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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	action, Samuel Berger and John Hilley to POTUS re US Contribution to KEDO (3 pages)	03/12/1997	P1/b(1)
001b. paper	attachment to memo of justification re KEDO (1 page)	00/00/1997	P1/b(1)
002a. memo	Winston Lord and Paul Cleveland to Secretary of State re Circular 175 (5 pages)	00/00/0000	P1/b(1)
002b. paper	memorandum of law re Circular 175 (3 pages)	00/00/0000	P1/b(1)
003a. fax	cover sheet, NCS to USUN re discussion paper (1 page)	05/28/1996	P1/b(1)
003b. paper	re food assistance (3 pages)	05/28/1996	P1/b(1)
003c. paper	re easing economic sanctions (6 pages)	05/28/1996	P1/b(1)
003d. memo	action, Robert Suettinger to Anthony Lake re supplementary papers (1 page)	05/24/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

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Korea [2]

2009-0528-F

kc1438

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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The White House
Washington, D.C.
Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: U.S. Contribution to KEDO: Certification Under the
Heading "Nonproliferation, Anti-Terrorism, Demining
and Related Programs" in Title II of the Foreign
Operations, Export Financing, and Related Programs
Appropriations Act, 1997 (as enacted in P.L. 104-208)

Pursuant to the requirements set forth under the heading
"Nonproliferation, Anti-Terrorism, Demining and Related
Programs" in Title II of the Foreign Operations, Export
Financing, and Related Programs Appropriations Act, 1997 (as
enacted in P.L. 104-208), I certify that:

(1)(A) the United States is taking steps to assure
that progress is made on the implementation of the January
1, 1992, Joint Declaration on the Denuclearization of the
Korean Peninsula and the implementation of the North-South
dialogue, and (B) North Korea is complying with the other
provisions of the Agreed Framework between North Korea and
the United States and with the Confidential Minute;

(2) North Korea is cooperating fully in the canning
and safe storage of all spent fuel from its
graphite-moderated nuclear reactors and that such canning
and safe storage is scheduled to be completed by the end of
fiscal year 1997; and

(3) North Korea has not significantly diverted
assistance provided by the United States for purposes for
which it was not intended.

You are authorized and directed to report this to the
Congress and to publish them in the Federal Register.

Draft

To be sent to Chairs of Appropriations and Foreign Relations
Committees following receipt of Presidential determination:

Dear Mr. Chairman:

Pursuant to the requirements under the heading
"Nonproliferation, Anti-Terrorism, Demining and Related
Programs" in Title II of the Foreign Operations, Export
Financing, and Related Programs Appropriations Act, 1997 (as
enacted in P.L. 104-208) ("FY 1997 Appropriations Act"), this
letter is to provide notification that, on _____, 1997, the
President signed Presidential Determination No. _____ regarding
the U.S. contribution to the Korean Peninsula Energy
Development Organization ("KEDO"). Specifically, the President
certified that:

(1)(A) the United States is taking steps to assure
that progress is made on the implementation of the January
1, 1992, Joint Declaration on the Denuclearization of the
Korean Peninsula and the implementation of the North-South
dialogue, and (B) North Korea is complying with the other
provisions of the Agreed Framework and with the
Confidential Minute;

(2) North Korea is cooperating fully in the canning
and safe storage of all spent fuel from its
graphite-moderated nuclear reactors and that such canning
and safe storage is scheduled to be completed by the end of
fiscal year 1997; and

(3) North Korea has not significantly diverted
assistance provided by the United States for purposes for
which it was not intended.

A copy of this determination and the justification for it are
enclosed. Also enclosed is the report required under the same
heading of the FY 1997 Appropriations Act prior to the
obligation of any funds.

The Honorable

_____, Chairman,
Committee on _____

In addition, we wish to inform you that the President proposes to exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the "Act"), to authorize the furnishing of up to \$25 million in FY 1997 Nonproliferation, Anti-Terrorism, Demining and Related Programs funds for a U.S. contribution to the Korean Peninsula Energy Development Organization (KEDO), without regard to provisions of law within the scope of that section. This funding level is the same as specified in the Administration's congressional presentation documents for FY 1997.

The U.S. contribution will be used to help pay the FY 1997 administrative and heavy fuel oil expenses of KEDO, an international organization established to implement the Agreed Framework between the United States and the Democratic People's Republic of Korea (DPRK), signed October 21, 1994. Under the Agreed Framework, the U.S. agreed to organize under its leadership an international consortium to finance and supply two light-water reactors (LWR) to the DPRK. The U.S. also agreed to make arrangements for the provision to the DPRK of annual shipments of heavy fuel oil. For its part, North Korea agreed to "freeze" and eventually dismantle its potentially dangerous graphite nuclear reactor program. It also agreed to allow implementation of full-scope safeguards by the International Atomic Energy Agency (IAEA) on its nuclear facilities in accordance with the timetable specified in the Agreed Framework.

Over the past year, there has been significant progress in implementing the Agreed Framework. Building on the 1995 KEDO-DPRK agreement for the provision of the two light-water reactors specified under the Agreed Framework, the two sides have agreed on five additional implementing protocols. As of December 31, 1996, much of the preliminary work has been completed prior to turning over the reactor site to KEDO for site preparation. KEDO has also been making regular shipments of heavy fuel oil to the DPRK in accordance with its obligations under the Agreed Framework. In the meantime, North Korea continues to maintain the freeze on its nuclear facilities and that freeze is being monitored by international inspectors from the IAEA.

The United States, Japan and South Korea have played and will continue to play a leading role in KEDO through the organization's Executive Board, its main decision-making body. The Republic of Korea will play the central role in financing and constructing KEDO's reactor project and has already contributed an additional \$4.5 million for KEDO administrative costs. Japan will play a significant role in financing the reactor project and has already contributed \$3 million for the initial reactor site survey and \$6.5 million for initial KEDO

administrative costs and heavy fuel oil shipments, as well as advancing \$19 million to provide liquidity as needed to support the financing of heavy fuel oil and KEDO expenses. We expect further financial contributions from both countries to KEDO's administrative costs and its projects in 1997.

Progress has been made in securing additional members and contributions for KEDO and its activities, although much work remains to be done. Since KEDO's establishment in March 1995, the three Executive Board members have approached more than thirty-five countries from Europe, Asia, Latin America and the Middle East to ask their support for the organization. As of December 31, 1996, we now have seven additional members: Australia, New Zealand, Canada, Finland, Argentina, Indonesia, Chile. Three other countries -- France, Brazil, and Switzerland -- have informed us of their intention to join. KEDO and the European Union have essentially reached agreement on the terms and conditions for EU membership in KEDO and its participation on the KEDO Executive Board. Additionally, the EU will contribute, annually, \$20 million for at least five years. A number of other countries -- Brunei, Germany, Greece, Malaysia, the Netherlands, Norway, the Philippines, Singapore and Thailand -- have made contributions in support of the organization as non-members. We look forward to additional pledges to join KEDO and to contribute to the organization over the coming year.

As described in more detail in the enclosed Memorandum of Justification pursuant to section 614 of the Act, we believe that the use of these funds in the manner described is essential to carrying out the terms and conditions of the Agreed Framework and in achieving our high-priority nuclear nonproliferation objectives.

Please do not hesitate to contact us if you believe we may be of further assistance.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosures:

- (1) Presidential Determination under FY 1997
Appropriations Act
- (2) Memorandum of Justification for Presidential
Determination under FY 1997 Appropriations Act
- (3) Report under FY 1997 Appropriations Act
- (4) Memorandum of Justification under Section 614 of FAA

The White House
Washington, D.C.
Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: U.S. Contribution to KEDO: Certification Under the Heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as enacted in P.L. 104-208)

Pursuant to the requirements set forth under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as enacted in P.L. 104-208), I certify that:

(1)(A) the United States is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute;

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended.

You are authorized and directed to report this to the Congress and to publish them in the Federal Register.

MEMORANDUM OF JUSTIFICATION
FOR PRESIDENTIAL DETERMINATION UNDER THE HEADING
"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND
RELATED PROGRAMS" IN TITLE II OF
THE FOREIGN OPERATIONS APPROPRIATIONS ACT, 1997
IN CONNECTION WITH THE U.S. CONTRIBUTION TO
THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

Pursuant to the requirements set forth under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (P.L. 104-208) ("FY 1997 Appropriations Act"), the President determined and certified that:

(1)(A) the United States is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute;

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended.

The justification for the Presidential determination is set forth below.

(1)(A) Implementation of Joint Denuclearization Declaration

On January 1, 1992, the Republic of Korea and the Democratic People's Republic of Korea issued the Joint Declaration on the Denuclearization of the Korean Peninsula. The provisions of the Joint Declaration state that the North and South:

- shall not test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons;
- shall use nuclear energy solely for peaceful purposes;
- shall not possess nuclear reprocessing and uranium enrichment facilities, and;

- in order to verify the denuclearization of the Korean Peninsula, shall conduct inspections of the objects selected by the other side and agreed upon between the two sides, in accordance with procedures and methods to be determined by the North-South Nuclear Control Commission which shall be established within one month of the effectuation of this joint declaration.

The DPRK and the ROK held a series of North-South Joint Nuclear Control Commission meetings in early 1992 as specified in the Joint Declaration, but these were discontinued as relations between the two Korean states worsened and the DPRK threatened to withdraw from the Nuclear Non-Proliferation Treaty (NPT) and refused to cooperate with the IAEA. As a result, the absence of sustained governmental talks between the ROK and DPRK has delayed further implementation of the Denuclearization Declaration.

The United States has, however, taken steps to encourage DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of the Agreed Framework. The Agreed Framework itself explicitly provides that the DPRK will take steps to implement the Joint Declaration on the Denuclearization of the Korean Peninsula. In addition, the Agreed Framework, as a step towards full implementation of the Denuclearization Declaration, has succeeded in eliciting positive DPRK movement on key provisions of the Declaration. Specifically, North Korea's willingness to immediately freeze and eventually dismantle its graphite-moderated nuclear reactors and related facilities has halted activities that, had they not been stopped, would have given the DPRK a nuclear weapons capability. Such a capability would have been a threat to peace and security on the Korean Peninsula as well as to Northeast Asia. The DPRK agreement to forego reprocessing under the Agreed Framework and to replace its existing nuclear reactors with proliferation-resistant LWRs represents a major step toward assuring the DPRK will not test, manufacture, produce, store, deploy or possess nuclear weapons. All these steps, aside from advancing the goals of the Joint Declaration, go beyond the NPT's requirements.

(1)(A) Implementation of North-South Dialogue

The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue." In pursuit of this objective, the U.S. has taken diplomatic steps with both North and South Korea to encourage DPRK compliance with its commitments to engage in dialogue and to support South Korean initiatives toward the North. The U.S. has also encouraged China, over the course of implementing the Agreed Framework, to use its influence to encourage the DPRK, among other things, to participate more fully in dialogue with the South. While the

North Korean response to our efforts has not been as forthcoming as we would like, the U.S. continues to firmly pursue the objective of increased North-South dialogue.

It is the firm position of the United States that North-South contacts are the key to resolving the most important issues on the peninsula. We have used every available opportunity to press the DPRK to resume North-South dialogue, as it is committed to do under the terms of the Agreed Framework. The U.S. has consistently made clear in bilateral contacts with the DPRK, that improvement in North-South relations is key to peace and security on the Korean Peninsula and a requirement of improved U.S.-DPRK bilateral relations. Prior to the signing of the Agreed Framework, Ambassador Robert L. Gallucci, during his tenure as Chairman of the Senior Steering Committee on Korea, frequently raised the issue of North-South dialogue in his correspondence with his North Korean counterpart, First Vice Minister of Foreign Affairs Kang Sok Ju. North Korean acceptance of direct dialogue with the ROK was an essential element of the U.S. negotiating strategy with the DPRK and was successfully obtained in concluding the Agreed Framework. As of October 1995, contact and correspondence with DPRK Vice Minister Kang has been maintained by Ambassador Winston Lord, Assistant Secretary of State, who continues to raise the same issues.

During the first year of implementation of the Agreed Framework, former Deputy Assistant Secretary of State Thomas Hubbard raised North-South issues repeatedly with the DPRK in Kuala Lumpur over the course of negotiating the Light Water Reactor (LWR) Supply Agreement. Mr. Hubbard continued to address this issue with North Korean Ambassador-at-Large Ho Jong in December 1995. In addition, these points were made at all three rounds of U.S.-DPRK negotiations on the opening of liaison offices. More recently, U.S. officials at the Director-level continue to stress to their North Korean counterparts, both in New York and in Washington, the importance of improving DPRK relations with the ROK.

Implementation of the Agreed Framework has created and continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the U.S., ROK, and Japan to oversee implementation of various components of the Agreed Framework, has proven to be an effective vehicle for this purpose. KEDO has engaged in extensive negotiations with the DPRK on the LWR supply agreement and related protocols. ROK Government officials and technical experts have participated in the formulation of KEDO's negotiating strategy; have directly engaged in negotiations with the DPRK; and have held numerous consultations with DPRK experts on technical-related issues. South Koreans also comprise the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site.

In support of ROK initiatives, we have conveyed South Korean positions -- and U.S. support for those positions -- to the DPRK and others, sometimes with positive results. In 1995, North and South Korea held a series of bilateral meetings in Beijing that produced an agreement whereby the South provided 150,000 tons of rice to the North as a grant. In December of that same year, the DPRK, at U.S. urging, released the crew of a South Korean fishing vessel which had strayed into North Korean waters, a step which the ROK had been urging the DPRK to take for some time. In 1996, the U.S., ROK, and Japan consulted on a consolidated appeal from various United Nations' agencies including World Food Program (WFP) for use in flood-related relief in North Korea. It was agreed that to address this humanitarian crisis and to support stability on the Peninsula, the U.S., ROK and Japan would each donate humanitarian assistance to North Korea.

It is against this backdrop that President Clinton and President Kim Young Sam of the Republic of Korea on April 16, 1996 issued a joint proposal for Four Party Talks (U.S., ROK, DPRK, China) to discuss peace on the Korean Peninsula. In announcing this initiative, the two Presidents confirmed the fundamental principle that the establishment of a stable, permanent peace on the Korean peninsula was an important goal of the Korean people and that South and North Korea should take the lead in a renewed search for peace. In addition, the Four Party proposal can begin a process that will lead to tension reduction, greater economic cooperation and eventually the creation of a new, permanent peace mechanism. In support of this important initiative, the U.S. has agreed to play an active role and has raised the importance of encouraging North-South dialogue and North Korean participation in the four-party talks with other countries, notably China, Japan, and Russia. Assistant Secretary Lord, briefing the press following President Clinton's meeting with Chinese President Jiang Zemin at the Asian Pacific Economic Conference (APEC) meetings in Manila in November 1996, noted that the Chinese not only supported the idea of North-South dialogue as a basic principle but had confirmed PRC participation in the four party process.

In U.S.-DPRK talks in December 1996, the DPRK committed itself to attend a joint U.S.-ROK briefing on the Four Party peace proposal. It was agreed that the briefing would take place on January 29. Although the DPRK reserved a decision on participating in the Four Party talks per se, its expressed willingness to attend the joint briefing involving the ROK was encouraging. Subsequently, however, the DPRK informed us that it would be unable to attend the joint briefing as previously agreed. The DPRK explained that, although it remained

committed to attending the joint briefing, it was giving first priority to the procurement of grain to address a major food shortfall. The Four Party proposal remains on the table, and we hope that the DPRK will agree that it represents the best means for securing lasting peace on the Korean Peninsula. In mid-February, the DPRK requested that the joint briefing be rescheduled for March 5, 1997.

(1)(B) DPRK Compliance with Agreed Framework

Described below are the relevant commitments undertaken by the DPRK in the Agreed Framework and the Confidential Minute:

The freeze on the DPRK's graphite moderated reactors and related facilities will be fully implemented within one month of the date of this document.

The DPRK agreed to implement the freeze on its nuclear facilities within one month after signing the Agreed Framework. Since November 1994, all of North Korea's graphite-moderated nuclear facilities have been frozen. Specifically, this means no refueling or operation of the 5 MW research reactor, no construction on the 50 and 200 MW reactors, no reprocessing and sealing of the reprocessing facility, no operation of the fuel fabrication plant; and no construction of new graphite-moderated reactors or related facilities.

During the one-month period, and throughout the freeze, the International Atomic Energy Agency (IAEA) will be allowed to monitor this freeze, and the DPRK will provide full cooperation to the IAEA for this purpose.

The IAEA has maintained a continuous presence at the Nyongbyon nuclear facility and has continued with inspection activities related to verifying and monitoring the freeze in the DPRK according to the terms of the Agreed Framework. These activities have allowed it to determine that North Korea is complying with the freeze provisions of the Agreed Framework. In addition to IAEA monitoring activities, the United States has its own National Technical Means which give us further confidence that the DPRK is complying with these provisions of the agreement.

While the IAEA has been monitoring the nuclear freeze, it has also conducted bilateral discussions with the DPRK to resolve a number of issues, some related to technical aspects of freeze monitoring. North Korean and IAEA officials met in January, June, and September of 1996, and the two sides resolved a number of these issues related to spent fuel canning and safeguarding the nuclear materials which are being safely stored.

Other issues discussed relate to the preservation of historical data that the IAEA will find useful in determining the amount of plutonium the DPRK produced in the past. Under the terms of the Agreed Framework, "when a significant portion of the LWR project is completed, but before delivery of key nuclear components," the DPRK will come into full compliance with its safeguards agreement with the IAEA, including taking all steps that may be deemed necessary by the IAEA, following consultations with the Agency with regard to verifying the accuracy and completeness of the DPRK's initial report on all nuclear material in the DPRK. Current IAEA-DPRK discussions are the beginning of that process. In the June 1996 meeting, the North presented a paper concerning the preservation of historical data at Nyongbyon. Differences between the two sides still remain, as reflected in recent statements by IAEA Director General Hans Blix. This issue was discussed in September and will be the topic for further negotiation between the DPRK and IAEA.

Dismantlement of the DPRK's graphite-moderated reactors and related facilities will be completed when the LWR project is completed.

At present, North Korea is not required by the Agreed Framework to take immediate steps to comply with this requirement of the agreement.

The U.S. and the DPRK will cooperate in finding a method to store safely the spent fuel from the 5 MW(e) experimental reactor during the construction of the LWR project, and to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

This topic is addressed in a separate certification.

The DPRK will remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and will allow implementation of its safeguards agreement under the Treaty.

As specified in the Agreed Framework, the DPRK has remained a party to the NPT. Paragraph IV, subparagraph 2 of the Agreed Framework specifies that "upon conclusion of the supply contract for the provision of the LWR project, ad hoc and routine inspections will resume under the DPRK's safeguards agreement with the IAEA with respect to facilities not subject to the freeze." With the successful conclusion of the agreement on the supply of light-water reactors (LWRs) to the DPRK, signed between the DPRK and KEDO in New York City on December 15, 1995, the DPRK agreed to allow the IAEA to resume such inspections.

While this is a first step towards the DPRK's adherence to its safeguards agreement, additional actions are not immediately required. As mentioned above, the IAEA and DPRK have begun discussions relating to the preservation of historical data which will prove useful in eventually bringing the DPRK into full compliance with its safeguards agreement. Full compliance, however, is not required by the Agreed Framework until "a significant portion of the LWR project is completed, but before delivery of key nuclear components." That will not be reached for some years.

Within three months of the date of this document, both sides will reduce barriers to trade and investment, including restrictions on telecommunications services and financial transactions.

In January 1995, the DPRK announced that it was lifting all existing restrictions against trade with the United States.

Each side will open a liaison office in the other's capital following resolution of consular and other technical issues through expert-level discussions.

The United States and the DPRK have held two rounds of expert-level discussion on opening liaison offices and other exchanges in diplomatic channels. Technical issues still remain to be resolved before those offices can be established.

As progress is made on issues of concern to each side, the U.S. and the DPRK will upgrade bilateral relations to the Ambassadorial level.

Issues of concern for the United States cover a number of areas such as DPRK missile proliferation, accounting of U.S. servicemen who are missing in action (MIA) as a result of the Korean War and concerns about North Korea's role in international terrorism. (See separate reports required by Congress for more details on some of these issues.) At our request, North Korea has engaged the United States on these topics, either through specific negotiations or through diplomatic channels. The United States cannot even begin considering an upgrade in bilateral relations until liaison offices have been opened. Such an upgrade will not occur until the United States is fully satisfied with the progress on these issues of concern.

The justification regarding North Korean compliance with the Confidential Minute is provided in a classified attachment.

(2) Spent Fuel Canning and Storage

U.S. and DPRK workers have been cooperating successfully since November 1994 with respect to the canning and storage of spent fuel from North Korea's 5MW(e) reactor at Nyongbyon. In January 1995, the U.S. and DPRK agreed on the method for safely storing the spent fuel as an interim step toward its ultimate transfer out of North Korea. The agreed-upon method consists of the treatment of the water in the spent fuel basin, the placement of spent fuel rods in specially-designed stainless steel canisters, and the storage of the canisters in racks stationed in the basin. All of these activities have been carried out in the presence of IAEA inspectors and the appropriate seals are to be applied.

A U.S.-supplied water treatment system, including a chiller to lower the temperature of the water, filters, and an ion exchange system, was jointly installed in September 1995. This system was designed to regulate pH and biological levels, ionic chloride and sulfate concentrations, gamma radionuclide concentrations, and water temperature in order to minimize radiation and clouding in the basin and slow additional corrosion of the spent fuel rods. DPRK personnel, having been fully trained by U.S. personnel at the spent fuel site, have been operating the system since the Fall of 1995.

A sludge vacuuming system was also installed in the Fall of 1995 to remove the buildup of magnesium hydroxide sludge caused by the deterioration of the fuel cladding and to prepare the area for canning operations. Beginning in mid-November 1995, the issuance of visas to U.S. personnel was delayed by the DPRK, during a difficult stage in the negotiations on the KEDO-DPRK reactor supply agreement. Visas were again issued in mid-December 1995 after the U.S. protested against the delay.

Actual canning of the 8,000 spent fuel rods began on April 27, 1996. U.S. and DPRK personnel have been working to safely store the spent fuel since that time. Four canning stations have been established, three operated by DPRK personnel and one operated by U.S. personnel, with a regular work schedule in place. Each station is responsible for removing individual spent fuel rods from baskets contained in the spent fuel basin and proceeding with the cleaning, conditioning, and placement of these rods in the stainless steel storage canisters. A lid is then placed on each canister, the canister is pressurized with a mixture of argon and oxygen to remove the water, and the same gas mixture is used to condition and inert the fuel for long-term storage. Following this procedure, each canister is transferred from the canning station to storage racks in the spent fuel basin. The storage racks are then to be sealed by the IAEA and placed under international safeguards. As of December 31, 1996, 4204 of the 8000 fuel rods (over 50%) have been placed in canisters.

For most of the canning project, cooperation and consultation among DPRK and U.S. technical experts has been close. DPRK personnel have met their commitments to assist the canning effort by facilitating the entry of U.S. personnel and equipment into the DPRK; unloading, installing, and maintaining equipment; providing necessary utilities; and disposing of wastes from the project. From the beginning of actual canning in April 1996 through August 1996, there were occasional delays for technical and other reasons, as would be expected in a technically complex project carried out in an unfamiliar environment (the DPRK).

In August, the DPRK indicated that it might have to suspend spent fuel canning due to the failure of the U.S. to ease economic sanctions, as called for in the Agreed Framework. In late September, the DPRK unilaterally reduced the work schedule for its teams from 72 hours per week to 40 hours per week, citing concern for worker safety due to excessive exposure to radiation at the spent fuel basin. However, the DPRK also indicated that this change was a result of the U.S. failure to implement fully its obligations under the Agreed Framework, specifically with regard to easing trade sanctions against the DPRK. The U.S., having previously agreed upon an approach to lower cesium levels in the basin with the DPRK, dispatched equipment and additional technical experts to address this issue. By October, radiation levels were reduced satisfactorily, however, a resumption of the original work schedule did not occur.

U.S. efforts to safely store the DPRK's spent nuclear fuel experienced further deleterious affects as a result of the political fallout from the North Korean submarine incursion into the coastal waters of the Republic of Korea. From November 4-January 7, the DPRK intentionally interrupted canning operations in retaliation against the ROK's announcement of a "freeze" on light-water reactor construction activities. However, the freeze on the DPRK nuclear reactors and related facilities remained in place. The U.S. immediately engaged the DPRK in discussions and pressed not only for the resumption of canning operations but also for the DPRK to take the necessary steps to put the submarine incident behind us. U.S.-DPRK agreement was reached in late December, which resulted in the resumption of full DPRK cooperation in spent fuel canning operations on January 8, 1997, including the restoration of the original work schedule.

With canning operations underway and over fifty percent of the spent fuel having been canned and placed under IAEA safeguards, completion of the canning operation is scheduled to be completed by the end of fiscal year 1997. Until that time, we will continue to evaluate DPRK actions to ensure that the DPRK continues its full cooperation with spent fuel canning activities.

(3) Diversion of U.S. Provided Assistance

Heavy Fuel Oil

The United States has provided heavy fuel oil (HFO) to the Democratic People's Republic of Korea (DPRK) in accordance with the U.S./DPRK Agreed Framework and has also provided humanitarian assistance in the form of food aid. The Agreed Framework provides for the phased provision of heavy fuel oil (HFO) to the DPRK in an amount equivalent to the foregone output of its three graphite-moderated nuclear reactors (the 5 MW, 50 MW and 200 MW reactors). The Korean Peninsula Energy Development Organization (KEDO) provides for the delivery of 500,000 metric tons of HFO annually. This heavy fuel oil is to be used for purposes specified in the Confidential Minute.

In Summer 1995, KEDO finalized with the DPRK a record of conversation that limited the use of HFO to five specific sites, Sonbong, the Chongjin Power Plant, the Pyongyang Power Plant, the Pukchang Power Plant and the boiler at Nyongbyon. KEDO, with North Korean cooperation, has since installed fuel flow meters at the power plant facilities in Sonbong, Chongjin, Pyongyang and Pukchang to ensure that shipments are not being diverted. In a meeting held in July 1996, KEDO included the power plants at Suncheon and East Pyongyang in the consumption loop, while the DPRK agreed to provide more frequent flow meter readings and additional information on HFO disposal.

KEDO's monitoring arrangements, along with other means, give us confidence that the HFO supplied by KEDO has largely been used in the manner prescribed by the Agreed Framework. In the months since KEDO oil deliveries began, there has been some evidence that the DPRK was using small amounts of the oil for purposes contrary to those specified in the Confidential Minute. These amounts do not, however, constitute a significant diversion of the half-million metric tons of HFO being delivered. We take any evidence of North Korean violations seriously and have continuously worked with DPRK authorities to tighten compliance arrangements.

We are prepared to provide a classified briefing on this subject upon Congressional request.

Humanitarian Assistance

The U.S. has made contributions to the UN Consolidated Appeal for North Korea four times for a total of \$8.425 million since the summer of 1995. The first two tranches of humanitarian assistance were grants from the OFDA (Office of Foreign Disaster Assistance) and were given to UNICEF to provide medicine for flood-affected children. The USG made a \$2 million grant to the World Food Program (WFP) in February

1996 through OFDA, which was used to provide rice to flood-affected victims. The most recent donation of \$6.2 million was made under the PL 480 Title II emergency program for some 13 thousand tons of rice, corn soy blend and corn meal destined for flood-affected victims.

The WFP and UNICEF have been responsible for monitoring the distribution of the U.S. contribution and neither agency reports any significant diversion of humanitarian goods. The U.S. funded a visit of an OFDA contract observer and two USAID observers to North Korea to observe WFP operations. USAID has also funded food monitors through the WFP. Both the U.S. and international observers agree that the DPRK is making an unprecedented effort to cooperate with the international humanitarian relief effort. They report that while the government continues to extensively supervise foreigners' movements, the WFP has been able to monitor relatively closely, even in areas previously closed to foreigners, the distribution of U.S. Government-supplied food aid.

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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

REPORT UNDER THE HEADING "NONPROLIFERATION,
ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS"
IN TITLE II OF
THE FOREIGN OPERATIONS APPROPRIATIONS ACT, 1997
IN CONNECTION WITH THE U.S. CONTRIBUTION TO
THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

This report is submitted pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (P.L. 104-208) ("FY 1997 Appropriations Act"), under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs," with respect to --

- (1) the cooperation of North Korea in the process of returning to the United States the remains of United States military personnel who are listed as missing in action as a result of the Korean conflict (including conducting joint field activities with the United States);
- (2) violations of the military armistice agreement of 1953;
- (3) the actions which the United States is taking to assure that North Korea is consistently taking steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula and engage in North-South dialogue; and
- (4) all instances of non-compliance with the Agreed Framework between North Korea and the United States and the Confidential Minute, including diversion of heavy fuel oil.

(1) DPRK Cooperation on the Recovery of Remains

Building on the work of the United Nations Command, the U.S. initiated a series of direct, bilateral talks with North Korea in January 1996. Because of conflicts over schedule and venue, the next meeting did not take place until early May in New York. On May 9, 1996, the U.S. and DPRK reached an agreement that opened the way for the joint recovery of remains of U.S. servicemen from the Korean War. The agreement provided for \$2 million to resolve all DPRK outstanding compensation claims. It further provided that technical talks would be held in June 1996 to determine specifics for joint recovery operations. At the technical talks June 10-14 in Pyongyang, the U.S. and DPRK reached agreement on the dates, location, and logistical issues for the first two joint recovery operations. Specifically, the DPRK agreed to accommodate the first joint recovery operation on July 10, 1996 at an aircraft site in Unsan County, and the second joint recovery operation in September 1996 at an aircraft crash site in Ryonggang County, Nampo City. DPRK willingness to cooperate on these two initial joint recovery operations, in support of the May 1996 agreement, represented an important step forward on this humanitarian issue.

A ten-member U.S. team, nine Army personnel and one State Department officer, spent most of July 1996 in the DPRK working with the Korean People's Army and Ministry of Foreign Affairs to locate and retrieve the remains of U.S. personnel. This led to the repatriation on July 30, 1996 of the remains of U.S. Army Corporal Lawrence LeBoeuf, who had been missing in action since November 1950. Operationally, despite initial tensions and logistical difficulties, the two sides developed an effective working environment that helped to reduce tensions and facilitate quick resolution of disagreements which ultimately led to the successful outcome of this mission.

The success of the first joint recovery operation was the culmination of consistent and determined efforts by the U.S. Government to account for its missing from the Korean War. The North Korean military personnel assigned to work with the U.S. team acted professionally and effectively with their American counterparts. U.S. and North Korean team leaders were able to resolve technical problems with minimal disruption to the operation. When the joint team failed to find remains at the primary site, the North Koreans suggested an alternate site where Corporal LeBoeuf's remains were recovered.

Because of heightened tensions on the Korean Peninsula caused by the submarine infiltration of DPRK military personnel into the ROK, the second joint recovery operation, originally scheduled for September 1996, was delayed. Efforts are underway to reschedule this operation for early 1997, once the spring thaw makes recovery efforts possible.

We are prepared to provide a more thorough history from 1985-1996 on this subject upon Congressional request.

(2) Violations of the Military Armistice Agreement

The Military Armistice Agreement of 1953 (AA) created a Demilitarized Zone (DMZ) four kilometers wide, stretching 151 miles across the Korean peninsula. A Military Demarcation Line (MDL) was established down the center of the DMZ, two kilometers from each side of the DMZ. Under the terms of the AA, each side was permitted access to its two-kilometer portion of the DMZ but was expressly prohibited from crossing the MDL into the other side's portion of the DMZ.

Since 1953 there have been approximately 1,600 armed incidents involving attacks, intrusions or the exchange of fire in or near the DMZ. The majority of these incidents occurred in the late 1960s and early 1970s, with a peak occurring in 1968 when a total of 573 such incidents were recorded.

Since 1990, incidents in the DMZ have generally been limited to provocative posturing by members of the (North)

Korean People's Army (KPA). Notable exceptions to this pattern were armed infiltrations by North Korean soldiers in 1992 and 1995 and the shooting down of a U.S. Army helicopter in 1994 on the northern side of the DMZ. However, armed infiltrations by KPA soldiers continue, most recently on September 18, 1996, when a North Korean submarine was found aground on the east coast of the Republic of Korea (ROK) south of the DMZ.

The AA of 1953 also created a joint Military Armistice Commission (MAC) with membership representing both the United Nations Command (UNC) and the KPA/Chinese People's Volunteers (CPV). The MAC's functions are to supervise the implementation of the AA, settle violations through negotiations, and act as an intermediary between the commanders of the opposing sides. On April 28, 1994, the KPA recalled its members from the MAC and has since systematically tried to dismantle the MAC and to begin direct negotiations with the U.S. officers of the UNC with the objective of trying to create an interim bilateral peace mechanism to replace the AA. KPA efforts to nullify the AA and to replace it with a new peace arrangement continue.

The most serious incidents to have occurred in the year since October 1, 1995, are:

On October 3, 1995, the KPA permitted two civilians to cross the MDL, a major violation. When the UNC attempted to protest this violation, the KPA unilaterally adopted the position of refusing to receive UNC protests of KPA Armistice violations.

On October 17, 1995, ROK Army personnel killed an armed infiltrator along the Imjin River southwest of the DMZ. The infiltrator was later determined to have come from the DPRK. The KPA subsequently refused to accept the UNC protest.

On April 4, 1996, in a meeting with UNC officers at Panmunjom, KPA officers read a statement that the KPA had given up "its duty concerning maintenance and administration of the MDL and DMZ assumed by the Military Armistice Agreement."

For three consecutive nights from April 5 through 7, 1996, approximately 120 armed KPA soldiers entered the neutral Joint Security Area at Panmunjom carrying mortars and recoilless rifles, occupied field fortifications, and remained until late in the evening.

On April 11, 1996, three KPA soldiers crossed the MDL and moved approximately 200 meters into the UNC portion of the eastern zone of the DMZ, where they remained for approximately three hours before the approach of UNC DMZ police caused them to move back to the KPA side.

On May 19, 1996, five KPA soldiers crossed the MDL and moved approximately 20 meters into the UNC portion of the DMZ before returning to the KPA side.

On September 18, 1996, a submarine with an estimated complement of 26 persons became disabled off the east coast of the ROK. Its occupants put ashore on the territory of the ROK. An investigation determined that the vessel originated in the DPRK. During subsequent ROK operations, 11 KPA personnel were found dead, one was captured, and 11 were killed. One individual remains unaccounted for. A UNC protest of the Armistice violation was refused by the KPA. On December 30 the DPRK expressed its regret for the incident and indicated that it would work to see that such an incident does not recur.

(3) Implementation of the Joint Denuclearization Declaration and North-South Dialogue

Implementation of Joint Denuclearization Declaration

On January 1, 1992, the Republic of Korea and the Democratic People's Republic of Korea issued the Joint Declaration on the Denuclearization of the Korean Peninsula. The provisions of the Joint Declaration state that the North and South:

- shall not test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons;
- shall use nuclear energy solely for peaceful purposes;
- shall not possess nuclear reprocessing and uranium enrichment facilities, and;
- in order to verify the denuclearization of the Korean Peninsula, shall conduct inspections of the objects selected by the other side and agreed upon between the two sides, in accordance with procedures and methods to be determined by the North-South Nuclear Control Commission which shall be established within one month of the effectuation of this joint declaration.

The DPRK and the ROK held a series of North-South Joint Nuclear Control Commission meetings in early 1992 as specified in the Joint Declaration, but these were discontinued as relations between the two Korean states worsened and the DPRK threatened to withdraw from the Nuclear Non-Proliferation Treaty (NPT) and refused to cooperate with the IAEA. As a result, the absence of sustained governmental talks between the ROK and DPRK has delayed further implementation of the Denuclearization Declaration.

The United States has, however, taken steps to encourage DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of the Agreed Framework. The Agreed Framework itself explicitly provides that the DPRK will take steps to implement the Joint Declaration on the Denuclearization of the Korean Peninsula. In addition, the Agreed Framework, as a step towards full implementation of the Denuclearization Declaration, has succeeded in eliciting positive DPRK movement on key provisions of the Declaration. Specifically, North Korea's willingness to immediately freeze and eventually dismantle its graphite-moderated nuclear reactors and related facilities has halted activities that, had they not been stopped, would have given the DPRK a nuclear weapons capability. Such a capability would have been a threat to peace and security on the Korean Peninsula as well as to Northeast Asia. The DPRK agreement to forego reprocessing under the Agreed Framework and to replace its existing nuclear reactors with proliferation-resistant LWRs represents a major step toward assuring the DPRK will not test, manufacture, produce, store, deploy or possess nuclear weapons. All these steps, aside from advancing the goals of the Joint Declaration, go beyond the NPT's requirements.

Implementation of North-South Dialogue

The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue." In pursuit of this objective, the U.S. has taken diplomatic steps with both North and South Korea to encourage DPRK compliance with its commitments to engage in dialogue and to support South Korean initiatives toward the North. The U.S. has also encouraged China, over the course of implementing the Agreed Framework, to use its influence to encourage the DPRK, among other things, to participate more fully in dialogue with the South. While the North Korean response to our efforts has not been as forthcoming as we would like, the U.S. continues to firmly pursue the objective of increased North-South dialogue.

It is the firm position of the United States that North-South contacts are the key to resolving the most important issues on the peninsula. We have used every available opportunity to press the DPRK to resume North-South dialogue, as it is committed to do under the terms of the Agreed Framework. The U.S. has consistently made clear in bilateral contacts with the DPRK, that improvement in North-South relations is key to peace and security on the Korean Peninsula and a requirement of improved U.S.-DPRK bilateral relations. Prior to the signing of the Agreed Framework, Ambassador Robert L. Gallucci, during his tenure as Chairman of the Senior Steering Committee on Korea, frequently raised the issue of North-South dialogue in his correspondence with his North Korean counterpart, First Vice Minister of Foreign Affairs Kang Sok Ju. North Korean acceptance of direct

dialogue with the ROK was an essential element of the U.S. negotiating strategy with the DPRK and was successfully obtained in concluding the Agreed Framework. As of October 1995, contact and correspondence with DPRK Vice Minister Kang has been maintained by Ambassador Winston Lord, Assistant Secretary of State, who continues to raise the same issues.

During the first year of implementation of the Agreed Framework, former Deputy Assistant Secretary of State Thomas Hubbard raised North-South issues repeatedly with the DPRK in Kuala Lumpur over the course of negotiating the Light Water Reactor (LWR) Supply Agreement. Mr. Hubbard continued to address this issue with North Korean Ambassador-at-Large Ho Jong in December 1995. In addition, these points were made at all three rounds of U.S.-DPRK negotiations on the opening of liaison offices. More recently, U.S. officials at the Director-level continue to stress to their North Korean counterparts, both in New York and in Washington, the importance of improving DPRK relations with the ROK.

Implementation of the Agreed Framework has created and continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the U.S., ROK, and Japan to oversee implementation of various components of the Agreed Framework, has proven to be an effective vehicle for this purpose. KEDO has engaged in extensive negotiations with the DPRK on the LWR supply agreement and related protocols. ROK Government officials and technical experts have participated in the formulation of KEDO's negotiating strategy; have directly engaged in negotiations with the DPRK; and have held numerous consultations with DPRK experts on technical-related issues. South Koreans also comprise the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site.

In support of ROK initiatives, we have conveyed South Korean positions -- and U.S. support for those positions -- to the DPRK and others, sometimes with positive results. In 1995, North and South Korea held a series of bilateral meetings in Beijing that produced an agreement whereby the South provided 150,000 tons of rice to the North as a grant. In December of that same year, the DPRK, at U.S. urging, released the crew of a South Korean fishing vessel which had strayed into North Korean waters, a step which the ROK had been urging the DPRK to take for some time. In 1996, the U.S., ROK, and Japan consulted on a consolidated appeal from various United Nations' agencies including World Food Program (WFP) for use in flood-related relief in North Korea. It was agreed that to address this humanitarian crisis and to support stability on the Peninsula, the U.S., ROK and Japan would each donate humanitarian assistance to North Korea.

It is against this backdrop that President Clinton and President Kim Young Sam of the Republic of Korea on April 16, 1996, issued a joint proposal for Four Party Talks (U.S., ROK, DPRK, China) to discuss peace on the Korean Peninsula. In announcing this initiative, the two Presidents confirmed the fundamental principle that the establishment of a stable, permanent peace on the Korean peninsula was an important goal of the Korean people and that South and North Korea should take the lead in a renewed search for peace. In addition, the Four Party proposal can begin a process that will lead to tension reduction, greater economic cooperation and eventually the creation of a new, permanent peace mechanism. In support of this important initiative, the U.S. has agreed to play an active role and has raised the importance of encouraging North-South dialogue and North Korean participation in the four-party talks with other countries, notably China, Japan, and Russia. Assistant Secretary Lord, briefing the press following President Clinton's meeting with Chinese President Jiang Zemin at the Asian Pacific Economic Conference (APEC) meetings in Manila in November 1996, noted that the Chinese not only supported the idea of North-South dialogue as a basic principle but had confirmed PRC participation the four-party process.

In U.S.-DPRK talks in December 1996, the DPRK committed itself to attend a joint U.S.-ROK briefing on the Four Party peace proposal. It was agreed that the briefing would take place on January 29. Although the DPRK reserved a decision on participating in the Four Party talks per se, its expressed willingness to attend the joint briefing involving the ROK was encouraging. Subsequently, however, the DPRK informed us that it would be unable to attend the joint briefing as previously agreed. The DPRK explained that, although it remained committed to attending the joint briefing, it was giving first priority to the procurement of grain to address a major food shortfall. The Four Party proposal remains on the table, and we hope that the DPRK will agree that it represents the best means for securing lasting peace on the Korean Peninsula. In mid-February, the DPRK requested that the joint briefing be rescheduled for March 5, 1997.

4) North Korean Compliance with the Agreed Framework

Described below are the relevant commitments undertaken by the DPRK in the Agreed Framework and the Confidential Minute:

The freeze on the DPRK's graphite moderated reactors and related facilities will be fully implemented within one month of the date of this document.

The DPRK agreed to implement the freeze on its nuclear facilities within one month after signing the Agreed Framework. Since November 1994, all of North Korea's graphite-moderated nuclear facilities have been frozen.

Specifically, this means no refueling or operation of the 5 MW research reactor; no construction on the 50 and 200 MW reactors; no reprocessing and sealing of the reprocessing facility; no operation of the fuel fabrication plant; and no construction of new graphite-moderated reactors or related facilities.

During the one month period, and throughout the freeze, the International Atomic Energy Agency (IAEA) will be allowed to monitor this freeze, and the DPRK will provide full cooperation to the IAEA for this purpose.

The IAEA has maintained a continuous presence at the Nyongbyon nuclear facility and has continued with inspection activities related to verifying and monitoring the freeze in the DPRK according to the terms of the Agreed Framework. These activities have allowed it to determine that North Korea is complying with the freeze provisions of the Agreed Framework. In addition to IAEA monitoring activities, the United States has its own National Technical Means which give us further confidence that the DPRK is complying with these provisions of the agreement.

While the IAEA has been monitoring the nuclear freeze, it has also conducted bilateral discussions with the DPRK to resolve a number of issues, some related to technical aspects of freeze monitoring. North Korean and IAEA officials met in January, June, and September of 1996, and the two sides resolved a number of these issues related to spent fuel canning and safeguarding the nuclear materials which are being safely stored.

Other issues discussed relate to the preservation of historical data that the IAEA will find useful in determining the amount of plutonium the DPRK produced in the past. Under the terms of the Agreed Framework, "when a significant portion of the LWR project is completed, but before delivery of key nuclear components," the DPRK will come into full compliance with its safeguards agreement with the IAEA, including taking all steps that may be deemed necessary by the IAEA, following consultations with the Agency with regard to verifying the accuracy and completeness of the DPRK's initial report on all nuclear material in the DPRK. Current IAEA-DPRK discussions are the beginning of that process. In the June 1996 meeting, the North presented a paper concerning the preservation of historical data at Nyongbyon. Differences between the two sides still remain, as reflected in recent statements by IAEA Director General Hans Blix. This issue was discussed in September and will be the topic for further negotiation between the DPRK and IAEA.

Dismantlement of the DPRK's graphite-moderated reactors and related facilities will be completed when the LWR project is completed.

At present, North Korea is not required by the Agreed Framework to take immediate steps to comply with this requirement of the agreement.

The U.S. and the DPRK will cooperate in finding a method to store safely the spent fuel from the 5 MW(e) experimental reactor during the construction of the LWR project, and to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

This topic is addressed in a separate certification.

The DPRK will remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and will allow implementation of its safeguards agreement under the Treaty.

As specified in the Agreed Framework, the DPRK has remained a party to the NPT. Paragraph IV, subparagraph 2 of the Agreed Framework specifies that "upon conclusion of the supply contract for the provision of the LWR project, ad hoc and routine inspections will resume under the DPRK's safeguards agreement with the IAEA with respect to facilities not subject to the freeze." With the successful conclusion of the agreement on the supply of light-water reactors (LWRs) to the DPRK, signed between the DPRK and KEDO in New York City on December 15, 1995, the DPRK agreed to allow the IAEA to resume such inspections.

While this is a first step towards the DPRK's adherence to its safeguards agreement, additional actions are not immediately required. As mentioned above, the IAEA and DPRK have begun discussions relating to the preservation of historical data which will prove useful in eventually bringing the DPRK into full compliance with its safeguards agreement. But full compliance is not required by the Agreed Framework until "a significant portion of the LWR project is completed, but before delivery of key nuclear components." That will not be reached for some years.

Within three months of the date of this document, both sides will reduce barriers to trade and investment, including restrictions on telecommunications services and financial transactions.

In January 1995, the DPRK announced that it was lifting all existing restrictions against trade with the United States.

MEMORANDUM OF JUSTIFICATION
UNDER SECTION 614 OF THE FOREIGN ASSISTANCE ACT
TO PROVIDE A U.S. CONTRIBUTION TO
THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

The Administration proposes that up to \$25.0 million in FY 1997 Nonproliferation, Anti-Terrorism, Demining and Related Programs funds be used for a U.S. contribution to the Korean Peninsula Energy Development Organization (KEDO), an international organization established to implement portions of the Agreed Framework signed between the United States and the Democratic People's Republic of Korea (DPRK) on October 21, 1994. This funding level for U.S. contributions to KEDO was specified in the Administration's congressional presentation documents for FY 1997 and was appropriated by Congress for this purpose. KEDO would be permitted to use the U.S. contribution to help cover its FY 1997 administrative and heavy fuel oil shipment expenses.

In order to make available the funds appropriated for this contribution, the President intends to exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, to authorize the voluntary contribution to KEDO without regard to applicable statutory restrictions within the scope of this section.

The Agreed Framework addresses U.S. and international concerns about the DPRK's nuclear weapons program and, if fully implemented, will lead ultimately to the complete dismantlement of North Korea's current nuclear program. Under the U.S.-DPRK Agreed Framework, the U.S. represented that it would "organize under its leadership an international consortium to finance and supply the light-water reactor (LWR) project to be provided to the DPRK." In order to meet this pledge, the U.S., South Korea (ROK) and Japan agreed on the creation of an international organization, KEDO, to implement the reactor project, the annual delivery of 500,000 metric tons of heavy fuel oil to North Korea and other possible projects called for in the Agreed Framework (e.g., the transfer of spent fuel out of the DPRK for ultimate disposition). The U.S., ROK and Japan have played and will continue to play leading roles in KEDO.

KEDO's purpose is to coordinate cooperation among interested parties in the international community and to facilitate the financing and execution of projects needed to implement the Agreed Framework. KEDO members have agreed to

cooperate in taking the steps necessary to implement the Agreed Framework consistent with the Charter of the United Nations, the Treaty on the Nonproliferation of Nuclear Weapons, the North-South Declaration on the Denuclearization of the Korean Peninsula, and the Statute of the International Atomic Energy Agency. Moreover, KEDO will obtain assurances that nuclear materials, equipment, or technology transferred to the DPRK in connection with projects undertaken by KEDO will be used exclusively for such projects, only for peaceful purposes, and in a manner that ensures the safe use of nuclear energy. The continued funding of KEDO is critical to the success of the specific objectives of the Agreed Framework, the general goals of international nuclear nonproliferation, and the aim of maintaining peace and security on the Korean Peninsula.

KEDO is located in New York and is directed by an Executive Board consisting of representatives of the original member countries-- the U.S., Japan, and the ROK. Other members may participate in its activities by serving on advisory committees covering the organization's projects, attending the KEDO General Conference, participating in ad hoc technical meetings relating to KEDO projects and, in some cases, sending technical experts to serve in the KEDO secretariat. The day-to-day operations of KEDO are directed by Executive Director Stephen Bosworth, former U.S. Ambassador to the Philippines, assisted by two Deputy Executive Directors (one from Japan and one from the ROK). KEDO has contracted with private firms for the bulk of the legal, technical, and financial expertise required to oversee the LWR project and other projects. It has a secretariat consisting of approximately 30 people to carry out its functions, many on detail from member countries.

The U.S. contribution to KEDO will help fund: 1) KEDO's FY 1997 costs for office space, office supplies, communications, consulting costs and legal services, and employee remuneration for a staff of about thirty people, including the Executive Director, the two Deputy Directors, and support personnel; and 2) a portion of the estimated \$60 million worth of heavy fuel oil due to be shipped in FY 1997. These funds are essential to KEDO's ability to meet the terms of the U.S.-DPRK Agreed Framework regarding the provision of heavy fuel oil. Should KEDO fail to meet these deliveries, the DPRK might renege on its Agreed Framework obligations, including possibly breaking the freeze on its nuclear program. Hence, early transfer of these funds is essential to meeting our nonproliferation objectives in the DPRK.

For these reasons, it is important to the security interests of the United States to make a U.S. contribution of up to \$25 million to KEDO notwithstanding any provision of law within the scope of section 614(a)(1).



February 25, 1997

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MEMORANDUM FOR JOYCE A. HARMON
ACTING EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: Presidential Action Required to Make the U.S.
Contribution to the Korean Peninsula Energy
Development Organization (KEDO)

This memorandum requests that the President sign the attached Presidential determination and authorize submission of the report required under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as enacted in P.L. 104-208) ("FY 1997 Appropriations Act"). In addition, it recommends that the President authorize the Department of State to consult with, and provide the attached written policy justification to, relevant committees of the Congress concerning the proposed waiver of legal provisions restricting the U.S. contribution to the Korean Peninsula Energy Development Organization ("KEDO").

In its congressional presentation documents, the Administration requested \$25 million for the U.S. contribution to KEDO. In the FY 1997 Appropriations Act, Congress capped the amount we could make available to KEDO at this level. However, Congress authorized such funds only for KEDO's administrative and heavy fuel oil expenses, thereby precluding FY 1997 funds being used for KEDO's light-water reactor project.

In addition, Congress created (or left in place) a number of obstacles to the U.S. contribution to KEDO. First, it refused to include language that would permit the obligation of funds without the President exercising his authority under section 614(a)(1) of the Foreign Assistance Act ("FAA") to find that it is "important to the security interests of the United States" to make the contribution without regard to provisions of law within the scope of that section. (Potential legal restrictions on direct or indirect assistance to the DPRK include sections 307, 620A, and 620(f), of the FAA, section 530 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995, and sections 507, 516, 523, and 527 of the FY 1997 Appropriations Act.) Second, it required specific Presidential certifications and a Presidential report prior to the obligation of funds. Third, it required that

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"regular notification procedures" must be followed prior to the obligation of funds even though such procedures would not ordinarily apply in this case. The first two items, discussed in detail below, require Presidential action. The third item does not require Presidential action but is also discussed briefly below.

FY 1997 Certifications and Report

The FY 1997 Appropriations Act provides that funds may not be obligated for KEDO until the President certifies and reports to Congress that --

(1)(A) the U.S. is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute;

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended.

As set forth more fully in the attached memorandum of justification, we believe the facts justify certifying each of these criteria. We recommend that the President sign the determination containing these certifications (attachment 4) prior to our consultations with Congress pursuant to section 614. These certifications are similar to those required in connection with the FY 1996 contribution to KEDO. Some in Congress may criticize or question the certification that the DPRK is "cooperating fully" with spent fuel canning due to the DPRK's two-month suspension of canning operations and the short time that we have had since canning resumed on January 8 to judge the DPRK's renewed commitment to the canning project. In response, we should emphasize that the FY 1997 Appropriations Act requires a certification that the DPRK is "cooperating fully" in the spent fuel canning operation, and note that DPRK teams are now working 72 hours per week as originally agreed. Indeed, the certification requirement enabled us to put substantial pressure on the DPRK to resume full cooperation in the canning operation, given the DPRK's reliance on heavy fuel oil shipments provided by KEDO and funded by the U.S. contribution to KEDO. In short, we believe this certification

is justified and that any Congressional criticism can be effectively countered.

In addition, before funds can be obligated for the U.S. contribution to KEDO under this legislation, the President must report to the Congress on --

- (1) the cooperation of North Korea in the process of returning to the United States the remains of United States military personnel who are listed as missing in action as a result of the Korean conflict (including conducting joint field activities with the United States);
- (2) violations of the military armistice agreement of 1953;
- (3) the actions which the United States is taking to assure that North Korea is consistently taking steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula and engage in North-South dialogue; and
- (4) all instances of non-compliance with the Agreed Framework between North Korea and the United States and the Confidential Minute, including diversion of heavy fuel oil.

The report at Attachment 3 provides this information. We recommend that the President authorize State to submit this report prior to our section 614 consultations with Congress.

Having the Presidential certifications and report in hand will significantly assist the section 614 consultation process and deprive Congress of a grounds for delay. At the same time, we note that the first two elements of the Presidential report -- cooperation concerning MIA remains and compliance with the armistice agreement -- raise the issue of the North Korean submarine running aground on the east coast of South Korea. The North-South tensions resulting from this incident have delayed the second joint U.S.-DPRK operation for the recovery of MIA remains, previously scheduled for September 1996. This delay and other repercussions of the submarine incident could prompt Members of Congress or staffers to seek to delay the President's section 614 determination or to put a "hold" on the obligation of funds in response to our notification (see below).

Section 614 Determination

As with all previous contributions to KEDO, we must use section 614 of the FAA to waive the various prohibitions against assistance to the DPRK, which are based on factors such as North Korea's communist regime and its support for terrorism. State requests authority to initiate the section 614 process by consulting with the appropriate congressional committees (the House and Senate Appropriations Committees, the

Senate Foreign Relations Committee, and the House International Relations Committee). Following consultations, the President may make a determination, and notify in writing the Speaker of the House and the Chairman of the Senate Foreign Relations Committee, that the furnishing of assistance under this authority "is important to the security interests of the United States."

With respect to both the FY 1996 and FY 1997 appropriations acts, State requested that Congress include language that would permit the contribution to KEDO notwithstanding the provisions of law prohibiting direct or indirect assistance to the DPRK. Such language would have obviated the need for the President to exercise his authority under section 614 every year to allow the U.S. contribution to KEDO, yet Congress has not included such language. However, Congress fully expects the President to use section 614 for this contribution, so the use of section 614 per se should not be controversial (as it has been in some other cases).

(NOTE: Attachment 1 is a draft Presidential determination pursuant to section 614 provided for review purposes only. It should not be signed by the President until after State's consultations with Congress have been completed. Only the Presidential determination pursuant to the FY 1997 Appropriations Act (attachment 4) should be signed by the President at this time.)

Notification Procedures

The FY 1997 Appropriations Act requires that the "regular notification procedures" apply to the obligation of these funds. Under this provision we will need to provide an appropriate notification to Congress 15 days before making funds available. Although we are not legally required to honor any "hold" that the relevant committees might place on the notification, we have consistently waited for the lifting of such holds before obligating funds.

This year's U.S. contribution to KEDO will be used to pay for administrative and heavy fuel oil ("HFO") expenses. KEDO is facing a financial crisis unless the U.S. can provide these funds rapidly. Under the terms of the Agreed Framework, KEDO is expected to ship 500,000 metric tons of heavy fuel oil annually to North Korea at an estimated yearly cost of \$60 million. KEDO needs the 1997 U.S. contribution in order to fund heavy fuel oil shipments to the DPRK in 1997 as specified in the U.S.-DPRK Agreed Framework. In addition, KEDO currently has no funding for further oil shipments. KEDO has been gathering increasing international support, most notably the

UNCLASSIFIED

- 5 -

recent decision by European Union foreign ministers to join KEDO and provide approximately \$20 million annually over the next five years. However, the U.S. contribution for FY 1997 is still critical to KEDO's program.

Accordingly, in the event of a congressional "hold" on the U.S. contribution to KEDO, State and/or other senior government officials may have to call the chairs or key Members of the committees of jurisdiction to have the "hold" removed.

In conclusion, we recommend that the President authorize the State Department to initiate consultations with, and provide a written justification to, the appropriate committees of Congress in preparation for the President exercising his authority under section 614 to permit the U.S. contribution to KEDO. We further recommend that the President sign the Presidential Determination at attachment 4 and authorize the State Department to submit to the appropriate committees both this determination and the report required under the FY 1997 Appropriations Act.



William J. Burns
Executive Secretary

Attachments:

- (1) Draft Presidential determination under Section 614
- (2) Letters of Notification re: Section 614 and transmittal of Presidential determination and report under FY 1997 Appropriations Act
- (3) Memorandum of Justification re: Section 614
- (4) Draft Presidential determination under FY 1997 Appropriations Act
- (5) Memorandum of Justification re: Presidential determination under FY 1997 Appropriations Act
- (6) Report under FY 1997 Appropriations Act

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002a. memo	Winston Lord and Paul Cleveland to Secretary of State re Circular 175 (5 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [2]

2009-0528-F

kc1438

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Draft Amendments to the
Agreement on the Establishment of
the Korean Peninsula Energy Development Organization

Article V(b) is amended to read as follows (with new language underlined):

(b) Additional states and international organizations, including regional integration organizations, that support the purposes of the Organization and offer assistance, such as providing funds, goods, or services to the Organization, may, with the approval of the Executive Board, also become members of the Organization (hereinafter jointly with the original Members referred to as "Members") in accordance with the procedures in Article XIV(b).

Article VI(b) and (e) are amended to read as follows (with new language underlined):

(b) The Executive Board shall consist of one representative of each of the original Members and representatives of such other Members as may be approved. Such approval shall be made by decision of the Executive Board existing at the time of such approval on the basis of substantial and sustained support to the Organization. The terms and conditions in connection with this approval shall be determined in each case by the Executive Board existing at the time of such approval.

(e) Decisions of the Executive Board shall be made by a consensus of the representatives serving on the Executive Board or, if a consensus is not achievable, by a majority vote. If voting is required, each representative serving on the Executive Board shall be entitled to one vote.

Article VIII(d) and (f) are amended to read as follows (with strike-through of deleted text and new language underlined):

(d) The Executive Director and the Deputy Executive Directors shall be appointed for terms of two years and may be reappointed. ~~They shall be nationals of the original Members/~~ The terms of employment, including salaries, of these officers shall be determined by the Executive Board. The Executive Director and the Deputy Executive Directors may be removed prior to the expiration of their terms by a decision of the Executive Board.

(f) The Executive Director shall establish staff positions and terms of employment, including salaries, subject to the approval of the Executive Board. The Executive Director shall appoint qualified personnel to such staff positions and dismiss personnel as necessary, in accordance with rules and regulations to be approved by the Executive Board. The Executive Director shall seek to appoint a staff in which the nationals of the Member Countries and other Executive Board Members are fairly represented, paying due regard to their overall role and contribution in the implementation of KEDO activities, including the LWR project, and to the importance of securing the highest standards of integrity, efficiency, and technical competence.

Article XIV(b), (c) and (d) are amended to read as follows (with new language underlined):

(b) States and international organizations, including regional integration organizations, approved by the Executive Board for membership in accordance with Article V(b) may become Members by submitting an instrument of acceptance of this Agreement to the Executive Director, which shall become effective on the date of receipt by the Executive Director.

(c) This Agreement may be amended, terminated, or suspended by written agreement of the Members represented on the Executive Board.

-OR-

(c) This Agreement may be amended, terminated, or suspended by written agreement of a majority of the Members represented on the Executive Board.

AGREEMENT ON THE ESTABLISHMENT OF
THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

The Government of the United States of America, the Government of Japan, and the Government of the Republic of Korea:

Affirming the objective of an overall resolution of the North Korean nuclear issue, as referred to in the Agreed Framework Between the United States of America and the Democratic People's Republic of Korea, signed in Geneva on October 21, 1994 (hereinafter referred to as "the Agreed Framework");

Recognizing the critical importance of the nonproliferation and other steps that must be taken by North Korea, as described in the Agreed Framework, as a condition of implementation of the Agreed Framework;

Bearing in mind the paramount importance of maintaining peace and security on the Korean Peninsula;

Wishing to cooperate in taking the steps necessary to implement the Agreed Framework, consistent with the Charter of the United Nations, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Statute of the International Atomic Energy Agency; and

Convinced of the need to establish an organization, as contemplated in the Agreed Framework, to coordinate cooperation among interested parties and to facilitate the financing and execution of projects needed to implement the Agreed Framework;

Have agreed as follows:

ARTICLE I

The Korean Peninsula Energy Development Organization (hereinafter referred to as "KEDO" or "the Organization") is established upon the terms and conditions hereinafter set forth.

ARTICLE II

(a) The purposes of the Organization shall be to:

- (1) provide for the financing and supply of a light-water reactor (hereinafter referred to as "LWR") project in North Korea (hereinafter referred to as "the DPRK"), consisting of two reactors of the Korean standard nuclear plant model with a capacity of approximately 1,000 MW(e) each, pursuant to a supply agreement to be concluded between the Organization and the DPRK;
- (2) provide for the supply of interim energy alternatives in lieu of the energy from the DPRK's graphite-moderated reactors pending construction of the first light-water reactor unit; and
- (3) provide for the implementation of any other measures deemed necessary to accomplish the foregoing or otherwise to carry out the objectives of the Agreed Framework.

(b) The Organization shall fulfill its purpose with a view toward ensuring the full implementation by the DPRK of its undertakings as described in the Agreed Framework.

ARTICLE III

In carrying out these purposes, the Organization may do any of the following:

- (a) Evaluate and administer projects designed to further the purposes of the Organization;
- (b) Receive funds from members of the Organization or other states or entities for financing projects designed to further the purposes of the Organization, manage and disburse such funds, and retain for Organization purposes any interest that accumulates on such funds;
- (c) Receive in-kind contributions from members of the Organization or other states or entities for projects designed to further the purposes of the Organization;
- (d) Receive funds or other compensation from the DPRK in payment for the LWR project and other goods and services provided by the Organization;

- (e) Cooperate and enter into agreements, contracts, or other arrangements with appropriate financial institutions, as may be agreed upon, for the handling of funds received by the Organization or designated for projects of the Organization;
- (f) Acquire any property, facilities, equipment, or goods necessary for achieving the purposes of the Organization;
- (g) Conclude or enter into agreements, contracts, or other arrangements, including loan agreements, with states, international organizations, or other appropriate entities, as may be necessary for achieving the purposes and exercising the functions of the Organization;
- (h) Coordinate with and assist states, local authorities and other public entities, national and international institutions, and private parties in carrying out activities that further the purposes of the Organization, including activities promoting nuclear safety;
- (i) Dispose of any receipts, funds, accounts, or other assets of the Organization and distribute the proceeds in accordance with the financial obligations of the Organization, with any remaining assets or proceeds therefrom to be distributed in an equitable manner according to the contributions of each member of the Organization, as may be determined by the Organization; and
- (j) Exercise such other powers as shall be necessary in furtherance of its purposes and functions, consistent with this Agreement.

ARTICLE IV

(a) Activities undertaken by the Organization shall be carried out consistent with the Charter of the United Nations, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Statute of the International Atomic Energy Agency.

(b) Activities undertaken by the Organization shall be subject to the DPRK's compliance with the terms of all agreements between the DPRK and KEDO and to the DPRK acting in a manner consistent with the Agreed Framework. In the event that these conditions are not satisfied, the Organization may take appropriate steps.

(c) The Organization shall obtain formal assurances from the DPRK that nuclear materials, equipment, or technology transferred to the DPRK in connection with projects undertaken by the Organization shall be used exclusively for such projects, only for peaceful purposes, and in a manner that ensures the safe use of nuclear energy.

ARTICLE V

(a) The original members of the Organization shall be the United States of America, Japan, and the Republic of Korea (hereinafter referred to as the "original Members").

(b) Additional states that support the purposes of the Organization and offer assistance, such as providing funds, goods, or services to the Organization, may, with the approval of the Executive Board, also become members of the Organization (hereinafter jointly with the original Members referred to as "Members") in accordance with the procedures in Article XIV(b).

ARTICLE VI

(a) The authority to carry out the functions of the Organization shall be vested in the Executive Board.

(b) The Executive Board shall consist of one representative of each of the original Members.

(c) The Executive Board shall select a Chair from among the representatives serving on the Executive Board for a term of two years.

(d) The Executive Board shall meet whenever necessary at the request of the Chair of the Executive Board, the Executive Director, or any representative serving on the Executive Board, in accordance with rules of procedure it shall adopt.

(e) Decisions of the Executive Board shall be made by a consensus of the representatives of all the original Members.

(f) The Executive Board may approve such rules and regulations as may be necessary or appropriate to achieve the purposes of the Organization.

(g) The Executive Board may take any necessary action on any matter relating to the functions of the Organization.

ARTICLE VII

- (a) The General Conference shall consist of representatives of all the Members.
- (b) The General Conference shall be held annually to consider the Annual Report, as referred to in Article XII.
- (c) Extraordinary meetings of the General Conference shall be held at the direction of the Executive Board to discuss matters submitted by the Executive Board.
- (d) The General Conference may submit a report containing recommendations to the Executive Board for its consideration.

ARTICLE VIII

- (a) The staff of the Organization shall be headed by an Executive Director. The Executive Director shall be appointed by the Executive Board as soon as possible after this Agreement enters into force.
- (b) The Executive Director shall be the chief administrative officer of the Organization and shall be under the authority and subject to the control of the Executive Board. The Executive Director shall exercise all the powers delegated to him or her by the Executive Board and shall be responsible for conducting the ordinary business of the Organization, including the organization and direction of a headquarters and a staff, the preparation of annual budgets, the procurement of financing, and the approval, execution and administration of contracts to achieve the purposes of the Organization. The Executive Director may delegate such powers to other officers or staff members as he or she deems appropriate. The Executive Director shall perform his or her duties in accordance with all rules and regulations approved by the Executive Board.
- (c) The Executive Director shall be assisted by two Deputy Executive Directors. The two Deputy Executive Directors shall be appointed by the Executive Board.
- (d) The Executive Director and the Deputy Executive Directors shall be appointed for terms of two years and may be reappointed. They shall be nationals of the original Members. The terms of employment, including salaries, of these officers shall be determined by the Executive Board. The Executive Director and the Deputy Executive Directors may be removed prior to the expiration of their terms by a decision of the Executive Board.

(e) The Executive Director shall have the authority to approve projects, execute contracts, and enter into other financial obligations on behalf of the Organization within guidelines adopted by the Executive Board and the limits of the approved budget, provided that the Executive Director shall obtain the prior approval of the Executive Board for projects, contracts, or financial obligations that exceed a specified value, which shall be determined by the Executive Board based on the need for effective and efficient operation of the Organization.

(f) The Executive Director shall establish staff positions and terms of employment, including salaries, subject to the approval of the Executive Board. The Executive Director shall appoint qualified personnel to such staff positions and dismiss personnel as necessary, in accordance with rules and regulations to be approved by the Executive Board. The Executive Director shall seek to appoint a staff in which the nationals of the original Members are fairly represented, paying due regard to the importance of securing the highest standards of integrity, efficiency, and technical competence.

(g) The Executive Director shall report to the Executive Board and the General Conference on the activities and finances of the Organization. The Executive Director shall promptly bring to the notice of the Executive Board any matter that may require Executive Board action.

(h) The Executive Director, with the advice of the Deputy Executive Directors, shall prepare rules and regulations consistent with this Agreement and the purposes of the Organization. The rules and regulations shall be submitted to the Executive Board for its approval prior to implementation.

(i) In the performance of their duties, the Executive Director and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action that might reflect on their position as international officials responsible only to the Organization. Each Member undertakes to respect the exclusively international character of the responsibilities of the Executive Director and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE IX

(a) The Executive Board shall establish Advisory Committees to provide advice to the Executive Director and the Executive Board, as appropriate, on specific projects being carried out by the Organization or proposed to be carried out by the

Organization. Advisory Committees shall be established for the light-water reactor project, the project for the provision of interim energy alternatives, and such other projects as the Executive Board may determine.

(b) Each Advisory Committee shall include representatives of the original Members and other Members that support the project for which the Advisory Committee was established.

(c) The Advisory Committees shall meet at such times as they may determine.

(d) The Executive Director shall keep the Advisory Committees fully informed of matters pertinent to their respective projects, and the Executive Board and Executive Director shall give due consideration to the recommendations of the Advisory Committees.

ARTICLE X

(a) The budget for each fiscal year shall be prepared by the Executive Director and shall be approved by the Executive Board. The Organization's fiscal year shall be from January 1 to December 31.

(b) Each Member may make voluntary contributions to the Organization by providing or making available such funds as it deems appropriate. Such contributions may be made directly to the Organization or by paying the Organization's contractors. Contributions shall be paid by cash deposit, escrow, letter of credit, promissory note, or by such other legal means and in such currency as may be agreed between the Organization and the contributor.

(c) The Organization may seek contributions from such other public or private sources as it deems appropriate.

(d) The Organization shall establish an account or accounts to receive funds from Members or other sources, including independent accounts for those funds to be reserved for specific projects and the administration of the Organization. Interest or dividends accruing to such accounts shall be reinvested for activities of the Organization. Excess funds shall be distributed as set forth in Article III(i).

ARTICLE XI

(a) Members may make available to the Organization or its contractors goods, services, equipment, and facilities that may be of assistance in achieving the purposes of the Organization.

(b) The Organization may accept from such other public or private sources as it deems appropriate any goods, services, equipment, and facilities that may be of assistance in achieving the purposes of the Organization.

(c) The Executive Director shall be responsible for valuing in-kind contributions to the Organization, whether direct or indirect. Members shall cooperate with the Executive Director in the valuation process, including by providing regular reports of in-kind contributions and access to records necessary to verify the value of such contributions.

(d) In the event of a dispute concerning the value of an in-kind contribution, the Executive Board shall review the matter and render a decision.

ARTICLE XII

The Executive Director shall submit to the Executive Board for its approval an annual report on the activities of the Organization, which shall include a description of the status of the LWR project and other projects, a comparison of planned activities to completed activities, and an audited statement of the Organization's accounts. Upon the approval of the Executive Board, the Executive Director shall distribute the annual report to the Members. The Executive Director shall submit to the Executive Board such other reports as may be required by the Executive Board.

ARTICLE XIII

(a) To carry out its purposes and functions, the Organization shall possess legal capacity and, in particular, the capacity to: (1) contract; (2) lease or rent real property; (3) acquire and dispose of personal property; and (4) institute legal proceedings. Members may accord the Organization such legal capacity in accordance with their respective laws and regulations where necessary for the Organization to carry out its purposes and functions.

(b) No Member shall be liable, by reason of its status or participation as a Member, for acts, omissions, or obligations of the Organization.

(c) Information provided to the Organization by a Member shall be used exclusively for the purposes of the Organization and shall not be publicly disclosed without the express consent of that Member.

(d) Implementation of this Agreement in the Members' territories shall be in accordance with the laws and regulations, including budgetary appropriations, of such Members.

ARTICLE XIV

- (a) This Agreement shall enter into force upon signature by the original Members.
- (b) States approved by the Executive Board for membership in accordance with Article V(b) may become Members by submitting an instrument of acceptance of this Agreement to the Executive Director, which shall become effective on the date of receipt by the Executive Director.
- (c) This Agreement may be amended by written agreement of the original Members.
- (d) This Agreement may be terminated or suspended by written agreement of the original Members.

ARTICLE XV

A Member may withdraw from this Agreement at any time by giving written notice of withdrawal to the Executive Director. The withdrawal shall become effective ninety days after receipt of the notice of withdrawal by the Executive Director.

DONE at New York, this ninth day of March, 1995, in three copies in the English language.

For the Government of the
United States of America: _____/s/

For the Government of Japan: _____/s/

For the Government of the
Republic of Korea: _____/s/

DRAFT AGREEMENT AMONG
THE ORIGINAL MEMBERS OF KEDO

With regard to voting under article VI(e) of the Agreement on the Establishment of the Korean Peninsula Energy Development Organization (the "KEDO Agreement"), the Government of the Republic of Korea, the Government of Japan, and the Government of the United States of America have agreed as follows:

1. Representatives of the original Members of KEDO shall continue to consult closely among themselves in the KEDO decision-making process.
2. Consensus among the original Members shall continue to govern decision-making on the Executive Board, including decisions concerning Executive Director and Deputy Executive Director positions.
3. If the original Members cannot reach a consensus on a decision proposed by one of the original Members, the original Members shall not submit the proposed decision to the Executive Board for a vote.
4. If a vote is required on a proposed decision, the representatives of the original Members shall not vote for the proposed decision unless all of them agree to vote for it.
5. The original Members shall not vote to expand the Executive Board to more than five members unless they have agreed on a mechanism to preserve the decision-making principles embodied in this agreement.

DRAFT
AGREEMENT ON TERMS AND CONDITIONS OF THE ACCESSION OF
THE EUROPEAN ATOMIC ENERGY COMMUNITY
TO THE
KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

THE EUROPEAN ATOMIC ENERGY COMMUNITY, hereinafter referred to as "the Community", and THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION, hereinafter referred to as "KEDO",

WHEREAS the Community and its Member States support the objectives of the Agreed Framework between the United States of America and the Democratic People's Republic of Korea (hereinafter referred to as the "DPRK"), signed in Geneva on 21 October 1994;

WHEREAS KEDO was established pursuant to the Agreement on the Establishment of the Korean Peninsula Energy Development Organization, entered into in New York on 9 March 1995 (hereinafter referred to as the "KEDO Agreement") among the Governments of the Republic of Korea, Japan and the United States of America (hereinafter referred to as the "Original Members");

WHEREAS the Community is willing to cooperate with the Original Members in taking the necessary steps to implement KEDO's objectives and, to that end, has become a Member of KEDO pursuant to Article V(b) and XIV(b) of the KEDO Agreement, as amended, effective _____, 19__; and

WHEREAS the Executive Board of KEDO, noting the Community's intention to contribute to KEDO 15 million ECU annually for five years, has determined pursuant to Article VI(b) of the KEDO Agreement, as amended, that such contributions would constitute substantial and sustained support to KEDO:

HAVE AGREED AS FOLLOWS :

Article I

Executive Board

1. Pursuant to Article VI(b) of the KEDO Agreement, as amended, the Community shall be represented on the Executive Board of KEDO for a term to coincide with the Community's substantial and sustained support to KEDO.
2. As a member of the Executive Board, the Community shall participate in the activities of the Executive Board with the same rights and obligations as the other members of the Executive Board, as described in the KEDO Agreement, as amended.

Article 2

Advisory Committees

Community representation on KEDO Advisory Committees under Article IX(b) of the KEDO Agreement, as amended, shall include representation on Advisory Committees that may be established on safeguards and nuclear safety. The Community shall also be entitled to serve as chair of appropriate Advisory Committees pursuant to the relevant rules and regulations of KEDO.

Article 3

KEDO Staff

Personnel from the Community shall be appointed to suitable positions on the staff of KEDO.

Article 4

Privileges and Immunities in the DPRK

Personnel from the Community and its Member States sent to the DPRK by KEDO, its contractors and subcontractors are entitled to privileges, immunities, protections, exemptions and facilities, as appropriate, in accordance with the respective provisions in the Protocol Between KEDO and the DPRK on the Juridical Status, Privileges and Immunities, and Consular Protections of KEDO in the DPRK, signed in New York on 11 July 1996, executed pursuant to Article IV of the Agreement on the Supply of a Light-Water Reactor Project to the DPRK between KEDO and the DPRK, signed in New York on 15 December 1995 (hereinafter referred to as the "Supply Agreement").

Article 5

Equitable Distribution

Pursuant to Article III(i) of the KEDO Agreement, as amended, the Community shall be entitled to participate in distribution of any remaining KEDO assets or proceeds therefrom in an equitable manner according to its contribution to KEDO.

Article 6

Liability Protections

1. In the area of nuclear liability, KEDO has obtained legally binding commitments from the DPRK in Article XI of the Supply

Agreement, with respect, inter alia, to an indemnity to be given by the DPRK, nuclear liability insurance or other financial security to be secured by the DPRK, and a legal mechanism to be implemented by the DPRK channeling nuclear liability exclusively to the operator, in order to protect itself, its Members, its contractors and subcontractors, and their respective personnel from any liability for any injury, loss or damage resulting from nuclear incidents in connection with the LWR plants.

2. Conventional liability for any injury, loss or damage resulting from KEDO's activities and omissions shall be covered under appropriate insurance policies.

Article 7

Industrial Aspects

1. Subcontracts for the appropriate portion of the LWR balance of plant will be put to bid and awarded in a fair and transparent manner by the Prime Contractor, subject to the terms and conditions to be stipulated in the Prime Contract, taking into due account the participation in KEDO, through the Community, of the Community Member State in which the prospective subcontractor is established.

2. Pursuant to its procurement guidelines for contracts other than the Prime Contract for the LWR Project, KEDO follows a fair and transparent process in awarding its own contracts for goods and services in which Community enterprises will be able to participate fully.

Article 8

Audit

The Community will be entitled to audit KEDO's expenditure of its contribution and, to do so, will be granted access to, in an appropriate manner, the relevant financial accounts of KEDO upon demand.

Article 9

Dispute Settlement

Any question or dispute relating to the application or interpretation of this Agreement shall be the subject of consultations, negotiations or other similar procedure.

Article 10

Entry into Force

This Agreement shall enter into force upon signature by the Community and KEDO.

Done at _____ this _____ day of _____, in two originals.

For :

The European Atomic Energy Community,

For :

The Korean Peninsula Energy Development Organization,

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. paper	memorandum of law re Circular 175 (3 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [2]

2009-0528-F
kc1438

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

TO: AGENCIES

FROM: SENS

DOC DATE: 25 MAY 96
SOURCE REF:

KEYWORDS: KOREA
PL-480

PC
FOOD

JS
JB
File - Korea

PERSONS:

SUBJECT: AGENCY DISCUSSION PAPER FOR 28 MAY PC MTG ON KOREA

ACTION: SENS SGD MEMO TO AGENCIES

DUE DATE: 28 MAY 96

STATUS: C

STAFF OFFICER: SUETTINGER

LOGREF:

FILES: IFM

NSCP:

CODES: KOR

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

JOSHI
KRECKO
KRISTOFF
NSC CHRON
PONEMAN
RAGAN
SUETTINGER

DECLASSIFIED E.O. 13526

White House Guidelines,

September 11, 2006

By *VM* NARA, Date *03/16/15*
2009-0528-F

COMMENTS: _____

DISPATCHED BY *VM*

DATE *5/27*

BY HAND *W/ATTCH*

OPENED BY: NSKDB

CLOSED BY: NSKDB

DOC 2 OF 2

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RECORD ID: 9620507

ACTION DATA SUMMARY REPORT

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 LAKE	Z 96052417 FOR DECISION
001	X 96052512 LAKE APPROVED RECOM
001 SENS	Z 96052512 FOR SIGNATURE
002	X 96052517 SENS SGD MEMO TO AGENCIES

DISPATCH DATA SUMMARY REPORT

<u>DOC</u>	<u>DATE</u>	<u>DISPATCH FOR ACTION</u>	<u>DISPATCH FOR INFO</u>
002	960525	FUERTH, L	
002	960525	BURNS, W	
002	960525	NYE, J	
002	960525	MCALEER, R	
002	960525	SCHNOOR, K	
002	960525	LAVIN, A	
002	960525	INDERFURTH, R	
002	960525	PANETTA, L	
002	960525	YANNUZZI, R	
002	960525	TARULLO, D	
002	960525	STARR, B	
002	960525	WILSON, F	

~~SECRET~~

NATIONAL SECURITY COUNCIL
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LOG 9620507
DATE 25 MAY 96

SUBJECT: AGENCY DISCUSSION PAPER FOR 28 MAY PC MTG ON KOREA
DOCUMENT CLASSIFICATION: ~~SECRET~~

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MR. WILLIAM J. BURNS DEPARTMENT OF STATE ROOM 7224, MAIN STATE 2201 C STREET, N.W. WASHINGTON, D.C. 20520	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>VIA FAX +1</u>
MR. J. BENJAMIN NYE DEPARTMENT OF THE TREASURY ROOM 3408, MAIN TREASURY BLDG 1500 PENNSYLVANIA AVE, NW WASHINGTON, DC 20220	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>VIA FAX</u>
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2009-0528-F

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PAGE 01 OF 02 PAGES

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LOG 9620507
DATE 25 MAY 96

SUBJECT: AGENCY DISCUSSION PAPER FOR 28 MAY PC MTG ON KOREA
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MR. LEON E. PANETTA WHITE HOUSE 1ST FLOOR, WEST WING WASHINGTON, DC 20500	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>1</u>
MR. RICK E. YANNUZZI CENTRAL INTELLIGENCE AGENCY EXECUTIVE SECRETARIAT ROOM 7E12, HEADQUARTERS WASHINGTON, DC 20505	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>VIA FAX</u>
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MS. BARBARA STARR ARMS CONTROL & DISARMAMENT AGENCY ROOM 5933, NEW STATE 2201 C STREET, NW WASHINGTON, DC 20451	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>VIA FAX</u>
COL. F. C. WILSON JOINT CHIEFS OF STAFF ROOM 2E865 PENTAGON WASHINGTON, DC 20318-0001	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>VIA FAX</u>

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PAGE 02 OF 02 PAGES

TIME OF TRANSMISSION:

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PRECEDENCE: X IMMEDIATE
PRIORITY
ROUTINE

RELEASER: _____

DTG: _____

MESSAGE NO: _____

CLASSIFICATION: ~~SECRET~~PAGES: 11FROM: NSC WEST WING DESK
(NAME)088 (202) 456-9425

(PHONE NUMBER)

WH SITUATION ROOM

(ROOM NO.)

MESSAGE DESCRIPTION: Discussion Papers for 28 May PCMeeting on KoreaNSC LOG # 20507

TO (AGENCY)	DELIVER TO	DEPT/ROOM NO.	PHONE NUMBER
State	Executive Secretary		
Treasury	Executive Secretary		
DOD	Executive Secretary		
DOE	Dir., Exec. Secretariat		
USUN	Off. of the Rep. of the U.S. (Wash.)		736-7699
CIA	Executive Secretary		
AEDA	Executive Secretary		
JCS	Secretary, Joint Staff		

REMARKS:

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2009-0528-F

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003a. fax	cover sheet, NCS to USUN re discussion paper (1 page)	05/28/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [2]

2009-0528-F
kc1438

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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~~SECRET~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

20507

May 25, 1996

MEMORANDUM FOR:

MR. LEON FUERTH
Assistant to the Vice
President for National
Security Affairs

AMB. RICK INDERFURTH
Office of the Representative
of the U.S. to the United
Nations

MR. WILLIAM BURNS
Executive Secretary
Department of State

MR. LEON PANETTA
Chief of Staff to the
President (Principal only)

MR. J. BENJAMIN NYE
Executive Secretary
Department of Treasury

MR. RICK E. YANNUZZI
Executive Secretary
Central Intelligence Agency

COL. ROBERT P. MCALEER
Executive Secretary
Department of Defense

MR. DANIEL TARULLO
Deputy Assistant to the
President for Economic
Policy

MS. KIM SCHNOOR
Special Assistant to the
Secretary
Department of Agriculture

MS. BARBARA STARR
Executive Secretary
Arms Control and Disarmament
Agency

MS. ANN LAVIN
Director, Executive
Secretariat
Department of Energy

COL. F. C. WILSON
Secretary, Joint Staff

SUBJECT: Principals Committee Meeting on Korea --
Supplementary Papers ~~(S)~~

Attached are two papers for your reference for the Principals Committee meeting on Korea scheduled for Tuesday, May 28, 1996 from 2:00 - 3:00 p.m. in the Situation Room.

At Tab A is a decision paper concerning provision of U.S. food emergency assistance to North Korea. It reflects an IWG discussion and State Department decision paper on the same subject.

DECLASSIFIED E.O. 13526
White House Guidelines,
September 11, 2006

By  NARA, Date 03/16/15
2009-0528-F

~~SECRET~~

Classified by: Andrew D. Sens
Reason: 1.5 (b) (d)
Declassify On: 1.6 X6

~~SECRET~~

At Tab B is a State Department paper on possible options for lifting U.S. sanctions currently in place against North Korea. It is for information purposes only.

A handwritten signature in black ink, appearing to read 'Andrew D. Sens', with a large, sweeping flourish at the end.

Andrew D. Sens
Executive Secretary

Attachments

Tab A	Decision paper on food assistance
Tab B	Options paper on sanctions lifting

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003b. paper	re food assistance (3 pages)	05/28/1996	P1/b(1)

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Mary Derosa (Legal Advisor)
OA/Box Number: 2959

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Korea [2]

2009-0528-F
kc1438

RESTRICTION CODES

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RR. Document will be reviewed upon request.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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003c. paper	re easing economic sanctions (6 pages)	05/28/1996	P1/b(1)
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National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

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2009-0528-F
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003d. memo	action, Robert Suettinger to Anthony Lake re supplementary papers (1 page)	05/24/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Mary Derosa (Legal Advisor)
OA/Box Number: 2959

FOLDER TITLE:

Korea [2]

2009-0528-F
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
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eap/k

Office of Korean Affairs
U.S. Department of State
Washington, D.C. 20520

PHONE: (202) 647-7717 FAX: (202) 647-7388

DATE:

6/20

TO: NSC-ROB/LHWK (456-9180)

MESSAGE:

US-DPRK Joint Statement

Text -

as requested

Korea

Jo:

Please give

AK a copy FYI

and file

North Korea.

TX

TO: Jamie Baker

Attached is a copy of
the Kuala Lumpur
text.

JOINT U.S.-DPRK PRESS STATEMENT
KUALA LUMPUR, JUNE 13, 1995

The delegations of the United States of America (U.S.) and the Democratic People's Republic of Korea (DPRK) held talks in Kuala Lumpur from May 19 to June 12, 1995, with respect to implementation of the DPRK-U.S. Agreed Framework of October 21, 1994.

Both sides reaffirmed their political commitments to implement the U.S.-DPRK Agreed Framework, and with particular regard to facilitating the light water reactor (LWR) project as called for in the Agreed Framework, decided as follows:

- I -

The U.S. reaffirms that the letter of assurance from the U.S. President dated October 20, 1994 concerning the provision of the LWR project and interim energy alternatives continues in effect.

The Korean Peninsula Energy Development Organization (KEDO), under U.S. leadership, will finance and supply the LWR project in the DPRK as called for in the Agreed Framework. As specified in the Agreed Framework, the U.S. will serve as the principal point of contact with the DPRK for the LWR project. In this regard, U.S. citizens will lead delegations and teams of KEDO as required to fulfill this role.

- II -

The LWR project will consist of two pressurized light water reactors with two coolant loops and a generating capacity of approximately 1,000MW(E) each. The reactor model, selected by KEDO, will be the advanced version of U.S.-origin design and technology currently under production.

- III -

The Commission for External Economic Relations, representing the DPRK Government, and KEDO will conclude a supply agreement at the earliest possible date for the provision of the LWR project on a turnkey basis. On the basis of this statement, the DPRK will meet with KEDO as soon as possible to negotiate the outstanding issues of the LWR supply agreement.

KEDO will conduct a site survey to identify the requirements for construction and operation of the LWR project. The costs of this site survey and site preparation will be included in the scope of supply for the project.

KEDO will select a prime contractor to carry out the project. A U.S. firm will serve as program coordinator to assist KEDO in supervising overall implementation of the LWR project; KEDO will select the program coordinator. A DPRK firm will enter into implementing arrangements as necessary to facilitate the LWR project.

- IV -

In addition to the LWR project, the two sides decided to take the following steps towards implementation of the Agreed Framework.

Experts from the two sides will meet in the DPRK as soon as possible in June to agree on a schedule and cooperative measures for phased delivery of heavy fuel oil in accordance with the Agreed Framework. KEDO will begin immediately to make arrangements for an initial delivery of heavy fuel oil, subject to conclusion of the above agreement.

The DPRK-U.S. Record of Meeting of January 20, 1995, on safe storage of spent fuel will be expeditiously implemented. In this regard, a U.S. team of experts will visit the DPRK as soon as possible in June to begin implementation.

6/12/95