The same pattern emerged in April 2002 when the SDP opposed the Terrorist Financing Punishment Law that obligated financial institutions to ensure personal identification when a financial transaction exceeded two million yen.²⁷

The fractured response to the abduction case pushed the SDP into an almost total banishment from the Japanese political scene. The SDP (the predecessor of the JSP) had long history of friendship with the Korean Workers' Party (KWP) of the DPRK since 1963. The SDP and JSP

²⁷ - In this case, the Japan Federation of Bar Associations (*Nichibenren*) issued a statement saying that the Law may go too far to punish innocent civilians, since the interpretation of what consists as a criminal act under this law is wider than the international agreed framework. See http://www.nichibenren.or.jp/ja/opinion/report/2002_12.html.

behaved like a broker for the claims by the DPRK, emphasizing at every occasion that there were no abductions by the DPRK, but only a conspiracy by the Japanese government.²⁸ Even after Kim Jong-il admitted to the presence of abductees in September 2001, the SDP homepage listed an article saying that the abduction case is groundless.²⁹ As such, a formal apology was too late when Takako Doi issued a formal statement on October 7, 2002.³⁰ The sympathy by the SDP to the DPRK was excessive. In a public criticism of the pro-DPRK stance, the SDP lost 13 seats out of 19 in the 2003 general election.³¹ As a result, the SDP lost public support and political influence in Japanese domestic politics, and Takako Doi had to step down as party leader.

The domestic issue related to the DPRK including the power succession within the family of Kim Jong-il is one of the most popular items in Japanese broadcasting and Internet news. The North Korean domestic situation is featured repeatedly on weekend news shows and evening news. There are group of reporters who routinely enter the DPRK and film the domestic situation of the DPRK, such as homeless orphans begging and stealing food on the street, the corruption of DPRK soldiers, and secret interviews with defectors in and out of the DPRK.

²⁸- After the abduction case had gradually been revealed in Japan, the SDP severely criticized it as a 'forgery' on their homepage. "'Abduction case is a fiction' article was removed from SDP's HP," *Asahi Shinbun*, October 4, 2002.

²⁹- Takako Doi even declined Kayoko Arimoto's entreat to her on inquiry of Arimoto's daughter, Keiko Arimoto, to the DPRK. Kayoko Arimoto lived in Doi's Hyoko district, expecting to SDP's strong connection with the DPRK, which ended in disappointment. Referred by Katsuei Hirasawa, a Diet member of LDP, at TV show, November 18, 2002.

³⁰- "Party Leader Doi apologized 'past' after flood of protest," *Sankei Shinbun*, October 8, 2002.

³¹- In the 2003 general election, Takako Doi (a legendary figure in the SDP) was not re-elected in the Hyoko 7th District. She lost 50 thousand votes in 2003 from her previous reelection bid in 2000. It was revealed before the election that Takako Doi was consulted from the families of abductees to solve the issue but she bluntly ignored the opportunity. Kazuhiro Araki (ed.), *Record of Rescuing Kidnapped, 1996-2002* (Tokyo: Shisousha, 2002).

These reports are popular among Japanese who are eager to know the real life behind the 38th parallel.

Strategy of Japanese Security and the DPRK

The provocation of the DPRK has functioned as a facilitator of the establishment of Japanese emergency or contingency legislation and systems in regards to security issues.

Japan does not have an indigenous nuclear deterrence or direct strike capability on the DPRK military forces that are a threat to Japanese security. Japan has a continued a reliance on the Japan-U.S. security alliance on offensive functions and is a source of frustration among the Japanese public. Under the changing domestic power configuration, the Japanese government steadily moved forward in domestic contingency plans and the strengthening of the alliance. It is important to note that the establishment of the domestic contingency plan has been a task long overdue since during the Cold War, and the strengthening of the alliance was originally designed for an enhanced commitment over international agendas.

The stiffened attitude of Japan to the DPRK claiming 'no-normalization of Japan-DPRK relations without a complete resolution of the abduction issue' was popular in Japan, so that even showing a slight conciliatory position brought political risks for Japanese politicians.³² This policy was confirmed at the Related Cabinet Member Committee on Normalization Talks between Japan-DPRK in October 2002 as a Basic Policy Principle

³²- The political risk is best represented as severe pressure against opinion leaders and academics who advocate sidelining the abduction issue and the advancement of nuclear talks and negotiations. For example, popular political pundits Soichiro Tawara once referred to abductees in his TV program, saying that he had personal information that they were already dead. Immediately after his comment, Tawara was criticized from various NGOs that support families of the abductees, and also from Foreign Minister Koubun Nakasone. *Sankei Shinbun*, May 19, 2009.

of Normalization Talks between Japan-DPRK.³³ The Principle states that government must place the abduction issue as the priority in dealing with Japan-DPRK relations.

In this regard, the Japan-DPRK Pyongyang Declaration in September 2002 played a key role. The content of the declaration was an uneven bargain between Japan and North Korea. The DPRK must resolve the abduction issue, nuclear, and other security related issues as a precondition for Japan-DPRK normalization, and the DPRK could expect Japanese economic assistance and wartime compensation as a result. The declaration states that Japan will be “providing economic cooperation after the normalization by the Japanese side to the DPRK side, including grant aids, long-term loans with low interest rates, and such assistances as humanitarian assistance through international organizations” and “providing other loans and credits by such financial institutions as the Japan Bank for International Co-operation with a view to supporting private economic activities.”³⁴

However, the DPRK, “would take appropriate measures so that these regrettable incidents, that took place under the abnormal bilateral relationship, would never happen in the future,” and Japan and the DPRK “confirmed that, for an overall resolution of the nuclear issues on the Korean peninsula, they would comply with all related international agreements,” and “both sides also confirmed the necessity of resolving security problems including nuclear and missile issues by promoting dialogues among the countries concerned.” The declaration also stated that, “the DPRK side expressed its intention that, pursuant to the spirit of this Declaration, it would further maintain the moratorium on missile launching in and after 2003.”

The DPRK made a point to the benefit they can expect after

³³ - <http://www.kantei.go.jp/jp/singi/nittyo/kettei/021009kihon.html>.

³⁴ - http://www.mofa.go.jp/region/asia-paci/n_korea/pmv0209/pyongyang.html.

normalization is completed, but Japan focused more on the process of normalization. As a result, the DPRK is trapped into a position that it cannot utilize diplomatic relations with Japan without making significant concessions over bilateral issues that include abductions, spy ships, missiles, and nuclear development. From the Japanese perspective, it can either tighten or relax Japan-DPRK relations through sanctions, and put pressure on Chosen-Soren economic assistance or humanitarian assistance to induce or punish the DPRK for diplomatic concessions.

The declaration was well designed statecraft by the Koizumi government, but as a byproduct, the declaration essentially froze bilateral relations between Japan and North Korea. It also aggregated the security situation in Northeast Asia, since it put the DPRK in a position to either proceed with 'brinkmanship' diplomacy that threatens neighboring countries (and the United States) with nuclear weapons and missiles. The alternative is to agree to the negotiated settlement within the Six-Party Talks, which is an extremely difficult path for the Kim regime with Japan opposed to any agreement that is less than a complete resolution of the abduction issue.

The net result of the Japan-DPRK Pyongyang Declaration is yet to be estimated. However, after the decision of the Japanese government led by then Deputy Cabinet Secretary Shinzo Abe (who became Prime Minister after Koizumi in September 2006) to break a deal with the DPRK and not to return the families of abductees who return to Japan after Pyongyang Declaration, bilateral negotiation between Japan and the DPRK became less productive as the DPRK position toughened. Furthermore, by aligning Japanese political interests to the Six-Party Talks, the DPRK began to bypass multilateral negotiations and focus more on bilateral negotiations with the United States. This deprived the Japanese position in multilateral talks. A famous Japanese political pundit Soichiro Tawara argued that Japan had being left out from the changes

in the international situation surrounding the DPRK and was losing influence over the issues.³⁵

‘Sanction’ Politics and Japan-U.S. Relations

The critical aspect of the diplomatic stagnation of the Six-Party Talks for Japan is a fear that Japan might become an obstructive actor in a comprehensive resolution on the nuclear issue, as security interests quickly diverge from the United States.

One of the main concerns of the DPRK seems to be the normalization of U.S.-DPRK relations, which would contribute to the preservation of the current regime. To accomplish this purpose the DPRK is desperately in need for a strategic capability that could deter the U.S. from resorting to preemptive military strikes. They can utilize a nuclear capability either to threaten Japan and South Korea through nuclear blackmail, or to offset Chinese influence in domestic affairs with regard to accepting a market socialism approach.

From the perspective of the DPRK, a host of multilateral and bilateral negotiations should serve this purpose, if not be replaced by other approaches. Military provocation is also a measure to gather international attention for the DPRK. The military and nuclear threats must be credible enough to force U.S. policymakers to react, and possibly make concessions to the demands of the DPRK. In order to serve this purpose, the DPRK needs to drive a wedge in the diplomatic front between Japan and the United States, so that abduction and other ‘minor’ issues should not be an obstructive factor.

Upon assuming office in 2001, the policy team of the Bush administration conducted a comprehensive DPRK policy review in June 2001,

³⁵- Soichiro Tawara, “Negotiation Beneath the Surface Is Underway,” *Sekai*, July 2008.

which called for unconditional talks between Washington and Pyongyang on a range of issues including nuclear development, the export of ballistic missiles, and the conventional military posture on the Korean peninsula.³⁶ However, the Bush administration policy shifted from engagement to containment over the DPRK, and then came the 'Axis of Evil' speech. It is reported that the DPRK interpreted the statement as a message that the U.S. might proceed with regime change through military means.

The Bush administration was originally sympathetic to the abductees. In addition, the administration understood the sensitivity of the issue in the Japanese domestic opinion and thought it would help in enhancing the successful political and security ties with Japan that included Japanese participation in Iraq reconstruction missions. President Bush met with Sakie Yokota in April 2006 and listened to the story of her family and said, "I have just had one of the most moving meetings since I've been the president" to the reporters.³⁷ Bush repeated this phrase in the Japan-U.S. summit meetings at the G8 Hokkaido.³⁸ It did encourage Japan (and especially the families of the abductees) about U.S. commitment to the issue after having seen no meaningful results in Japan-DPRK bilateral negotiations.

The critical moment in the Six-Party Talks came when a fourth round of negotiation agreed to issue a Joint Statement of the Fourth Round of the Six-Party Talks in September 2005, calling for the DPRK to abandon the nuclear weapons program. The statement specifically notes, "The DPRK committed to abandoning all nuclear weapons and

³⁶- "Statement by the President," June 13, 2001, <http://www.whitehouse.gov/news/releases/2001/06/20010611-4.html>.

³⁷- Sakie Yokota testified in a United States House of Representatives subcommittee about the abduction issue on April 27, 2006, and next day she had a chance to meet with President Bush.

³⁸- "United States Stands with Japan on North Korea Abductions: Six-Party Progress still in Initial Stages, Bush Says on eve of G8 Summit," July 7, 2008, <http://www.america.gov/st/peacesec-english/2008/July/20080707123936idybeekcm0.6024744.html>.

existing nuclear programs and returning, at an early date, to the Treaty on the Non-proliferation of Nuclear Weapons and to IAEA safeguards,” but “The DPRK stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss, at an appropriate time, the subject of the provision of light water reactor to the DPRK.”³⁹

The Six-Party Talks stalled after the U.S. Treasury Department designated Banco Delta Asia (BDA) (a Macau-based bank) as a “primary money laundering concern” charging it in assisting North Korean counterfeiting and drug trafficking activities.⁴⁰ Following this decision, the Macau government placed BDA under government control and froze \$24 million in the DPRK-related account including 20 bank accounts, 11 trading company accounts, and nine personal accounts. Those accounts were considered special accounts for the DPRK leadership, and the DPRK demanded a resolution of the issue in the first phase of Six-Party Talks in November 2005.

After a failed attempt to defreeze the BDA account, the DPRK conducted the missile test in July 2006 and declared successful completion of a nuclear test in October of the same year. The issue was brought to the United Nations and the Security Council issued Resolution 1695 on July 15 and Resolution 1718 on October 15.⁴¹ Both resolutions were designed to impose strict sanctions on the DPRK. The text of UNSCR 1718 states, “all member states shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their

³⁹- “Joint Statement of the Fourth Round of the Six-Party Talks,” Beijing, September 19, 2005, http://www.mofa.go.jp/region/asia-paci/n_korea/6party/joint0509.html.

⁴⁰- United States Treasury Department press release, “Treasury Designates Banco Delta Asia as Primary Money Laundering Concern under U.S. Patriot Act,” September 15, 2005, <http://www.ustreas.gov/press/releases/js2720.htm>.

⁴¹- For more detailed study on economic sanction against North Korea, see Karin Lee and Julia Choi, “North Korea: Economic Sanctions and U.S. Department of Treasury Actions, 1955-September 2007,” <http://www.nautilus.org/fora/security/0687ChoiLee.pdf>.

nationals, or using their flag vessels or aircraft, and whether or not originating in their territories,” of the items designated by the sanctions committee. These were any that could contribute to the DPRK nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs, and luxury goods.⁴²

In January 2007, representatives from the U.S. and the DPRK met in Berlin to discuss financial sanctions imposed against the BDA and the implementation of a Joint Declaration of 2005. The bilateral Berlin negotiation moved the Six-Party Talks to resume a third phase of the fifth round and on February 13, 2007, the members of the Six-Party Talks agreed on the Initial Actions for the Implementation of the Joint Statement.

The Initial Actions document states that, for the initial stage of denuclearization, “The DPRK will shut down and seal for the purpose of eventual abandonment of the Yongbyon nuclear facility including the reprocessing facility and invite back IAEA personnel to conduct all necessary monitoring and verifications as agreed between IAEA and the DPRK.”⁴³ It was also agreed that the DPRK and the U.S. would start bilateral talks to resolve pending bilateral issues and move toward full diplomatic relations. The document specifies, “The U.S. will begin the process of removing the designation of the DPRK as a state-sponsor of terrorism and advance the process of terminating the application of the Trading with the Enemy Act with respect to the DPRK.”⁴⁴ The removal

⁴²- S/RES/1718 (2006).

⁴³- In Initial Actions plan, the DPRK is awarded in return. The document says that “during the period of the Initial Actions phase and the next phase - which includes provision by the DPRK of a complete declaration of all nuclear programs and disablement of all existing nuclear facilities, including graphite-moderated reactors and reprocessing plant - economic, energy, and humanitarian assistance up to the equivalent of one million tons of heavy fuel oil (HFO), including the initial shipment equivalent to 50,000 tons of HFO, will be provided to the DPRK,” http://www.mofa.go.jp/region/asia-paci/n_korea/6party/action0702.html.

⁴⁴- “Initial Actions for the Implementation of the Joint Statement,” February 13, 2007,

of the DPRK from the State Department's state-sponsoring terrorist list and wavering Trading with the Enemy Act (TEA) was completed on October 11, 2008, after the DPRK announced their nuclear program on June 26.⁴⁵

The member countries of the Six-Party Talks agreed to the establishment of five working groups (WGs); Denuclearization of the Korean Peninsula, Normalization of DPRK-U.S. Relations, Normalization of DPRK-Japan Relations, Economy and Energy Cooperation, and a Northeast Asia Peace and Security Mechanism. These WGs were intended to work on specific plans for the implementation of the Joint Statement, and "in principle, progress in one WG shall not affect progress in other WGs," but "plans made by the five WGs will be implemented as a whole in a coordinated manner."⁴⁶

From the Japanese perspective, a major benefit of the Joint Document was the establishment of WG for Japan-DPRK Normalization under the Six-Party Talks, and the development of the working group was tied to the comprehensive resolution of negotiations. It has set a process that (not just Japan and North Korea) but other parties to the talks have a stake and responsibility in bilateral negotiations between Japan and the DPRK, although a mandatory obligation was not attached. Essentially, the Initial Actions document formalized and multilateralized the Pyongyang Declaration of 2002. Japan and the DPRK have conducted rounds of negotiations under this working group without any developments.⁴⁷

http://www.mofa.go.jp/region/asia-paci/n_korea/6party/action0702.html.

⁴⁵- Foreign Minister Koubun Nakasone issued a statement on the removal of the DPRK from the list. In this statement, Foreign Minister Nakasone introduced a conversation between Prime Minister Aso and President Bush that he remembers the abduction issue and is still sympathetic to the families of the abductees, http://www.mofa.go.jp/MOFAJ/press/danwa/20/dnk_1012.html.

⁴⁶- http://www.mofa.go.jp/region/asia-paci/n_korea/6party/action0702.html.

⁴⁷- Japan and the DPRK conducted a working-group meeting, first in March 2007 in Hanoi, and second time in Ulaanbaatar.

Under these conditions, Japan further announced that it would not participate in energy cooperation with the DPRK unless the abduction issue makes tangible progress.

The Joint Document marked a watershed moment in Six-Party Talks under the Bush administration. In March 2007, the Treasury Department imposed domestic rules on U.S. financial institutions to ban transactions with BDA, since it was suspected of involvement in illegal activities. However, based on a preference on a negotiated settlement over coercive diplomacy, the State Department has successfully convinced the Treasury Department to ease financial sanctions and returned frozen BDA accounts to the DPRK.⁴⁸ In this case, the economic sanctions were used for political maneuvering. The U.S. imposed strict sanction against the DPRK condemning the missile and nuclear tests, and easing them through bilateral and multilateral negotiations. It is a textbook case of how sanctions could be utilized in diplomatic negotiations.

Economic sanctions are a popular measure in dealing with political issues as an alternative to military confrontation. As the academic literature of economic sanctions indicates, it is largely a symbolic measure with less actual policy effect than expected.⁴⁹ The effect of economic sanctions must be converted into political influence to attain an assumed goal, which is always difficult for sanctioning countries to manage.

Christopher Preble and Ted Carpenter argue that, “even if Russia and China had been willing to endorse robust sanctions, it is unlikely that such measures would convince North Korea to give up its nuclear weapons or dismantle its nuclear facilities” since the DPRK is already

⁴⁸-Stephen Kaufman, “U.S. Treasury Prepared to Resolve Banco Delta Asia Case,” February 28, 2007, USINFO.

⁴⁹-David Baldwin, *Economic Statecraft* (New York: Columbia University Press, 1985); Daniel W. Drezner, *The Sanctions Paradox: Economic Statecraft and International Relations* (Cambridge: Cambridge University Press, 1999).

economically isolated, and the Kim regime maintains a strong domestic authority.⁵⁰

The flexibility to impose and remove sanctions based on the reaction of the target state is a crucial requirement for the sanctioning state. Otherwise, economic sanctions are only a means to express criticism and exercise pressure. In the case of the Six-Party Talks and economic sanctions, the United States understood this sensitivity, but Japan was committed to reinforcing the pressure side of the 'dialogue and pressure' spectrum.

The legal framework under which the Japanese economic sanctions are conducted is through the Foreign Finance and Foreign Trade Law (FEFT). The FEFT had a provision to limit or stop financial transactions and freeze financial and monetary assets, as well as to exercise export-import control. For example, Article 48 of Chapter 5 decides that controlling exports is justifiable based on a judgment to "carry out the treaty or other international agreements that our country concluded for foreign trade and the healthy development of the national economy for the maintenance of the international trade balance."⁵¹ This meant that Japanese export control is conducted under international treaties, provisions, and restrictions agreed upon by international non-proliferation regimes, UN sanctions, UN embargos, and other internationally agreed frameworks.

Looking at this provision from another angle, it states that unilateral sanctions are not possible, since the basic principle of the FEFT is to promote free trade, and controlling the transactions should not be imposed unless there is a multilateral consensus. In April 2004, the Japanese government amended the FEFT Law, and introduced a new

⁵⁰-Christopher Preble and Ted Galen Carpenter, "North Korean Sanctions: A Cruel Mirage," *Houston Chronicle* (October 19, 2006).

⁵¹-Article 48, Chapter 5 of the FEFT Law.

provision in Chapter 2. Article 10 under Chapter 2 says that if there is a special reason necessary, a government can impose export and financial sanctions to maintain the peace and security of Japan. The provision defines a decision of the Cabinet Council as necessary to implement unilateral sanctions. The assumption behind Article 10 is that there might be circumstances when the international community does not back the Japanese claim to impose strict sanctions on North Korea. To date, most of the Japanese decisions to impose economic sanctions against the DPRK are based on the UNSCR.⁵²

There are numerous cases when the DPRK has threatened military measures to counter Japanese sanctions. The Japanese ignored them as a conventional bluff, or simply reinforced and strengthened the implementation of economic sanctions. In this regard, the Japanese method of communication through sanctions, negotiation, compromise, and coercion with a potential or actual threat did not function as normal academic literature predicts. It can be attributed to three causes; strong and rigid domestic support on taking a hard-line position against the DPRK, a strong sense of insecurity among larger public and support for systemic build up of defense and crisis management capability accordingly, and increased confidence over the U.S. security commitment to counter the DPRK threat.

The lack of Japanese flexibility in using sanctions was possible when the DPRK was not affirmative to multilateral negotiations. After the Joint Declaration the process paved the way for the comprehensive resolution of issues regarding the Korean peninsula and the game move to next stage. In this new stage, the relaxing of economic sanctions and extracting compromises from the DPRK were in the framework of

⁵²- In 2004, the Certain Foreign Vessels Prevention of Law also passed the Diet. This was intended to prevent cruise ships called *Mangyonbon-ho* from making regular trips between the ports of Wonsan in North Korea and Niigata.

bargaining. The big issue after missile launch of 2009 and the statement by the chairman of the UNSCR to condemn the DPRK for the violation of the UNSCR 1695 is whether the international community can restate and enforce economic sanctions against the DPRK, while asking them to remain in a framework under the Six-Party Talks.

Japanese Reaction to the DPRK Threat

Among the three causes that deprived Japan of political flexibility, this paper outlines how domestic political support over the DPRK evaporated with the SDP losing influence in the Diet.

In building an independent defense and management capability, the Japanese government established multiple paths toward an effective system that is vigilant against the provocations of the DPRK. What is most important is a domestic emergency plan as a war contingency plan was overdue.⁵³ In 1977, a legal framework for a war contingencies study formally started within the Japan Defense Agency under the Takeo Fukuda (father of the Prime Minister Yasuo Fukuda, who took office after Prime Minister Abe) Cabinet. “The study of the legal framework for war contingencies in the Defense Agency” was made public in 1978, when the process and the policy of the study were announced. The interim report was published in 1981 and again in 1984, which outlined a legal problem that had to be dealt with.

The report set three categories of legal issues for the convenience of understanding; the first classification (JDA jurisdiction laws and ordinances), problems of the second classification (other ministries and

⁵³ JDA conducted war contingency plan in 1963, with Mitsuya-Kenkyu as a code name. Mitsuya-Kenkyu was picked up by the Socialist member of the Diet, and the JDA had to waive the study. Yuzo Kurokawa, *Military Strategy of Modern Japan* (Tokyo: Fuyo Shobou, 2003).

government offices' jurisdiction laws and ordinances), and the third classification (the laws and ordinances of a jurisdiction that is not clear). After the interim report, the study was shelved for a decade but revived after the 9/11 terrorist attacks. It is important to note that the contingency measures were not established because of the Rodong missile launch by the DPRK in 1993.

The Japanese government became serious about establishing a war contingency plan after the redefined Japan-U.S. alliance in 1996, and started to refine The Guidelines for Japan-U.S. Defense Cooperation completed in 1997. An idea of the need to establish wartime contingencies plan was shared by both countries, but the text was not listed in the final document since it was deemed as a sensitive issue in Japanese politics. However, series of events pushed Japan (and especially Prime Minister Koizumi) to restart the study on contingency guidelines.

In October 1998, the Taepodong missile flew over Japan and in March 1999, a spy boat from the DPRK was intercepted by the Japan Coast Guard. As a result, the government issued a maritime security order to the Maritime Self-Defense Force for first time. When the Liberal Democracy Party (LDP) and Komei Party concluded a memorandum of understanding to form a coalition government in March 2000, the wartime contingencies plan was formally put into official agenda between the political parties. After 9/11, Japan encountered another spy boat incident, and unlike previous incident, the Japan Coast Guard attacked the boat and sunk it December 2001.⁵⁴

In April 2002, Prime Minister Koizumi submitted three wartime contingencies-related laws, "to revise part of the Security Council of Japan Establishment Law," "The Law for the Peace and Independence of Japan and Maintenance of the Nation and the People's Security in Armed

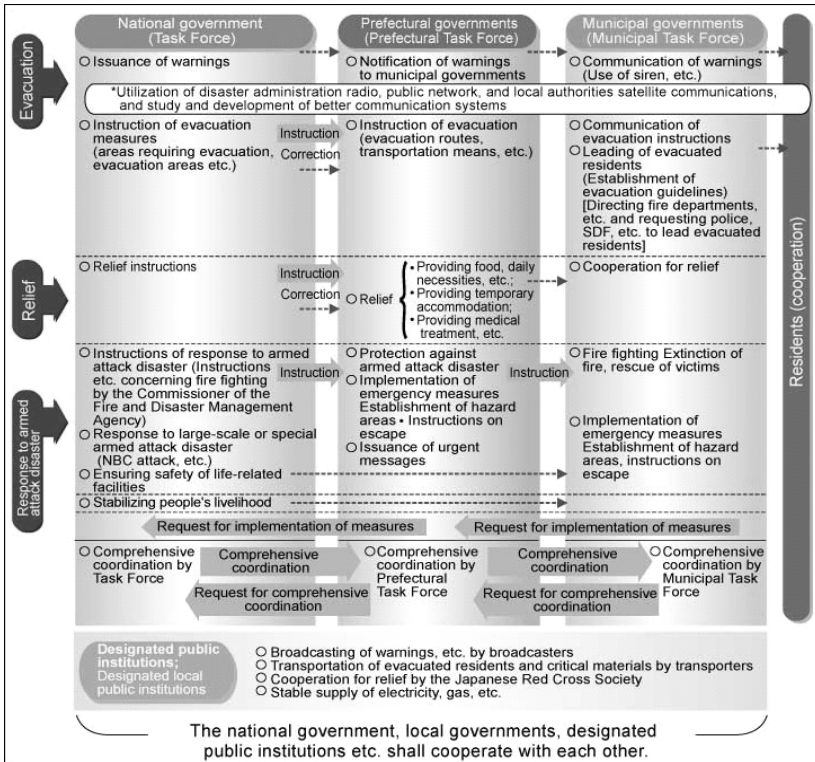
⁵⁴- The spy boat was later salvaged, and exhibited at Maritime Museum in Tokyo.

Attack Situations, etc.,” (*Buryokujitai Taisho Law*) and “to revise part of Self-Defense Forces Law.” This legislation passed into law in June 2003, and the government subsequently started to establish civil protection laws and measures defined in Article 21 of the Armed Attack Response Law (*Buryokujitai Taisho Law*).⁵⁵

The Armed Attack Reponse Law defined four possible characteristics for consideration; landing invasion, ballistic missile attacks, attacks by guerilla/special operation forces, and aerial intrusion. The Civil Protection Law was enacted in June 2004 and the government established the Basic Guidelines for Protection of the People, so that national and local governments could define responsibilities based on the armed attack situations (see Chart 1). Besides the Civil Protection Law, six other laws were enacted in 2004 to facilitate the self-defense forces operation in an armed attack situation. These are: Law Regarding Measures in relation to U.S. Forces Activities, Partial Amendment to the Self-Defense Forces Law, Laws Regarding the Use of Specific Public Facilities, Maritime Transportation Restriction Law, Prisoner Treatment Law, and Law Concerning Penal Sanctions against Grave Breaches of the International Humanitarian Law.

⁵⁵ Originally it was named The Law Concerning the Measures for Protection of the People in Armed Attack Situations, etc, but the short title of the “Civil Protection Law” is more commonly used.

Chart 1. System to Protect the People in Armed Attack Situations



Source: From the homepage of Cabinet Secretariat, civil protection portal site, <http://www.kokuminhogo.go.jp/en/about/system.html>.

The response fire system was operationally tested during the Taepodong missile launch in April 2009. The system encountered some unintended human errors, but the system successfully functioned as originally designed. Ironically, the DPRK test case added more confidence to the Japanese response system.

Japan does not have the offensive capabilities to strike the political center or military targets of the DPRK. Under the Japan-U.S. security alliance, the Japanese offensive side of the security policy depends exclusively on the United States, and is only to provide logistical support

to the U.S. operations conducted in ‘the surrounding area’ of Japan.⁵⁶ Defensive capabilities such as civil defense, missile defense, and emergency-related plans are the crucial pieces that form major policy measures to counter the threat of the DPRK. As noted in the previous section, economic sanctions might have significant implications that add offensive meaning to the Japanese security policy.

Striking military targets for defensive purposes is accepted in internationally as an act of defense and the Israeli cases are understood as examples. Japan also has considered this option. As early as 1956, the Japanese government issued a common understanding and interpretation of a defensive attack of an enemy base in a Cabinet committee meeting, stating that the constitutional possibility is affirmative, but in such an occasion the measures of the self-defense forces should be limited.⁵⁷ This argument was popular in the 1950s and again resurfaced in late 1990s.

The renewed argument about a preemptive attack has a similar feature. Either the LDP or DPJ, or a Diet member asks the government if Japan has the will to employ defensive capabilities. Alternatively, a question may be asked if the government has the intention to use a military capability to punish the DPRK on the abduction issue. Often repeated is the correspondence between ruling and opposition parties in the Diet that have continued since the issue first brought to the Diet. The Japanese government announced that Japan would not conduct defensive operations, since Japanese F-15 or F-2 planes have no technical capability to strike missile sites in the DPRK and return without damage.

⁵⁶- “Joint Statement, U.S.-Japan Security Consultative Committee Completion of the Review of the Guidelines for U.S.-Japan Defense Cooperation,” September 23, 1997.

⁵⁷- It is to claim a natural right of self-defense. In many occasions, defense ministers and other prominent politicians argue that Japan should not wait until there is clear and present danger to Japanese security interests and survival. For example, “It is necessary to have strike capability against enemy base,” *Akahata*, July 11, 2006.

Both strike fighters must rely on aerial refueling capabilities to conduct such operations. The government expresses that they have no intention to acquire defensive capabilities because it might lead to a violation of the constitution. The argument regarding the defensive attack option surfaces in the political circles when a crisis over the DPRK occurs, but remains purely a hypothetical consideration.⁵⁸

The missile defense system is a more viable and realistic option for Japan. Introduction of and participation in the U.S. missile defense system was directly related to the missile test by the DPRK. Although it was not seriously considered when the Rodong missile was launched into the Sea of Japan (Yellow Sea), but after the DPRK launched the Taepodong in October 1998, the Japanese government started the study and finally decided to cooperate in the U.S. project in 2003. The Koizumi Cabinet issued a statement in December 2003 entitled, "About Introduction of Ballistic Missile Defense System," and outlined the program; revision of defense posture, and explanation about the relation with Japanese policy principles regarding the rights to collective defense.⁵⁹ In this statement, Japan repeated that a Japanese missile defense system would be included in a part of a defensive posture. The system went into effect in March 2006.

From the military technological point of view, Japan lacks early warning systems or monitoring capabilities and it is understood that close military cooperation with the United States is crucial in operating the system. Even in the 2009 missile case, the Japan Self-Defense Forces could not detect the moment of launch and final stages of the Taepodong-2, and had to rely on intelligence information from the United States.

Japan decided to move the Air Defense Command to Yokota Air

⁵⁸ - Prime Minister Koizumi was the most passive figure in his administration to discuss the defensive attack option, <http://japanese.joins.com/article/article.php?aid=77718&servcode=200&ssectcode=200>.

⁵⁹ - <http://www.kantei.go.jp/jp/kakugikettei/2003/1219seibi.html>.

Base to facilitate closer information and command cooperation.⁶⁰ The Japan Aerospace Defense Ground System (JADGE) was established to link naval and air commands assigned for missile defense systems. The JADGE system was linked to the FPS-5 in 2009, and is projected to link to the U.S. X-band radar in 2010. The system is designed to be in full operation in 2011. The ASDF's PAC-3 system is linked with the early warning satellite of the U.S. through the JADGE, and an Aegis Destroyer is linked with Link-16 and Satellite-Tactical Digital Information Link J (S-TADIL J).⁶¹

The Japanese defense posture relies heavily on security cooperation with the United States. The missile defense system cannot function as designed without U.S. information and cooperation. Although Japan can unilaterally impose economic sanctions against the DPRK, economic sanctions are less effective if unilaterally imposed, so that multilateral cooperation is essential. Therefore, the U.S. commitment is crucial for Japan to promote a policy agenda from a security as well as policy perspective. The U.S. policy is the most significant dependent variable in dealing with the DPRK issues and it applies to the security policy of other members of the Six-Party Talks as well.

Conclusion: The DPRK Missile Launch in 2009 and the Japanese Reaction

With the Obama administration in Washington, DC, the DPRK expects diplomacy that is even more active rather than military pressure. In fact, the last years of the Bush administration put diplomacy first in

⁶⁰- A joint document was issued in October 2005, and the roadmap for implementation was issued in May 2006. It is projected in this roadmap that a complete transfer will be in 2010. See <http://www.mod.go.jp/j/saihen/gaiyou/sintyoku.html>.

⁶¹- The U.S. Department of Defense, Missile Defense Agency, *Testing: Building Confidence*, December 2008, <http://www.mda.mil/mdalink/pdf/2009MDAbook.pdf>.

negotiations with the DPRK. The BDA issue and delisting of the DPRK from the State Department's list of countries sponsoring terrorism symbolized the policy shift. The DPRK is handed with the easing of economic sanctions and the upper hand in negotiations on the denuclearization of the DPRK. It is pointed out in a report submitted on the DPRK that the current and past nuclear development record is less than sufficient. However, without serious punitive initiatives from the U.S. and other members of the Six-Party Talks, the DPRK is assumed to be moving forward to acquire another concession from the parties.

The missile launch in April 2009, and protest over the subsequent UN Chairman's statement that criticized the DPRK show how to understand the current security situation in the Korean peninsula. As noted in the first section of this report, the DPRK wants to test the will of the Obama administration on whether it should make a concession to the demands by the DPRK in the future rounds of negotiation or move into a different terrain.

The DPRK understands that the military option is not strong enough to threaten the U.S. mainland and draw serious attention from the Obama administration. The DPRK recognizes that there is limited room for the implementation of further and tougher economic sanctions. It is difficult for the UN to gain a consensus on general economic sanctions (equivalent to the economic warfare approach) since the PRC and Russia will oppose such initiatives. The DPRK looks at the Japanese initiative on import and export sanctions as bothersome, but it does understand that there are several measures to enlave the restrictions. The DPRK knows that economic sanctions are not strong enough to force concessions. In addition, the recent bilateral negotiations regarding the participation by the ROK in the PSI show that the DPRK still sees the Lee Myung-bak government as moderate and subject to diplomatic negotiations.

Under these circumstances, the unusual uproar by the DPRK against the Japanese deployment of a missile defense system is understandable. For the DPRK, the Taepodong is a measure through which to send a diplomatic message to the Obama administration. If Japan could intercept the missile, it would mean that the DPRK would be deprived of the means to send a strong and unmistakable message to the United States. The race between Japan and the DPRK over a credible interception capability and a credible threat capability is in place, and the DPRK is confident that they still have the advantage. The DPRK wants to isolate Japan in the Six-Party Talks, and to divert policy preferences between Japan and the United States, which may slow the pace of establishing the deterrent capability of both countries.

Japan faced the missile launch by the DPRK in a different context than the one enjoyed during most of the Bush era. It is understood that the Obama administration is trying to bring new thinking and a new negotiation style to the issues regarding missile and nuclear developments by the DPRK. In order to make the Six-Party Talks successful, Japan should make certain compromises with the DPRK on the abduction issue, move forward on the normalization of relations, and provide economic assistance to the DPRK. However, the belief that it may lead to a one-sided compromise is strong in the domestic opinion of Japan and politically dangerous under the current fragile political situation.

The big question for each member of the Six-Party Talks is how they should weigh ‘pressure’ and ‘negotiation’ in dealing with North Korea. If they cooperate to make strong sanctions, with possible military measures, the DPRK will react with increased military provocations.⁶²

⁶²-International Crisis Group, “North Korea’s Missile Launch: The Risks of Overreaction,” *Policy Briefing, Asia Briefing No. 91*, March 31, 2009, http://www.crisisgroup.org/library/documents/asia/north_korea/b91_north_koreas_missile_launch_the_risks_of_overreaction.pdf.

Even if appeasement-like negotiation is conducted by the related parties, there is no proof that the DPRK will consent to the deal and the agreed conditions. Japan remains in the 'pressure' group, and if other parties might line up with Japan, it will eventually freeze the negotiation and the denuclearization of the Korean peninsula will become a far distant goal.

Given the complex and sensitive security dynamics in the DPRK issues, members of the Six-Party Talks and the Obama administration are still looking for ways to finish this deal.

■ Article Received: 4/27 ■ Reviewed: 5/14 ■ Revised: 5/29 ■ Accepted: 6/10

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