



Three Myths Affecting U.S. Policy Towards the DPRK and Congress' Role by Mitchell Reiss

Myth #1: It is impossible to negotiate with North Korea

Ideologically hostile to the outside world, armed with ballistic missiles (perhaps loaded with chemical or biological agents), and capable of building nuclear weapons, North Korea is the world's poster child for rogue regimes. The North's aggressive military posture threatens American allies in the region and directly places at risk the 35,000 U.S. soldiers based in South Korea. Through its sale of ballistic missile technology to Pakistan and the Middle East, Pyongyang helps undermine global security.

But it is possible to do business with Pyongyang, as proven by the experience of a specialized international organization created to deal with the North's nuclear program. In 1995, the United States, South Korea and Japan created KEDO (the Korean Peninsula Energy Development Organization), whose mission is to deliver 500,000 tons of heavy fuel oil per year and two light-water reactors to North Korea in return for the North initially freezing and eventually dismantling its nuclear weapons program.

At the start, it was unclear whether the North would even meet with KEDO officials, yet KEDO and Pyongyang have reached agreements that have produced real progress. Many of these agreements deal with highly sensitive national security issues, such as direct transportation routes from the South to the North, independent means of communication from the work site to the outside world, and blanket immunity from prosecution for all KEDO workers.

With no clear road map to follow, KEDO has shown it is possible to engage Pyongyang in ways consistent with U.S. national security interests. The KEDO experience also teaches the importance of demanding strict reciprocity; there is no such thing as a free lunch with the North Koreans. It is possible to "take" from the North, but only if you are prepared to "give" something in return. Significantly, when KEDO has reached agreement with the North Koreans, they have largely kept their side of the bargain.

KEDO's experience also teaches that you must stand firm with the North Koreans. They are masters at raising the tension level to realize their objectives. For example, in late 1995 the North's Ambassador Ho Jong threatened to have Pyongyang restart its nuclear weapons program if KEDO did not make certain concessions. Despite the risk of triggering a new nuclear crisis on the Korean peninsula, KEDO hung tough. Ho eventually dropped his demands.

Constant vigilance is warranted in dealing with North Korea. The United States should not be surprised when Pyongyang engages in provocative actions, such as the August 1998 Taepo-dong 1 ballistic missile launch. It is entirely

possible that they may threaten to test launch another ballistic missile later this year.

It is therefore essential that anyone negotiating with the North not be afraid to walk away from the table. The United States should never be, or seem to be, more eager than the North to reach a deal. Offering the North inducements for simply showing up, or holding meetings solely for the sake of holding meetings, diminishes U.S. credibility in Pyongyang and elsewhere around the world.

At the same time, the United States should never be less eager than North Korea to craft a more stable and secure Korean Peninsula. Hard-headed engagement, which is strongly supported by South Korea and Japan, can work. And by keeping faith with our allies, the United States will also be in a much stronger position should North Korea decide to remain a rogue state.

Finally, it is useful to talk with Pyongyang if only to make absolutely clear to them the consequences their actions will bring. In other words, the U.S. has a strong interest in preventing North Korea from ever thinking that its provocative behavior would go unanswered.

Myth #2: The Agreed Framework nuclear deal can be attacked without harming U.S. national security interests

Despite all the criticisms of the Clinton Administration's handling of North Korea, the reality is that the next Administration, whether Democrat or Republican, is unlikely to substantially change U.S. policy. Indeed, leading Republican foreign policy experts advising Governor Bush have already gone on record saying that it would be difficult for a Republican Administration to overhaul the current U.S. approach to North Korea.

These Republican foreign policy experts recognize that the Agreed Framework and KEDO, former Secretary of Defense William J. Perry's Report of October 12, 1999, and ROK President Kim Dae-jung's "Sunshine Policy" of greater economic cooperation and reconciliation with North Korea provide useful tools with which to deal with many of the challenges North Korea presents. This is not to say the current U.S. approach is ideal. Far from it. It is the least worse option. But before dismantling the current approach, it is essential to formulate a viable policy alternative. Suddenly reversing Washington's North Korea policy, without such a policy alternative, would harm our relations with two key U.S. allies – South Korea and Japan – each of which has more at stake than the United States in promoting a stable and secure Korean Peninsula. Indeed, the likely result of such behavior would be the weakening of U.S. influence throughout all of East Asia, and perhaps beyond.

Myth #3: KEDO doesn't need, or deserve, strong U.S. support

According to published accounts, North Korea's work at the nuclear facilities covered by the Agreed Framework has halted. This nuclear freeze is being monitored not only by U.S. national technical means, but also by international inspectors on the ground at these sites in North Korea.

This nuclear freeze is the result of KEDO, the multinational consortium envisioned in the Agreed Framework and established in 1995. Without this nuclear freeze, it is estimated that Pyongyang would have the capability to build 5-6 nuclear weapons per year; in other words, without the Agreed Framework, North Korea could have a nuclear arsenal of at least 25-30 bombs by now.

Despite this useful role, KEDO suffers today from a number of problems, all of which require immediate high-level attention from Washington. First, KEDO needs to reach an agreement with the prime contractor, KEPCO, that is acceptable to the subcontractors on nuclear liability for the LWR project. If certain subcontractors decide not to participate in the project because of the nuclear liability issue, then the entire project will be put at risk, or at a minimum, suffer additional delay and cost. The project is already an estimated five years behind schedule.

Second, there is still no agreed-upon delivery schedule that sets out the time frame for KEDO's construction of the two LWR plants, as well as the obligations the DPRK side must meet for the project to be completed. A major point of internal disagreement is how to handle the timing of North Korea's coming into full compliance with its International Atomic Energy Agency (IAEA) safeguards obligations. Seoul would like KEDO to require North Korea to take certain cooperative steps with the IAEA in advance of the IAEA's inquiry and enshrine these steps in the delivery schedule and performance protocol. The Clinton Administration is opposed to this approach, not wanting to entangle KEDO on an issue that is primarily the concern of the IAEA.

Third, KEDO is faced with the difficult task of explaining to the KEDO Executive Board members that an internationally acceptable nuclear liability regime must be established in the DPRK, a regime that may be very different from the ones in place in the ROK and Japan. It then must explain to the North how this regime works and have Pyongyang formally adopt domestic legislation that will channel to the DPRK operator of the LWR plants all liability for claims arising from a nuclear incident.

While many of these steps are stipulated in the December 1995 Supply Agreement, which provides the overall framework for the LWR project, few officials in Seoul, Tokyo and Washington have to date invested much time in understanding this complex issue.

Making matters potentially more difficult, the entire KEDO project is premised on the DPRK assuming all nuclear liability. However, there is already a conflict on this subject between KEDO and the North Koreans. Because this project will be delivered on a "turn-key" (completed) basis to the North, Pyongyang has argued that KEDO is responsible for delivering two fully functioning nuclear power plants to the North. Under this scenario, KEDO would have to operate the LWR plants during this commissioning phase, and would

thereby assume the risk of nuclear liability. A nuclear liability protocol must be in place before the project goes very far forward because of the time that will be required for the DPRK to implement the procedures necessary to establish a nuclear liability regime acceptable to KEDO, its contractors, and the larger international community.

These three issues have been debated for years inside the KEDO Secretariat, which has been unable to broker differences among the Executive Board members. The reality is that none of these issues will be resolved – and the KEDO project will not go forward – without the attention of senior officials in Washington, as well as in Seoul and Tokyo.

The Role of Congress

In the past, Congress has from time to time played a useful role in critiquing North Korea policy. Congress has been most helpful when it has avoided the temptation to score political points at the Administration's expense and instead focused on the larger strategic issues at stake for the United States in Northeast Asia. For example, in November 1998, it passed legislation requiring the Clinton Administration to appoint a Special Coordinator to conduct a thorough review of Washington's North Korea policy. This Congressional initiative yielded tangible results: the Perry Report and the Trilateral Coordination and Oversight Group.

Congress still has an important role to play in helping shape the Administration's strategy towards North Korea. Congress should emphasize to the Administration that U.S. goals are greater security and stability on the Korean Peninsula, continued close policy coordination with our South Korean and Japanese allies, and the maintenance of a strong deterrent posture towards the North. Congress needs to stress that the purpose of future negotiations with the DPRK is to ensure that the North take tangible steps to reduce the military threat it poses to the South and the region as a whole.

At the same time, Congress can and should articulate what it is willing to allow the Clinton Administration to place on the negotiating table when it discusses these issues with the North. Are we willing to relax all economic sanctions? Are we willing to remove the North from the terrorism list? Are we willing to establish diplomatic relations and exchange ambassadors? Are we willing to officially end the Korean War and sign a peace treaty with North Korea? Are we willing to "buy out" the North's ballistic missile program, and if so, for how much? Are we willing to establish confidence-building measures, such as establishing hot lines between military commanders on either side of the DMZ? Are we willing to consider redeploying US/ROK forces if the North agrees to redeploy its forces?

During the past five years of dealing with the North, the Clinton Administration has not even asked many of these questions, let alone come to some consensus on answering them. If the United States is serious about addressing the threat posed by the North, we must first of all decide what price we are willing to pay. Only then will we be able to present the North with a clear and well-defined choice – either greater engagement and better relations with the outside world or continued international isolation and poverty.

By proceeding in a more resolute manner – stating clearly what we want from the North and what we are prepared to offer in return – we allow ourselves the greatest opportunity for a successful policy of engagement with Pyongyang that will lead to greater security and stability in Korea. We will also emerge in a much stronger position, with domestic public opinion, our allies, and the international community, should the North decline our offer. Congress has an indispensable and ongoing role to play in this effort.

Taken from the prepared testimony of Mitchell B. Reiss, Dean of International Affairs and Director of the Wendy and Emery Reves Center for International Studies, College of William & Mary in Williamsburg, Virginia, before the Committee on International Relations U.S. House of Representatives Washington, D.C. on March 16, 2000.