

FOIA MARKER

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Folder Title:

North Korea

Staff Office-Individual:

Legislative Affairs-Lackey, Miles

Original OA/ID Number:

3361

Row:	Section:	Shelf:	Position:	Stack:
40	3	5	1	V

TO: PRESIDENT

FROM: BERGER
STEIN, L
WH EXECUTIVE CLERK

DOC DATE: 25 JAN 99
SOURCE REF:

KEYWORDS: KOREA NORTH
SANCTIONS

CONGRESSIONAL
NON PROLIFERATION

PERSONS:

SUBJECT: SEMI-ANNUAL RPT TO CONGRESS ON NORTH KOREAN COMPLIANCE W/ US - DPRK
AGREED FRAMEWORK

ACTION: PRESIDENT SGD PER WH EXEC CLERK DUE DATE: 12 OCT 98 STATUS: C

STAFF OFFICER: PRITCHARD

LOGREF:

FILES: WH

NSCP:

CODES:

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

BAKER
LACKEY
NSC CHRON
PRITCHARD
SAMORE

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSGP

CLOSED BY: NSDMK

DOC 3 OF 3

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9806829

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 PRITCHARD	Z 98100611 PREPARE MEMO FOR BERGER
002 BERGER	Z 99010815 FWD TO PRESIDENT FOR SIGNATURE
002 SAMORE	Z 99010816 FOR REDO
002 BERGER	Z 99012514 FWD TO PRESIDENT FOR SIGNATURE
002 STEIN, L	Z 99012514 FOR SIGNATURE
003 PRESIDENT	Z 99012515 FOR SIGNATURE
003	X 99021120 PRESIDENT SGD PER WH EXEC CLERK

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003	990125	VICE PRESIDENT
003	990125	WH CHIEF OF STAFF

UNCLASSIFIED

National Security Council
The White House

1/22
0834

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URGENT NOT PROOFED: _____
BYPASSED WW DESK: _____

LOG # 9806829
SYSTEM PRS NSC INT ARS
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	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Cosgriff	1	<u>R</u> 1/21	
Rice			
Davies			
Kerrick			
Steinberg	2		
Berger	3		
Situation Room			
West Wing Desk	4		
Records Mgt.	5		
		<u>2/11 OMC</u>	<u>D</u> <u>N/R</u>

A = Action
I = Information
D = Dispatch
R = Retain
N = No Further Action

CC:

REMARKS: Semi Annual Report on North
Korean Compliance w/ US-DPRK
Agreed Framework.
yes

National Security Council
The White House

PROOFED BY: _____

LOG # 6827

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT ARS

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	SEQUENCE TO	INITIAL/DATE	DISPOSITION
<u>B</u> Cosgriff			
Rice	<u>1</u>	<u>P47</u> <u>gone</u>	<u>Blue Note</u>
Davies			
Kerrick	<u>2</u>	<u>copy</u>	
Steinberg	<u>3</u>		<u>See ed. 1</u> <u>+ guide</u>
Berger			
Situation Room			
West Wing Desk	<u>4</u>	<u>1/8 DMK</u>	<u>D64</u>
Records Mgt.			
<u>Samore</u>	<u>5</u>		<u>A-2 ed.</u> ^{JS?}

A = Action I = Information D = Dispatch R = Retain N = No Further Action

CC:

COMMENTS: Semi-Annual Report on
N. Korean Compliance
with the U.S. - DPRK Agmt
Framework
Exec Sec Office has diskette yes

THE WHITE HOUSE

WASHINGTON

January 25, 1999

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK *8*FROM: SAMUEL BERGER *SB*
LARRY STEIN *LS**APR 25 1999*
President *egd* per WH
Executive Clerk *TTC 2/2*SUBJECT: Semi-Annual Report to Congress on North Korean
Compliance with the U.S.-DPRK Agreed FrameworkPurpose

To transmit the semi-annual report to Congress on North Korean compliance with the Agreed Framework.

Background

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✓ The Foreign Operations Appropriations Act, 1996 (PL 104-107), enacted February 14, 1996, requires you to report to Congress every six months on North Korean compliance with the Agreed Framework, including progress of the light water reactor project, North Korean observance of the nuclear freeze, and U.S. efforts to encourage North-South dialogue. The attached letters from you forward the report to the relevant Congressional Committees. The report, which covers the period from February to December 1998, is unclassified.

As explained by the report, North Korea's nuclear facilities for the production of plutonium remain frozen under IAEA supervision, but we are concerned about suspect underground construction in North Korea. The report also describes our efforts to encourage North-South dialogue, including the Four-Party talks.

RECOMMENDATION

That you sign the letters at Tab A.

Attachments

Tab A Letters to Congress

Tab B Report on North Korean Compliance

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

I transmit herewith the report required under the heading "International Organizations and Programs" in title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107), relating to the Korean Peninsula Energy Development Organization (KEDO). The attached report covers the period through December 1998.

Sincerely,

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

I transmit herewith the report required under the heading "International Organizations and Programs" in title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107), relating to the Korean Peninsula Energy Development Organization (KEDO). The attached report covers the period through December 1998.

Sincerely,

The Honorable C.W. Bill Young
Chairman
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

Dear Senator Byrd:

I transmit herewith the report required under the heading "International Organizations and Programs" in title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107), relating to the Korean Peninsula Energy Development Organization (KEDO). The attached report covers the period through December 1998.

Sincerely,

The Honorable Robert C. Byrd
Committee on Appropriations
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Representative Obey:

I transmit herewith the report required under the heading "International Organizations and Programs" in title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107), relating to the Korean Peninsula Energy Development Organization (KEDO). The attached report covers the period through December 1998.

Sincerely,

The Honorable David R. Obey
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

REPORT REQUIRED UNDER THE HEADING
"INTERNATIONAL ORGANIZATIONS AND PROGRAMS"
IN TITLE IV OF THE FOREIGN OPERATIONS APPROPRIATIONS ACT
FOR FY 1996

THROUGH DECEMBER 1998

The final proviso set forth under the heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act, 1996 (P.L. 104-107), requires the President to submit to the Committees on Appropriations a semi-annual report on specific efforts with regard to:

- (a) KEDO designation of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light-water reactors provided for in the Agreed Framework;
- (b) The Democratic People's Republic of Korea's (DPRK) maintenance of the freeze on its nuclear facilities, as required in the Agreed Framework; and
- (c) United States steps to assure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

(a) - Designation of ROK Company

In section I of the Agreed Framework between the United States of America and the Democratic People's Republic of Korea (DPRK), signed in Geneva on October 21, 1994, the two parties stated that they would cooperate in replacing the DPRK's graphite-moderated reactors and related facilities with light-water reactor (LWR) power plants. The United States further stated that it would undertake to make arrangements for the provision of the LWR project to the DPRK, including organizing under its leadership an international consortium to finance and supply the project. This organization, the Korean Peninsula Energy Development Organization (KEDO), was created on March 9, 1995, by agreement of the United States, Japan and the Republic of Korea (ROK). These parties have agreed that the ROK will assume the central role in financing and constructing the LWR project.

On June 13, 1995, in Kuala Lumpur, the United States and the DPRK issued a joint statement providing that KEDO will select both the LWR reactor model and the prime contractor to carry out the project. (These points were confirmed in the LWR Supply Agreement between KEDO and the DPRK, signed on December 15, 1995, in New York.) On the same date as the Kuala Lumpur statement (June 13, 1995), the KEDO Executive Board decided by Board resolution that an ROK reactor model (Ulchin 3/4) would be built in the DPRK by an ROK firm. KEDO subsequently agreed that the Korea Electric Power Company (KEPCO) will be the prime contractor in building the light-water reactors called for in the Agreed Framework. On March 19, 1996, KEDO passed Executive Board Resolution 1996-3, officially designating KEPCO as prime contractor. KEDO and KEPCO are in the process of formal negotiations on the prime contract. KEPCO employees have participated in several site surveys of the proposed reactor site in the DPRK as well as in KEDO negotiations with the DPRK regarding protocols to the Light Water Reactor Supply Agreement. On July 2, 1997, KEDO and the DPRK signed 19 separate documents which facilitated the August 19, 1997, ground-breaking for the LWR project in Kumho, North Korea. Since then, over 100 ROK KEPCO employees have been living in the North and engaging in site preparation activities.

(b) - DPRK Maintenance of the Freeze

Section I (3) of the U.S.-DPRK Agreed Framework provides for the immediate freeze and eventual dismantlement of the DPRK's graphite-moderated reactors and related facilities. Within this context, the DPRK agreed to implement the freeze on its nuclear facilities within one month after the signing of the Agreed Framework and to allow the International Atomic Energy Agency (IAEA) to monitor the freeze on its facilities, with the full cooperation of the DPRK. Both of these events have occurred. In addition, the Agreed Framework called for the United States and the DPRK to cooperate in finding a method to package and safely store the spent fuel from the DPRK's 5 MW(e) experimental reactor during the construction of the LWR project, and, between the delivery of the key nuclear components for the first LWR and the completion of that unit, to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

Since November 1994, the DPRK's graphite-moderated nuclear reactors and related facilities have remained frozen. Specifically, this means no refueling or operation of the 5 MW(e) experimental research reactor; freezing construction on the 50 MW(e) and 200 MW(e) reactors; foregoing reprocessing; sealing and ceasing activities at the Radiochemical Laboratory; and ceasing operation of the fuel fabrication plant. The IAEA has maintained a continuous presence at the Yongbyon nuclear facilities 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 the DPRK is complying with the freeze provisions of the Agreed Framework. In addition to IAEA monitoring activities, the United States has National Technical Means which give us further confidence that the DPRK is complying with these provisions of the Agreed Framework.

With the successful conclusion on December 15, 1995, of the Agreement on the Supply of Light-Water Reactors to the DPRK, signed between the DPRK and KEDO in New York, the IAEA resumed ad hoc and routine inspections under the DPRK's safeguards agreement with the IAEA with respect to the facilities not subject to the freeze. In addition, the IAEA has conducted bilateral discussions with the DPRK to resolve a number of issues, including those related to technical aspects of freeze monitoring. DPRK and IAEA officials met in January, June and September 1996, in January and October 1997, and in February

and June 1998, to discuss a number of issues related to the canning and safe storage of spent fuel.

Other issues discussed relate to the preservation of historical data for the IAEA to use 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." In the June 1996 meeting, the DPRK presented a paper concerning the preservation of historical data at Yongbyon. Differences between the two sides still remain, as reflected in the recent GAO report on IAEA activities in North Korea. The IAEA continues to discuss this issue with the DPRK. The most recent set of technical discussions focussed on ensuring the IAEA is able successfully to monitor maintenance-related activity at North Korea's reprocessing facility. To date, all maintenance work has been completed under full monitoring by the IAEA.

In January 1995, the United States and the DPRK agreed on the method for safely storing the DPRK's spent nuclear fuel as an interim step before it is shipped out of the DPRK, as defined in the Agreed Framework. U.S. and North Korean experts are continuing to cooperate in safely storing the DPRK spent nuclear fuel despite occasional delays as a result of technical and other reasons. Actual canning of the 8,000 spent fuel rods began on April 27, 1996, and was essentially completed at the end of March 1998. The canned fuel rods have been placed under IAEA seals and surveillance.

Earlier this year, the North Koreans put a hold on the clean-up of fuel rods and fuel fragments still mixed in the sludge at the bottom of the spent fuel storage pool, citing what they claimed was a lack of U.S. commitment to the implementation of the Agreed Framework. They have additionally threatened on various occasions to begin reprocessing the uncanned spent fuel rod fragments unless the United States provides for more regular deliveries of heavy fuel oil (HFO) and the lifting of sanctions. We have made clear to North Korea that we reject these threats. In bilateral talks in early September, North Korea agreed to resume and complete, quickly and without interruption, canning of these remaining spent fuel rod

fragments. The U.S. canning team has since returned to Yongbyon, but there continue to be delays in completing the final portion of this clean-up. The U.S. team is working with the North Koreans to make arrangements to complete this work as quickly as possible.

The Agreed Framework prohibits the construction of any new graphite-moderated reactors or related facilities, which includes reprocessing and fuel fabrication facilities. The Administration is concerned about underground construction in the DPRK that might be intended to house nuclear facilities prohibited under the Agreed Framework. In talks held in New York from August 21 to September 5, the North Koreans agreed to enter into discussions regarding the underground construction site. In these discussions, the Administration will actively pursue steps, including access, to ensure that that we are fully satisfied the DPRK is in full compliance with its commitments under the Agreed Framework. To date, there have been two sets of talks, one in Pyongyang, North Korea and the other in New York City/Washington, D.C. A third round of talks took place in mid-January 1999 in Geneva, Switzerland.

(c) (1) - 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. The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue," and we have used every available opportunity to press the DPRK to do so. The United States has supported South Korean initiatives toward the North and has urged the DPRK to engage in inter-Korean dialogue. Since the signing of the Agreed Framework in October 1994, the United States also has encouraged China to use its influence with the DPRK to encourage it to participate more fully in dialogue with the South.

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.

On June 30, 1997, the DPRK announced, after a series of meetings in New York involving U.S., ROK, and DPRK officials, that it would participate in the Four-Party talks. After three rounds of preparatory talks (the first attended by all four parties) beginning in August in New York, the four parties reached agreement in November on the formal start of the peace talks. The first two plenary rounds took place in Geneva December 9-10, 1997, and March 16-20, 1998. A third round of talks took place in October and a fourth round in mid-January 1999. The PRC, which is a full participant in the Four-Party talks, has continued to offer its strong support for this effort to reduce tensions on the peninsula. Other countries in the region, including Japan and Russia, also continue to support the Four-Party process.

Implementation of the Agreed Framework also continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the United States, 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 comprised the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site. A milestone was passed on July 2, 1997, when KEDO and the DPRK signed 19 separate documents that cleared the way for ground-breaking to begin on the light-water reactor site. Ground-breaking took place on August 19, 1997. South Korea is supplying most of the personnel involved in the initial construction at the reactor site, and the installation in 1997 of mail and phone links between the LWR site and South Korea represents the first such direct ties between North and South since the Korean War.

Shortly after his election, President Kim Dae-jung invited the DPRK to participate in a North-South Summit. President Kim's announcement and his continued support of North-South relations indicate that President Kim will actively seek to promote North-South relations.

The United States has encouraged ROK efforts to engage the DPRK in productive dialogue related to international humanitarian efforts to address the North's food crisis. The ROK and the United States (and Japan) have closely coordinated their responses to appeals in 1996 and 1997 for humanitarian relief for the DPRK from international organizations such as the UN World Food Program. In 1997, ROK and DPRK Red Cross officials reached agreement governing private donations of 100,000 tons of humanitarian food assistance for the DPRK by ROK organizations.

The ROK pledged an additional 50,000 tons of assistance to be donated through this channel in 1998. North-South talks were held in Beijing in April 1998 to discuss ROK provision of 200,000 tons of fertilizer to the DPRK and other bilateral issues. The talks ended, however, without any concrete agreements. In June 1998, Hyundai Chairman Chung Joo-Yung donated 500 head of cattle to North Korea and, in an historic first, was permitted to deliver them via the DMZ. An additional 500 cattle were later delivered using the DMZ. Hyundai also reached agreement with North Korea to operate a tourism project that allows South Korean citizens visit to Mt. Kumgang in North Korea. Several such trips have been made to date.

(c) (1a) - Barriers to Trade and Investment

On January 20, 1995, the United States took initial steps to ease economic sanctions against North Korea in accordance with the Agreed Framework. These steps were taken in response to North Korea's decision to freeze its nuclear program and related facilities and cooperate with the United States and the International Atomic Energy Agency (IAEA) to verify the freeze and ensure safe storage of the DPRK spent nuclear fuel.

1. Telecommunications and Information: Authorized transactions incident to information exchange and dissemination and related to telephone and telecommunications connections between North Korea and the United States, credit card use in connection with personal travel and other travel-related transactions, and consideration, on a case-by-case basis, of the opening of offices by journalists.

2. Financial Transactions: Authorized the DPRK to use the U.S. banking system to clear transactions provided that if U.S. persons are the originators or beneficiaries of such transactions, the transactions are not otherwise prohibited under the embargo. Authorized consideration of case-by-case licensing to unblock frozen assets where there is no DPRK government interest.
3. Other Trade: Authorized consideration of case-by-case imports from the DPRK of magnesite, a refractory material used in the U.S. steel industry. North Korea and the People's Republic of China are the primary sources of natural magnesia and magnesite in the world market.
4. Other Steps to Implement the Agreed Framework: Authorized transactions related to the future establishment and operation of liaison offices in Washington and Pyongyang. Authorized the consideration, on a case-by-case basis, of participation by U.S. firms in the North Korean Light-Water Reactor project, the supply of alternative energy, and disposition of spent nuclear fuel, as provided by the Agreed Framework, in a manner consistent with applicable laws.

In April 1997, the U.S. Government also lifted the sanction on the payment to the DPRK of overflight fees by U.S. airlines, and in February 1998, the FAA amended its flight regulations to allow U.S. airlines to overfly part of the oceanic North Korean flight information region (FIR). Since that time, U.S. airlines have been permitted to overfly an oceanic route of the DPRK's FIR and pay fees for overflight services to the International Air Transport Association (IATA), which receives the funds as trustee for the DPRK.

Further relaxation of economic sanctions against the DPRK will depend on further verified progress on the nuclear issue as well as progress in other areas of concern.

(c) (2) - Implementation of Joint Denuclearization Declaration

On January 1, 1992, the Republic of Korea (ROK) and the Democratic People's Republic of Korea (DPRK) 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.

We regularly urge DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of and compliance with the Agreed Framework. The Agreed Framework, as a step towards the eventual full implementation of the Denuclearization Declaration, has succeeded to date in eliciting positive DPRK movement on certain key provisions of the Declaration. Specifically, North Korea's willingness, as part of the Agreed Framework, to immediately freeze its graphite-moderated nuclear reactors and related facilities under the Agreed Framework halted activities that otherwise would have given the DPRK a nuclear weapons capability. Such a capability would be a threat to peace and security on the Korean Peninsula as well as to Northeast Asia as a whole.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

6829

Reb

January 7, 1999

ACTION

MEMORANDUM FOR SAMUEL BERGER

FROM: GARY SAMORE (S)

SUBJECT: Semi-Annual Report on North Korean Compliance with
the U.S.-DPRK Agreed Framework

Attached at Tab I for your signature is a memorandum to the President recommending that he forward the required semi-annual report to Congress on North Korean compliance with the Agreed Framework. This unclassified report covers the period from February through December 1998. The report, originally due in October, was delayed while we worked with Congress to resolve issues concerning KEDO funding. Accordingly, we have updated the report so that it covers the period through the end of this year.

The report has been cleared interagency and is not controversial, although it contains a paragraph on our concerns about suspect underground construction in North Korea and our negotiations with North Korea to resolve these concerns.

Concurrence by: (Jack Pritchard, Newell Highsmith, Mara Rudman) GS
for

RECOMMENDATION

That you sign the Memorandum to the President at Tab I.

Attachments

Tab I Memorandum for the President
Tab A Presidential Letters to Congress
Tab B Report on North Korean Compliance
Tab II Incoming Correspondence

United States Department of State

Washington, D.C. 20520

October 5, 1998

UNCLASSIFIED

6829

MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCILSubject: Semi-Annual Report on North Korean Compliance with the
U.S.-DPRK Agreed Framework

Title IV of the Foreign Operations Appropriations Act (P.L. 104-107), enacted February 14, 1996, requires that the President report every six months thereafter to the Appropriations Committees of the House of Representatives and the Senate on the specific efforts of the U.S. Government with regard to: (a) the Korean Peninsula Energy Development Organization's (KEDO) designation of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light water reactors provided for in the Agreed Framework; (b) the Democratic People's Republic of Korea's maintenance of the freeze on its nuclear facilities as required in the Agreed Framework; and (c) U.S. steps to ensure that progress is made on (1) North-South dialogue, including efforts to reduce barriers to trade and investment, such as removing restrictions on travel, telecommunications services and financial transactions; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

The attached draft memorandum from the President to the Secretary directs the Secretary to submit the attached report concerning the matters addressed in the above paragraph and to cause the report to be published in the Federal Register. The text of the report has been reviewed during the clearance process to ensure that it is responsive to the recently expressed concerns with statements by senior Department officials regarding North Korean compliance with the Agreed Framework.


Kristie A. Kenney
Executive Secretary

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-2-

Attachments:

- (1) Draft Memorandum from the President to the Secretary of State
- (2) Draft Letter of Notification to House and Senate Appropriations Committees
- (3) Draft of Semi-Annual Report to Congress on North Korean Compliance with the U.S. -DPRK Agreed Framework

UNCLASSIFIED

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

UNCLASSIFIED

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Report Under the Heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act for FY 1996: U.S. Contribution to KEDO

Pursuant to the requirements set forth under the heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act, 1996 (P.L. 104-107), a report is required every six months following enactment concerning:

a) the designation by the Korean Peninsula Energy Development Organization (KEDO) of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light-water reactors provided for in the Agreed Framework;

b) the Democratic People's Republic of Korea's maintenance of the freeze on its nuclear facilities as required in the Agreed Framework; and

c) U.S. steps to ensure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment, such as removing restrictions on travel, telecommunications services and financial transactions; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

You are hereby authorized and directed to transmit the attached report fulfilling this requirement to the chairpersons of the Appropriations Committees of the House of Representatives and Senate and to arrange for its publication in the Federal Register.

Draft

To be addressed and sent to Chairs and Ranking Members of Appropriations Committees following receipt of Presidential determination:

Dear Mr. Chairman:

On behalf of the Secretary of State, I am transmitting to you a report pursuant to the requirements set forth under the heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act, 1996 (P.L. 104-107), required every six months following enactment, and covering the period from February 12 to August 12 of this year, concerning:

a) the designation by the Korean Peninsula Energy Development Organization (KEDO) of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light-water reactors provided for in the Agreed Framework;

b) the Democratic People's Republic of Korea's maintenance of the freeze on its nuclear facilities as required in the Agreed Framework; and

c) U.S. steps to assure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment, such as removing restrictions on travel, telecommunications services and financial transactions; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

Subsequent to the completion of this report, bilateral talks with the North Koreans were held in New York from August 21 to September 5. As we have been briefing the Congress, the North Koreans agreed to enter into discussions regarding a suspect underground facility in the DPRK of concern to the U.S. In these discussions, we will actively pursue steps, including access, to ensure that we are fully satisfied the DPRK is in full compliance with its commitments under the Agreed Framework.

The Honorable
XXXXXXXXXXXXXX
Committee on Appropriations,
United States Senate.

Please let us know if we can provide any further information.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:

Report on North Korean Compliance with the Agreed Framework.

REPORT REQUIRED UNDER THE HEADING
"INTERNATIONAL ORGANIZATIONS AND PROGRAMS"
IN TITLE IV OF THE FOREIGN OPERATIONS APPROPRIATIONS ACT
FOR FY 1996

The final proviso set forth under the heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act, 1996 (P.L. 104-107), requires the President to submit to the Committees on Appropriations a semi-annual report on specific efforts with regard to:

(a) KEDO designation of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light-water reactors provided for in the Agreed Framework;

(b) The Democratic People's Republic of Korea's (DPRK) maintenance of the freeze on its nuclear facilities, as required in the Agreed Framework; and

(c) United States steps to ensure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

Note: The Agreed Framework contains specific provisions relating to the DPRK's 5 megawatt experimental reactor, its reprocessing plant and its fuel fabrication plant, as well as two additional reactors which were under construction in 1994. The comments in this report relate to the Agreed Framework and to those facilities covered by its provisions.

(a) - Designation of ROK Company

In section I of the Agreed Framework between the United States of America and the Democratic People's Republic of Korea (DPRK), signed in Geneva on October 21, 1994, the two parties stated that they would cooperate in replacing the DPRK's graphite-moderated reactors and related facilities with light-water reactor (LWR) power plants. The United States further stated that it would undertake to make arrangements for the provision of the LWR project to the DPRK, including organizing under its leadership an international consortium to finance and supply the project. This organization, the Korean Peninsula Energy Development Organization (KEDO), was created on March 9, 1995, by agreement of the United States, Japan and the Republic of Korea (ROK). These parties have agreed that the ROK will assume the central role in financing and constructing the LWR project.

On June 13, 1995, in Kuala Lumpur, the United States and the DPRK issued a joint statement providing that KEDO will select both the LWR reactor model and the prime contractor to carry out the project. (These points were confirmed in the LWR Supply Agreement between KEDO and the DPRK, signed on December 15, 1995, in New York.) On the same date as the Kuala Lumpur statement (June 13, 1995), the KEDO Executive Board decided by Board resolution that an ROK reactor model (Ulchin 3/4) would be built in the DPRK by an ROK firm. KEDO subsequently agreed that the Korea Electric Power Company (KEPCO) will be the prime contractor in building the light-water reactors called for in the Agreed Framework. On March 19, 1996, KEDO passed Executive Board Resolution 1996-3, officially designating KEPCO as prime contractor. KEDO and KEPCO are in the process of formal negotiations on the prime contract. KEPCO employees have participated in several site surveys of the proposed reactor site in the DPRK as well as in KEDO negotiations with the DPRK regarding protocols to the Light Water Reactor Supply Agreement. On July 2, 1997, KEDO and the DPRK signed 19 separate documents which facilitated the August 19, 1997, ground-breaking for the LWR project in Kumho, North Korea. Since then, over 100 ROK KEPCO employees have been living in the North and engaging in site preparation activities.

(b) - DPRK Maintenance of the Freeze

Section I (3) of the U.S.-DPRK Agreed Framework provides for the immediate freeze and eventual dismantlement of the DPRK's graphite-moderated reactors and related facilities. Within this context, the DPRK agreed to implement the freeze on its nuclear facilities within one month after the signing of the Agreed Framework and to allow the International Atomic Energy Agency (IAEA) to monitor the freeze on its facilities, with the full cooperation of the DPRK. Both of these events have occurred. In addition, the Agreed Framework called for the United States and the DPRK to cooperate in finding a method to package and safely store the spent fuel from the DPRK's 5 MW(e) experimental reactor during the construction of the LWR project, and, between the delivery of the key nuclear components for the first LWR and the completion of that unit, to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

Since November 1994, the DPRK's graphite-moderated nuclear reactors and related facilities have remained frozen. Specifically, this means no refueling or operation of the 5 MW(e) experimental research reactor; freezing construction on the 50 MW(e) and 200 MW(e) reactors; foregoing reprocessing; sealing and ceasing activities at the Radiochemical Laboratory; and ceasing operation of the fuel fabrication plant. The IAEA has maintained a continuous presence at the Yongbyon nuclear facilities 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 the DPRK is complying with the freeze provisions of the Agreed Framework. In addition to IAEA monitoring activities, the United States has National Technical Means which give us further confidence that the DPRK is complying with these provisions of the Agreed Framework.

With the successful conclusion on December 15, 1995, of the Agreement on the Supply of Light-Water Reactors to the DPRK, signed between the DPRK and KEDO in New York, the IAEA resumed ad hoc and routine inspections under the DPRK's safeguards agreement with the IAEA with respect to the facilities not subject to the freeze. In addition, the IAEA has conducted bilateral

discussions with the DPRK to resolve a number of issues, including those related to technical aspects of freeze monitoring. DPRK and IAEA officials met in January, June and September 1996, in January and October 1997, and in February and June 1998, to discuss a number of issues related to the canning and safe storage of spent fuel.

Other issues discussed relate to the preservation of historical data for the IAEA to use 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." In the June 1996 meeting the DPRK presented a paper concerning the preservation of historical data at Yongbyon. Differences between the two sides still remain, as reflected in the recent GAO report on IAEA activities in North Korea. The IAEA continues to discuss this issue with the DPRK. The most recent set of technical discussions focussed on ensuring the IAEA is able successfully to monitor maintenance-related activity at North Korea's reprocessing facility. To date all maintenance work has been completed under full monitoring by the IAEA.

In January 1995, the United States and the DPRK agreed on the method for safely storing the DPRK's spent nuclear fuel as an interim step before it is shipped out of the DPRK, as defined in the Agreed Framework. U.S. and North Korean experts are continuing to cooperate in safely storing the DPRK spent nuclear fuel despite occasional delays as a result of technical and other reasons. Actual canning of the 8,000 spent fuel rods began on April 27, 1996, and was essentially completed at the end of March 1998. The canned fuel rods have been placed under IAEA seals and surveillance. Earlier this year, the North Koreans put a hold on the clean-up of fuel rods and fuel fragments still mixed in the sludge at the bottom of the spent fuel storage pool, citing what they claimed was a lack of U.S. commitment to the implementation of the Agreed Framework. They have additionally threatened on

various occasions to begin reprocessing the uncanned spent fuel rod fragments unless the United States provides for more regular deliveries of heavy fuel oil (HFO) and the lifting of sanctions. We take these threats seriously and have expressed to the DPRK how counterproductive they are. In bilateral talks in early September, North Korea agreed to resume and complete, quickly and without interruption, canning of these remaining spent fuel rod fragments.

(c) (1) - 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. The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue," and we have used every available opportunity to press the DPRK to do so. The United States has supported South Korean initiatives toward the North and has urged the DPRK to engage in inter-Korean dialogue. Since the signing of the Agreed Framework in October 1994, the United States also has encouraged China to use its influence with the DPRK to encourage it to participate more fully in dialogue with the South.

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.

On June 30, 1997, the DPRK announced, after a series of meetings in New York involving U.S., ROK, and DPRK officials, that it would participate in the Four Party talks. After three

rounds of preparatory talks (the first attended by all four parties) beginning in August in New York, the four parties reached agreement in November on the formal start of the peace talks. The first two plenary rounds took place in Geneva December 9-10, 1997, and March 16-20, 1998. The PRC, which is a full participant in the Four Party talks, has continued to offer its strong support for this effort to reduce tensions on the peninsula. Other countries in the region, including Japan and Russia, also continue to support the Four Party process.

Implementation of the Agreed Framework also continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the United States, 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 comprised the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site. A milestone was passed on July 2, 1997, when KEDO and the DPRK signed 19 separate documents that cleared the way for ground-breaking to begin on the light-water reactor site. Ground-breaking took place on August 19, 1997. South Korea is supplying most of the personnel involved in the initial construction at the reactor site, and the installation in 1997 of mail and phone links between the LWR site and South Korea represents the first such direct ties between North and South since the Korean War.

Shortly after his election, President Kim Dae-jung invited the DPRK to participate in a North-South Summit. This announcement and his continued support of North-South relations indicate that there is a likelihood President Kim may promote North-South relations more vigorously than any of his predecessors.

The United States has encouraged ROK efforts to engage the DPRK in productive dialogue related to international humanitarian efforts to address the North's food crisis. The ROK and the United States (and Japan) have closely coordinated their responses to appeals in 1996 and 1997 for humanitarian relief for the DPRK from international organizations such as the UN World Food Program. In 1997, ROK and DPRK Red Cross officials reached agreement governing private donations of 100,000 tons of humanitarian food assistance for the DPRK by ROK organizations. The ROK has pledged an additional 50,000 tons of assistance to be donated through this channel in 1998. North-South talks were held in Beijing in April 1998 to discuss ROK provision of 200,000 tons of fertilizer to the DPRK and other bilateral issues. The talks ended, however, without any concrete agreements. In June 1998, Hyundai Chairman Chung Joo-Yung donated 500 head of cattle to North Korea and, in an historic first, was permitted to deliver them via the DMZ. Deliberations over a subsequent delivery of an additional 500 cattle are ongoing, as are discussions of a proposed tourism venture.

(c) (1a) - Barriers to Trade and Investment

On January 20, 1995, the United States took initial steps to ease economic sanctions against North Korea in accordance with the Agreed Framework. These steps were taken in response to North Korea's decision to freeze its nuclear program and related facilities and cooperate with the United States and the International Atomic Energy Agency (IAEA) to verify the freeze and ensure safe storage of the DPRK spent nuclear fuel.

1. Telecommunications and Information: Authorized transactions incident to information exchange and dissemination and related to telephone and telecommunications connections between North Korea and the United States, credit card use in connection with personal travel and other travel-related transactions, and consideration, on a case-by-case basis, of the opening of offices by journalists.

2. Financial Transactions: Authorized the DPRK to use the U.S. banking system to clear transactions provided that if U.S. persons are the originators or beneficiaries of such transactions, the transactions are not otherwise prohibited under the embargo. Authorized consideration of case-by-case licensing to unblock frozen assets where there is no DPRK government interest.
3. Other Trade: Authorized consideration of case-by-case imports from the DPRK of magnesite, a refractory material used in the U.S. steel industry. North Korea and the People's Republic of China are the primary sources of natural magnesia and magnesite in the world market.
4. Other Steps to Implement the Agreed Framework: Authorized transactions related to the future establishment and operation of liaison offices in Washington and Pyongyang. Authorized the consideration, on a case-by-case basis, of participation by U.S. firms in the North Korean Light-Water Reactor project, the supply of alternative energy, and disposition of spent nuclear fuel, as provided by the Agreed Framework, in a manner consistent with applicable laws.

In April 1997, the U.S. Government also lifted the sanction on the payment to the DPRK of overflight fees by U.S. airlines, and in February 1998, the FAA amended its flight regulations to allow U.S. airlines to overfly part of the oceanic North Korean flight information region (FIR). Since that time, U.S. airlines have been permitted to overfly an oceanic route of the DPRK's FIR and pay fees for overflight services to the International Air Transport Association (IATA), which receives the funds as trustee for the DPRK.

Further relaxation of economic sanctions against the DPRK will depend on further verified progress on the nuclear issue as well as progress in other areas of concern.

(c) (2) - Implementation of Joint Denuclearization Declaration

On January 1, 1992, the Republic of Korea (ROK) and the Democratic People's Republic of Korea (DPRK) 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.

This is a difficult and sensitive issue for the United States. We regularly urge DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of and compliance with the Agreed Framework. The Agreed Framework, as a step towards the eventual full implementation of the Denuclearization Declaration, has succeeded to date in eliciting positive DPRK movement on certain key

provisions of the Declaration. Specifically, North Korea's willingness, as part of the Agreed Framework, to immediately freeze its graphite-moderated nuclear reactors and related facilities under the Agreed Framework halted activities that otherwise would have given the DPRK a nuclear weapons capability. Such a capability would be a threat to peace and security on the Korean Peninsula as well as to Northeast Asia as a whole.

fragments. The U.S. canning team has since returned to Yongbyon, but there continue to be delays in completing the final portion of this clean-up. The U.S. team is working with the North Koreans to make arrangements to complete this work as quickly as possible.

The Agreed Framework prohibits the construction of any new graphite-moderated reactors or related facilities, which includes reprocessing and fuel fabrication facilities. The Administration is concerned about ~~an~~ underground construction ~~site~~ in the DPRK that might be intended to house nuclear facilities prohibited under the Agreed Framework. In talks held in New York from August 21 to September 5, the North Koreans agreed to enter into discussions regarding ~~the~~ ^{The} underground construction site. In these discussions, the Administration will actively pursue steps, including access, to ensure that that we are fully satisfied the DPRK is in full compliance with its commitments under the Agreed Framework. To date, there have been two sets of talks, one in Pyongyang, North Korea and the other in New York City/Washington, D.C. A third round of talks ~~is anticipated~~ ^{will take place} in mid-January 1999 in Geneva, Switzerland.

(c) (1) - 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. The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue," and we have used every available opportunity to press the DPRK to do so. The United States has supported South Korean initiatives toward the North and has urged the DPRK to engage in inter-Korean dialogue. Since the signing of the Agreed Framework in October 1994, the United States also has encouraged China to use its influence with the DPRK to encourage it to participate more fully in dialogue with the South.

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.

On June 30, 1997, the DPRK announced, after a series of meetings in New York involving U.S., ROK, and DPRK officials, that it would participate in the Four-Party talks. After three rounds of preparatory talks (the first attended by all four parties) beginning in August in New York, the four parties reached agreement in November on the formal start of the peace talks. The first two plenary rounds took place in Geneva December 9-10, 1997, and March 16-20, 1998. A third round of talks took place in October and a fourth round ~~is scheduled for~~ mid-January 1999. ⁱⁿ The PRC, which is a full participant in the Four-Party talks, has continued to offer its strong support for this effort to reduce tensions on the peninsula. Other countries in the region, including Japan and Russia, also continue to support the Four-Party process.

Implementation of the Agreed Framework also continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the United States, 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 comprised the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site. A milestone was passed on July 2, 1997, when KEDO and the DPRK signed 19 separate documents that cleared the way for ground-breaking to begin on the light-water reactor site. Ground-breaking took place on August 19, 1997. South Korea is supplying most of the personnel involved in the initial construction at the reactor site, and the installation in 1997 of mail and phone links between the LWR site and South Korea represents the first such direct ties between North and South since the Korean War.

Shortly after his election, President Kim Dae-jung invited the DPRK to participate in a North-South Summit. President Kim's announcement and his continued support of North-South relations indicate that President Kim will actively seek to promote North-South relations.

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REPORT REQUIRED UNDER THE HEADING
"INTERNATIONAL ORGANIZATIONS AND PROGRAMS"
IN TITLE IV OF THE FOREIGN OPERATIONS APPROPRIATIONS ACT
FOR FY 1996

The final proviso set forth under the heading "International Organizations and Programs" in Title IV of the Foreign Operations Appropriations Act, 1996 (P.L. 104-107), requires the President to submit to the Committees on Appropriations a semi-annual report on specific efforts with regard to:

- (a) KEDO designation of a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light-water reactors provided for in the Agreed Framework;
- (b) The Democratic People's Republic of Korea's (DPRK) maintenance of the freeze on its nuclear facilities, as required in the Agreed Framework; and
- (c) United States steps to assure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula.

(a) - Designation of ROK Company

In section I of the Agreed Framework between the United States of America and the Democratic People's Republic of Korea (DPRK), signed in Geneva on October 21, 1994, the two parties stated that they would cooperate in replacing the DPRK's graphite-moderated reactors and related facilities with light-water reactor (LWR) power plants. The United States further stated that it would undertake to make arrangements for the provision of the LWR project to the DPRK, including organizing under its leadership an international consortium to finance and supply the project. This organization, the Korean Peninsula Energy Development Organization (KEDO), was created on March 9, 1995, by agreement of the United States, Japan and the Republic of Korea (ROK). These parties have agreed that the ROK will assume the central role in financing and constructing the LWR project.

On June 13, 1995, in Kuala Lumpur, the United States and the DPRK issued a joint statement providing that KEDO will select both the LWR reactor model and the prime contractor to carry out the project. (These points were confirmed in the LWR Supply Agreement between KEDO and the DPRK, signed on December 15, 1995, in New York.) On the same date as the Kuala Lumpur statement (June 13, 1995), the KEDO Executive Board decided by Board resolution that an ROK reactor model (Ulchin 3/4) would be built in the DPRK by an ROK firm. KEDO subsequently agreed that the Korea Electric Power Company (KEPCO) will be the prime contractor in building the light-water reactors called for in the Agreed Framework. On March 19, 1996, KEDO passed Executive Board Resolution 1996-3, officially designating KEPCO as prime contractor. KEDO and KEPCO are in the process of formal negotiations on the prime contract. KEPCO employees have participated in several site surveys of the proposed reactor site in the DPRK as well as in KEDO negotiations with the DPRK regarding protocols to the Light Water Reactor Supply Agreement. On July 2, 1997, KEDO and the DPRK signed 19 separate documents which facilitated the August 19, 1997, ground-breaking for the LWR project in Kumho, North Korea. Since then, over 100 ROK KEPCO employees have been living in the North and engaging in site preparation activities.

(b) - DPRK Maintenance of the Freeze

Section I (3) of the U.S.-DPRK Agreed Framework provides for the immediate freeze and eventual dismantlement of the DPRK's graphite-moderated reactors and related facilities. Within this context, the DPRK agreed to implement the freeze on its nuclear facilities within one month after the signing of the Agreed Framework and to allow the International Atomic Energy Agency (IAEA) to monitor the freeze on its facilities, with the full cooperation of the DPRK. Both of these events have occurred. In addition, the Agreed Framework called for the United States and the DPRK to cooperate in finding a method to package and safely store the spent fuel from the DPRK's 5 MW(e) experimental reactor during the construction of the LWR project, and, between the delivery of the key nuclear components for the first LWR and the completion of that unit, to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

Since November 1994, the DPRK's graphite-moderated nuclear reactors and related facilities have remained frozen. Specifically, this means no refueling or operation of the 5 MW(e) experimental research reactor; freezing construction on the 50 MW(e) and 200 MW(e) reactors; foregoing reprocessing; sealing and ceasing activities at the Radiochemical Laboratory; and ceasing operation of the fuel fabrication plant. The IAEA has maintained a continuous presence at the Yongbyon nuclear facilities 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 the DPRK is complying with the freeze provisions of the Agreed Framework. In addition to IAEA monitoring activities, the United States has National Technical Means which give us further confidence that the DPRK is complying with these provisions of the Agreed Framework.

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Other issues discussed relate to the preservation of historical data for the IAEA to use 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." In the June 1996 meeting, the DPRK presented a paper concerning the preservation of historical data at Yongbyon. Differences between the two sides still remain, as reflected in the recent GAO report on IAEA activities in North Korea. The IAEA continues to discuss this issue with the DPRK. The most recent set of technical discussions focussed on ensuring the IAEA is able successfully to monitor maintenance-related activity at North Korea's reprocessing facility. To date, all maintenance work has been completed under full monitoring by the IAEA.

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The ROK pledged an additional 50,000 tons of assistance to be donated through this channel in 1998. North-South talks were held in Beijing in April 1998 to discuss ROK provision of 200,000 tons of fertilizer to the DPRK and other bilateral issues. The talks ended, however, without any concrete agreements. In June 1998, Hyundai Chairman Chung Joo-Yung donated 500 head of cattle to North Korea and, in an historic first, was permitted to deliver them via the DMZ. An additional 500 cattle were later delivered using the DMZ. Hyundai also reached agreement with North Korea to operate a tourism project that allows South Korean citizens visit to Mt. Kumgang in North Korea. Several uneventful trips have been made to date. (?)

(c) (1a) - Barriers to Trade and Investment

On January 20, 1995, the United States took initial steps to ease economic sanctions against North Korea in accordance with the Agreed Framework. These steps were taken in response to North Korea's decision to freeze its nuclear program and related facilities and cooperate with the United States and the International Atomic Energy Agency (IAEA) to verify the freeze and ensure safe storage of the DPRK spent nuclear fuel.

1. Telecommunications and Information: Authorized transactions incident to information exchange and dissemination and related to telephone and telecommunications connections between North Korea and the United States, credit card use in connection with personal travel and other travel-related transactions, and consideration, on a case-by-case basis, of the opening of offices by journalists.

2. Financial Transactions: Authorized the DPRK to use the U.S. banking system to clear transactions provided that if U.S. persons are the originators or beneficiaries of such transactions, the transactions are not otherwise prohibited under the embargo. Authorized consideration of case-by-case licensing to unblock frozen assets where there is no DPRK government interest.
3. Other Trade: Authorized consideration of case-by-case imports from the DPRK of magnesite, a refractory material used in the U.S. steel industry. North Korea and the People's Republic of China are the primary sources of natural magnesia and magnesite in the world market.
4. Other Steps to Implement the Agreed Framework: Authorized transactions related to the future establishment and operation of liaison offices in Washington and Pyongyang. Authorized the consideration, on a case-by-case basis, of participation by U.S. firms in the North Korean Light-Water Reactor project, the supply of alternative energy, and disposition of spent nuclear fuel, as provided by the Agreed Framework, in a manner consistent with applicable laws.

In April 1997, the U.S. Government also lifted the sanction on the payment to the DPRK of overflight fees by U.S. airlines, and in February 1998, the FAA amended its flight regulations to allow U.S. airlines to overfly part of the oceanic North Korean flight information region (FIR). Since that time, U.S. airlines have been permitted to overfly an oceanic route of the DPRK's FIR and pay fees for overflight services to the International Air Transport Association (IATA), which receives the funds as trustee for the DPRK.

Further relaxation of economic sanctions against the DPRK will depend on further verified progress on the nuclear issue as well as progress in other areas of concern.

(c) (2) - Implementation of Joint Denuclearization Declaration

On January 1, 1992, the Republic of Korea (ROK) and the Democratic People's Republic of Korea (DPRK) 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.

7 This is a difficult and sensitive issue for the United States. We regularly urge DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of and compliance with the Agreed Framework. The Agreed Framework, as a step towards the eventual full implementation of the Denuclearization Declaration, has succeeded to date in eliciting positive DPRK movement on certain key provisions of the Declaration. Specifically, North Korea's willingness, as part of the Agreed Framework, to immediately freeze its graphite-moderated nuclear reactors and related facilities under the Agreed Framework halted activities that otherwise would have given the DPRK a nuclear weapons capability. Such a capability would be a threat to peace and security on the Korean Peninsula as well as to Northeast Asia as a whole.

June 1998, to discuss a number of issues related to the canning and safe storage of spent fuel.

Other issues discussed relate to the preservation of historical data for the IAEA to use 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." In the June 1996 meeting, the DPRK presented a paper concerning the preservation of historical data at Yongbyon. Differences between the two sides still remain, as reflected in the recent GAO report on IAEA activities in North Korea. The IAEA continues to discuss this issue with the DPRK. The most recent set of technical discussions focussed on ensuring the IAEA is able successfully to monitor maintenance-related activity at North Korea's reprocessing facility. To date, all maintenance work has been completed under full monitoring by the IAEA.

In January 1995, the United States and the DPRK agreed on the method for safely storing the DPRK's spent nuclear fuel as an interim step before it is shipped out of the DPRK, as defined in the Agreed Framework. U.S. and North Korean experts are continuing to cooperate in safely storing the DPRK spent nuclear fuel despite occasional delays as a result of technical and other reasons. Actual canning of the 8,000 spent fuel rods began on April 27, 1996, and was essentially completed at the end of March 1998. The canned fuel rods have been placed under IAEA seals and surveillance.

Earlier this year, the North Koreans put a hold on the clean-up of fuel rods and fuel fragments still mixed in the sludge at the bottom of the spent fuel storage pool, citing what they claimed was a lack of U.S. commitment to the implementation of the Agreed Framework. They have additionally threatened on various occasions to begin reprocessing the uncanned spent fuel rod fragments unless the United States provides for more regular deliveries of heavy fuel oil (HFO) and the lifting of sanctions. ~~We take these threats seriously and have expressed to the DPRK how counterproductive they are.~~ In bilateral talks in early September, North Korea agreed to resume and complete, quickly and without interruption, canning of these remaining spent fuel

have made clear that we reject these threats

have made clear that we reject these threats

rod fragments. The U.S. canning team has since returned to Yongbyon, but there continue to be delays in completing the final portion of this clean-up. The U.S. team is working with the North Koreans to make arrangements to complete this work as quickly as possible.

The Agreed Framework prohibits the construction of any new graphite-moderated reactors or related facilities, which includes reprocessing and fuel fabrication facilities. The Administration is concerned about suspect underground construction in the DPRK. In talks held in New York from August 21 to September 5, the North Koreans agreed to enter into discussions regarding this underground facility. In these discussions, the Administration will actively pursue steps, including access, to ensure that that we are fully satisfied the DPRK is in full compliance with its commitments under the Agreed Framework. To date, there have been two sets of talks, one in Pyongyang, North Korea and the other in New York City/Washington, D.C. A third round of talks is anticipated in mid-January 1999 in Geneva, Switzerland.

(c) (1) - 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. The U.S.-DPRK Agreed Framework provides that "the DPRK will engage in North-South dialogue," and we have used every available opportunity to press the DPRK to do so. The United States has supported South Korean initiatives toward the North and has urged the DPRK to engage in inter-Korean dialogue. Since the signing of the Agreed Framework in October 1994, the United States also has encouraged China to use its influence with the DPRK to encourage it to participate more fully in dialogue with the South.

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.

On June 30, 1997, the DPRK announced, after a series of meetings in New York involving U.S., ROK, and DPRK officials, that it would participate in the Four-Party talks. After three rounds of preparatory talks (the first attended by all four parties) beginning in August in New York, the four parties reached agreement in November on the formal start of the peace talks. The first two plenary rounds took place in Geneva December 9-10, 1997, and March 16-20, 1998. A third round of talks took place ~~after the closing date of this report~~ in October and a fourth round is scheduled for mid-January 1999. The PRC, which is a full participant in the Four-Party talks, has continued to offer its strong support for this effort to reduce tensions on the peninsula. Other countries in the region, including Japan and Russia, also continue to support the Four-Party process.

Implementation of the Agreed Framework also continues to create many occasions for direct North-South contact. The Korean Peninsula Energy Development Organization (KEDO), established by the United States, 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 comprised the majority of technical experts on KEDO site survey teams dispatched to the DPRK to survey the proposed reactor site. A milestone was passed on July 2, 1997, when KEDO and the DPRK signed 19 separate documents that cleared the way for ground-breaking to begin on the light-water reactor site. Ground-breaking took place on August 19, 1997. South Korea is supplying most of the personnel involved in the initial construction at the reactor site, and the installation in 1997 of mail and phone links between the LWR site and South Korea represents the first such direct ties between North and South since the Korean War.

Shortly after his election, President Kim Dae-jung invited the DPRK to participate in a North-South Summit. This announcement and his continued support of North-South relations indicate that

(?)

President Kim will seek to promote North-South relations more vigorously than any of his predecessors. ? Y. Kim, why this

The United States has encouraged ROK efforts to engage the DPRK in productive dialogue related to international humanitarian efforts to address the North's food crisis. The ROK and the United States (and Japan) have closely coordinated their responses to appeals in 1996 and 1997 for humanitarian relief for the DPRK from international organizations such as the UN World Food Program. In 1997, ROK and DPRK Red Cross officials reached agreement governing private donations of 100,000 tons of humanitarian food assistance for the DPRK by ROK organizations.

The ROK pledged an additional 50,000 tons of assistance to be donated through this channel in 1998. North-South talks were held in Beijing in April 1998 to discuss ROK provision of 200,000 tons of fertilizer to the DPRK and other bilateral issues. The talks ended, however, without any concrete agreements. In June 1998, Hyundai Chairman Chung Joo-Yung donated 500 head of cattle to North Korea and, in an historic first, was permitted to deliver them via the DMZ. An additional 500 cattle were later delivered using the DMZ. Hyundai also reached agreement with North Korea to operate a tourism project that allows South Korean citizens visit to Mt. Kumgang in North Korea. Several uneventful trips have been made to date. (?)

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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.

7 This is a difficult and sensitive issue for the United States. We regularly urge DPRK compliance with the Joint Declaration by encouraging North-South dialogue and ensuring DPRK implementation of and compliance with the Agreed Framework. The Agreed Framework, as a step towards the eventual full implementation of the Denuclearization Declaration, has succeeded to date in eliciting positive DPRK movement on certain key provisions of the Declaration. Specifically, North Korea's willingness, as part of the Agreed Framework, to immediately freeze its graphite-moderated nuclear reactors and related facilities under the Agreed Framework halted activities that otherwise would have given the DPRK a nuclear weapons capability. Such a capability would be a threat to peace and security on the Korean Peninsula as well as to Northeast Asia as a whole.

THE WHITE HOUSE

WASHINGTON

Dear Tony:

Thank you for your letter regarding Sudan. The State Department decided not to issue visas for the proposed Sudanese delegation to the U.S. Institute of Peace conference in order to honor UN Security Council Resolution 1054, which restricts the travel of senior Sudanese Government officials until the regime cooperates in identifying the location and the capture of suspects in the assassination attempt on President Mubarak.

Because of Sudan's extensive support for international terrorism, it is crucial that we uphold those sanctions agreed to unanimously by the UN Security Council. Given the increasing danger to American citizens abroad due to the activities of Usama bin Laden and other terrorists with connections to the Sudan regime, we remain committed to our global effort to isolate that government and counter the threat that it poses to the international community. At the same time, we have attempted to engage in a dialogue with the Sudanese Government on issues of concern. Under Secretary Pickering met with the Sudanese Foreign Minister during the last UN General Assembly, and our diplomatic staff resident in Nairobi continue ¹³ their contacts with Sudanese officials

We share your concerns about the Sudan conflict and attendant humanitarian needs. We are working with other donor governments to enhance the African-led peace process sponsored by IGAD, by seeking to create technical committees that will work the issues between negotiating sessions and improving the actual negotiating sessions. We have also reoriented our humanitarian program to include increased support for non-governmental organizations that operate outside Operation Lifeline Sudan, additional funding for road rehabilitation and enhanced efforts to help the Sudanese people meet their own needs. We hope that

NATIONAL SECURITY COUNCIL
WASHINGTON, D C. 20504

6829

January 7, 1999

ACTION

MEMORANDUM FOR SAMUEL BERGER

FROM: GARY SAMORE *6S*

SUBJECT: Semi-Annual Report on North Korean Compliance with
the U.S.-DPRK Agreed Framework

Attached at Tab I for your signature is a memorandum to the President recommending that he forward the required semi-annual report to Congress on North Korean compliance with the Agreed Framework. This unclassified report covers the period from February through December 1998.

The report has been cleared interagency and is not controversial, although it contains a paragraph on our concerns about suspect underground construction in North Korea and our negotiations with North Korea to resolve these concerns.

Concurrence by: (Jack Pritchard, Newell Highsmith, Mara Rudman) *6S*
for

RECOMMENDATION

That you sign the Memorandum to the President at Tab I.

Attachments

Tab I Memorandum for the President
Tab A Presidential Letters to Congress
Tab B Report on North Korean Compliance
Tab II Incoming Correspondence

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
LARRY STEIN

SUBJECT: Semi-Annual Report to Congress on North Korean
Compliance with the U.S.-DPRK Agreed Framework

Purpose

To transmit the semi-annual report to Congress on North Korean compliance with the Agreed Framework.

Background

The Foreign Operations Appropriations Act, 1996 (PL 104-107), enacted February 14, 1996, requires you to report to Congress every six months on North Korean compliance with the Agreed Framework, including progress of the light water reactor project, North Korean observance of the nuclear freeze, and U.S. efforts to encourage North-South dialogue. The attached letters from you (Tab A) forward the report (Tab B) to the relevant Congressional Committees. The report, which covers the period from February to December 1998, is unclassified.

As explained by the report, North Korea's nuclear facilities for the production of plutonium remain frozen under IAEA supervision, but we are concerned about suspect underground construction in North Korea. The report also describes our efforts to encourage North-South dialogue, including the Four Party talks.

RECOMMENDATION

That you sign the letters at Tab A.

cc: Vice President
Chief of Staff

Attachments

Tab A Letters to Congress
Tab B Report on North Korean Compliance

TO: DAVIES

FROM: KENNEY, K

DOC DATE: 05 OCT 98
SOURCE REF: 9815762

KEYWORDS: KOREA NORTH

CONGRESSIONAL

PERSONS:

SUBJECT: SEMI ANNUAL RPT ON NORTH KOREAN COMPLIANCE W/ US-DPRK AGREED
FRAMEWORK

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 12 OCT 98 STATUS: S

STAFF OFFICER: PRITCHARD

LOGREF:

FILES: WH

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION
PRITCHARD

FOR CONCURRENCE
BAKER
CARAVELLI
SAMORE

FOR INFO
RUDMAN
SCHWARTZ



COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSGP

CLOSED BY:

DOC 1 OF 1

THE WHITE HOUSE

WASHINGTON

August 20, 1998

Dear Bob:

In responding to your letter on funding for heavy fuel oil deliveries to preserve the Agreed Framework, my intent may not have been clear. Let me assure you, that the below listed points are unequivocal:

- We will insist and pursue discussions with the DPRK on complete cessation of all activities which would violate the Agreed Framework;
- The Administration will initiate meaningful discussions with North Korea on the full implementation of the Joint Declaration of the Denuclearization of the Korean Peninsula;
- The DPRK has various obligations under the Agreed Framework to accept NPT inspection requirements and we will insist they comply with these obligations.
- We again will raise the option of alternative energy sources with the North and in our bilateral talks; and
- We will provide detailed classified updates for Congress on the status of the North Korean nuclear weapons program by September 9th, and on an on-going basis.

Again, I appreciate your efforts to allow us to use FY98 funds to continue our obligations under the Agreed Framework.

Sincerely,

A handwritten signature in dark ink, reading "Samuel R. Berger". The signature is fluid and cursive, with the first name "Samuel" and last name "Berger" clearly legible.

Samuel R. Berger
Assistant to the President
for National Security Affairs

The Honorable Bob Livingston
Chairman, Committee on Appropriations
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

August 20, 1998

Dear Bob:

Thank you for your willingness, together with your colleague, Chairman Callahan, to remove your hold on the Administration's proposal to utilize its section 614 authority to provide additional funds for heavy fuel oil deliveries to preserve the Agreed Framework. As we have discussed with your staffs, these funds - combined with other Department resources, if necessary - are a critical tool for managing a satisfactory resolution of the concerns we both share.

While I do not accept all of the characterizations in your letter, we want to proceed on as cooperative and candid a basis as possible.

Regardless the issues raised in your letter, I make the following assurances:

- We will insist and pursue discussions with the DPRK on complete cessation of all activities which would violate the Agreed Framework;
- The Joint Declaration on the Denuclearization of the Korean Peninsula is a bilateral document between North and South Korea. We fought hard to include it in the Agreed Framework and we will continue to raise it in our discussion with the North;
- The DPRK has various obligations under the Agreed Framework to accept NPT inspection requirements and we will insist they comply with these obligations.
- We again will raise the option of alternative energy sources with the North in our bilateral talks; and
- We will provide detailed classified updates for Congress on the status of the North Korean nuclear weapons program by September 9th and on an on-going basis.

Your concurrence in our use of FY 98 funds and your withdrawal of your hold is appreciated. U.S. national security policy towards the Korean peninsula, one of our country's principal security priorities, must be bipartisan if it is to succeed. I commit to you that the President's national security team will work closely with you.

Sincerely,

A handwritten signature in black ink that reads "Samuel R. Berger". The signature is written in a cursive, flowing style with a large initial 'S'.

Samuel R. Berger
Assistant to the President
for National Security Affairs

The Honorable Bob Livingston
Chairman, Committee on Appropriations
House of Representatives
Washington, D.C. 20515

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Congress of the United States

House of Representatives

Committee on Appropriations

Washington, DC 20515-6015

August 19, 1998

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CLERK AND STAFF DIRECTOR
 JAMES W. DYER

TELEPHONE:
 (202) 225-2771

The Honorable Samuel Berger
 Assistant to the President for National Security Affairs
 The White House
 Washington, D.C.

Dear Sandy:

Given the serious failings of the Administration's North Korea policy and the harmful effect this has on our national security, I believe I should be blunt in responding to your phone call yesterday regarding North Korea. For nearly four years now my colleague Chairman Sonny Callahan and I have expressed very serious reservations concerning the Administration's policy of providing advanced nuclear technology and training to North Korea, a nation that in all likelihood continued to pursue a dangerous nuclear weapons program. As a result, from the very beginning we voiced our strong opposition to a policy that could unwittingly support a clandestine nuclear weapons program in North Korea - a program whose sole purpose was to threaten the lives of our troops and those of our allies on the Korean peninsula. Yet we were repeatedly rebuffed by senior Administration officials who stated on the record that our concerns were unfounded and that the Agreed Framework had terminated the North Korean nuclear weapons program.

Sandy, I don't think I need to tell you that America's vital national security interests are not well served when the Administration pursues policies which are in effect dangerous illusions, ignoring grave national security problems instead of solving them. This is compounded when crucial facts related to this policy are repeatedly misrepresented to the Congress. For the past eighteen months the Congress was asked to provide funds to support this flawed policy based upon inaccurate statements made by senior Administration officials. On this issue alone I wish to be very direct. When issues have a direct bearing on America's vital national security interests, integrity and trust in the executive-legislative branch relationship is absolutely essential. The Administration's handling of this issue has dealt a serious blow to that trust.

Yesterday, you requested that I allow the Administration to provide \$15 million in fiscal year 1998 funds to further support this extremely questionable undertaking. After considerable thought, and in close consultation with Chairman Callahan, we agree not to oppose making these funds available *if* you agree to provide Chairman Callahan and myself with a number of important and necessary assurances. Frankly, Chairman Callahan asked me to convey to you his very strong reservations about the provision of any funds to North Korea. Therefore, both Chairman Callahan and I want to make it very clear that the withdrawal of our objection does not in any way constitute support for the Administration's current policy or the President's fiscal year 1999 request for North Korea. We cannot support a policy that entails the provision of nuclear reactors to North Korea if North Korea is undertaking actions which violate the conditions under which the Agreed Framework was originally negotiated.

Chairman Callahan and I would appreciate the following assurances:

- The Administration will pursue discussions with North Korea regarding the complete cessation of all activities which tend to violate the Agreed Framework;
- The Administration will initiate meaningful discussions with North Korea on the full implementation of the Joint Declaration on the Denuclearization of the Korean Peninsula;
- The Administration will insist on all NPT inspection requirements in order to assure that North Korea is not pursuing nuclear weapons related activities at other sites not covered by the Agreed Framework;
- The Administration will pursue with North Korea non-nuclear, fossil fuel energy production alternatives as opposed to the nuclear reactors provided for under the Agreed Framework; and
- The Administration will provide to the appropriate committees of the Congress by September 9th a detailed classified report on the current status of the North Korean nuclear weapons program.

Sandy, I would appreciate your written acknowledgement of these assurances at your earliest possible convenience. Should I not receive an acknowledgement by 4:00 pm tomorrow, I will not withdraw the hold on the funds you have requested.

Sincerely,

Signed for Robert L. Livingston by William Ingle
 Chairman Robert L. Livingston
 Committee on Appropriations

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NSC/RMO PROFILE

RECORD ID: 9806002
RECEIVED: 27 AUG 98 18

TO: PRESIDENT

FROM: BERGER
STEIN, L

DOC DATE: 02 SEP 98
SOURCE REF:

KEYWORDS: KOREA NORTH
CONGRESSIONAL

NON PROLIFERATION
PD

PERSONS:

SUBJECT: PRES ACTION REQUIRED TO SUPPLEMENT FY98 FUNDS TO KEDO

ACTION: PRESIDENT SGD PER WH EXEC CLERK DUE DATE: 02 SEP 98 STATUS: C

STAFF OFFICER: PRITCHARD

LOGREF:

FILES: WH

NSCP:

CODES:

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

FICKLIN
HIGHSMITH
LIEBERTHAL
NSC CHRON
PRITCHARD
RUDMAN
SAMORE

COMMENTS: _____

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OPENED BY: NSTSM

CLOSED BY: NSSWD

DOC 3 OF 4

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9806002

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 SAMORE	Z 98082718	PREPARE MEMO FOR BERGER
001	Z 98082815	ACTION TRANSFERRED
001 PRITCHARD	Z 98082815	PREPARE MEMO FOR BERGER
002 BERGER	Z 98090213	FWD TO PRESIDENT FOR SIGNATURE
002 STEIN, L	Z 98090213	FOR SIGNATURE
003 PRESIDENT	Z 98090213	FOR SIGNATURE
003	X 98091415	PRESIDENT SGD PER WH EXEC CLERK
004	X 98090914	RECD OMB CONCURRENCE

DISPATCH DATA SUMMARY REPORT

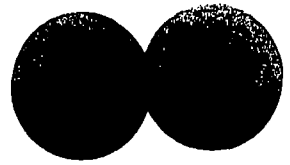
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UNCLASSIFIED

National Security Council
The White House



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	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Cosgriff	_____	_____	_____
Rice	_____	_____	_____
Davies	_____	_____	_____
Kerrick	_____	_____	_____
Steinberg	_____	_____	_____
Berger	_____	_____	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>1</u>	<u>TTC 9/2</u>	<u>D CAPLAN</u>
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_____	_____	_____	_____

A = Action	I = Information	D = Dispatch	R = Retain	N = No Further Action
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cc:
19 SEP 1981

COMMENTS:

Exec Sec Office has diskette _____

National Security Council
The White House

PROOFED BY: _____ LOG # 6002

URGENT NOT PROOFED: _____ SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: _____ DOCLOG SND A/O _____

TMD

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Cosgriff			
Rice	<u>1</u>	<u>@ 9/2</u>	
Davies			
Kerrick	<u>2</u>		
Steinberg			
Berger			
Situation Room			
West Wing Desk	<u>3</u>	<u>TTC 9/2</u>	<u>STEIN</u>
Records Mgt.			

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc:

COMMENTS: Pres. Action required to
Supplement FY 98 Funds for
KEDO.

10 SEP 14 1992

Exec Sec Office has diskette yes

THE PRESIDENT HAS SEEN
9-11-98

6002

THE WHITE HOUSE

WASHINGTON

September 2, 1998

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK *J*

FROM: SAMUEL BERGER *SB*
LARRY STEIN *LS*

SUBJECT: Presidential Action Required to Supplement FY98
Funds to KEDO

Purpose

To authorize the Department of State to initiate consultations with Congress concerning your intention to waive legal restrictions on assistance to North Korea to the extent necessary to contribute an additional \$10 million Contingent Appropriation and \$5 million from Economic Support Funds (ESF) to the Korean Peninsula Energy Development Organization (KEDO).

Background

For the past three years, you have made the determinations and waivers necessary to release the annual U.S. contribution to KEDO. For FY98, Congress appropriated funds for our annual contribution to KEDO, plus an additional \$10 million for KEDO debt relief contingent upon a certification from the Secretary of State that sufficient additional funds had been raised by non-U.S. sources to complete retirement of the debt. In May, you used your authority under section 614 of the Foreign Assistance Act to waive various prohibitions against assistance in order to contribute an additional \$5 million above our annual contribution to KEDO. However, even with the United States providing its annual FY98 contribution and the \$5 million supplement, KEDO's HFO account continues to be hindered by an accumulation of HFO debt, which at the end of 1997 stood at approximately \$48 million.

In late April, North Korea suspended spent fuel rod canning operations as a result of KEDO's inability to purchase and deliver HFO on a regular schedule. Additionally, North Korea has threatened to reprocess the remaining fuel rods if HFO deliveries are not resumed. Therefore, State now proposes to use section 614 to contribute an additional \$15 million. This figure would include

cc: Vice President

the \$10 million contingent contribution appropriated by Congress for FY98, even though the contingency (complete retirement of KEDO debt) will not be met. Madeleine requests that you authorize State to consult with the appropriate congressional committees, as required under section 614, including provision of a written justification explaining your intention to use the section 614 waiver authority (Tab A).

State has previewed the proposal for the \$15 million contributions with key members and it does not expect significant opposition although some members have questioned whether we should provide additional HFO funding in the face of questions about North Korea's compliance with the nuclear freeze under the Agreed Framework. Madeleine and other members of your national security team have talked personally with Representative Livingston and other members and have received assurances they will not oppose your use of section 614 waiver authority. To win his support, Sandy provided a letter to Bob Livingstone assuring him that we will work vigorously to resolve concerns about possible undeclared North Korean nuclear facilities.

Once State's consultations with Congress have been completed, you will be asked to issue a section 614 waiver to release the \$15 million in Contingent Appropriation and Economic Support Funds to KEDO. These funds will be essential to our efforts to persuade North Korea to complete the spent fuel canning operation and drop threats to reprocess.

RECOMMENDATION

That you authorize the Department of State to initiate consultations with, and provide written justification to, the appropriate committees of Congress concerning your intention to use section 614 authority to waive congressional restrictions on the \$10 million set aside for KEDO debt relief and reprogram an additional \$5 million in current year ESF funds for a contribution to KEDO.

Approve  _____

Disapprove _____

Attachment

Tab A Draft Congressional Notification Letter from State with
attachment: Justification for Intended Use of Section
614 Waiver

THE WHITE HOUSE

WASHINGTON

September 2, 1998

ACTION

MEMORANDUM FOR THE PRESIDENT

APR 10
 President ~~see~~ per WH
 Executive Clerk 9-11-98 ETC

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER (K) m
 LARRY STEIN JS

SUBJECT: Presidential Action Required to Supplement FY98
 Funds to KEDO

Purpose

To authorize the Department of State to initiate consultations with Congress concerning your intention to waive legal restrictions on assistance to North Korea to the extent necessary to contribute an additional \$10 million Contingent Appropriation and \$5 million from Economic Support Funds (ESF) to the Korean Peninsula Energy Development Organization (KEDO).

Background

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cc: Vice President
 Chief of Staff

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Once State's consultations with Congress have been completed, you will be asked to issue a section 614 waiver to release the \$15 million in Contingent Appropriation and Economic Support Funds to KEDO. These funds will be essential to our efforts to persuade North Korea to complete the spent fuel canning operation and drop threats to reprocess.

RECOMMENDATION

That you authorize the Department of State to initiate consultations with, and provide written justification to, the appropriate committees of Congress concerning your intention to use section 614 authority to waive congressional restrictions on the \$10 million set aside for KEDO debt relief and reprogram an additional \$5 million in current year ESF funds for a contribution to KEDO.

Approve _____

Disapprove _____

Attachment

Tab A Draft Congressional Notification Letter from State with
attachment: Justification for Intended Use of Section
614 Waiver

TAB A

Draft

To be sent to Chairs of Appropriations and Foreign Relations
Committees:

Dear Mr. Chairman:

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 use of \$15 million to support the Korean Peninsula Energy Development Organization (KEDO). These funds are derived from \$10 million in appropriations under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" account ("NADR") in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (FOAA), and \$5 million in FY 1998 Economic Support Funds and would be provided without regard to provisions of law within the scope of that section.

The funds will be used to help pay FY 1998 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 on October 21, 1994. As described in more detail in the enclosed Memorandum of Justification, we believe that the use of the \$15 million in the manner described is essential to carry out the terms and conditions of the Agreed Framework and to achieve 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 for
Legislative Affairs

Enclosure:

Memorandum of Justification

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

The Administration proposes to use \$10 million from the Nonproliferation, Anti-Terrorism, and Demining Account for FY 1998 and \$5 million in FY 1998 Economic Support Funds to provide assistance 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. KEDO would use this U.S. contribution to help cover its FY 1998 heavy fuel oil shipment expenses and its administrative costs. The President would exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the "FAA"), to authorize the provision of these funds without regard to applicable statutory restrictions 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 1998 Appropriations Act.)

The Agreed Framework addresses U.S. and international concerns about the DPRK's nuclear weapons program. It is especially worthy of U.S. support as a nonproliferation measure, particularly in light of the recent nuclear tests conducted by India and Pakistan. If the Agreed Framework is fully implemented, as intended, it would require the complete dismantlement of North Korea's known nuclear facilities.

Under the Agreed Framework, the United States 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." To meet this pledge, the United States, 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 (HFO) to North Korea and other possible projects called for in the Agreed Framework (e.g., the transfer of spent nuclear fuel out of the DPRK for ultimate disposition). The United States, the ROK and Japan have played and will continue to

play leading roles in KEDO. They were joined last year on the KEDO Executive Board by the European Union.

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. Korea's President Kim Dae-jung, during his June state visit to the United States, urged Congress to support KEDO.

The \$15 million will be used to supplement the U.S. contribution to KEDO, which will utilize the \$15 million for its HFO account. 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. KEDO contributions chronically fall short of HFO costs, and KEDO's HFO debt had reached about \$48 million at the end of 1997. This debt has been repaid, in part, from the previous U.S. contribution of \$30 million. The remainder of the previous year's debt, and new HFO costs incurred in 1998 are to be paid from supplementary U.S. funds and contributions received from other international donors. Should KEDO fail to deliver heavy fuel oil in accordance with the Agreed Framework, the DPRK will renege on its Agreed Framework obligations, including possibly breaking the freeze on its nuclear program at a time when proliferation concerns have been heightened by the recent nuclear tests in South Asia. Funding to finance continuing shipments of HFO is therefore urgently needed.

At present, the Governments of the Republic of Korea and Japan are at critical stages in raising through their legislatures the bulk of the approximately \$4.5 billion

required to fund the LWR project. The economic crisis in Asia has affected the ability of these and other countries in the region to render significant additional assistance to pay for HFO shipments, despite continuing efforts by the U.S. authorities to obtain more contributions. By providing an additional \$15 million to KEDO for FY 1998, the U.S. Government would enable KEDO to resume HFO shipments, thereby ensuring KEDO's continued movement toward meeting its commitments under the Agreed Framework. This, in turn, should secure continued DPRK compliance with its own Agreed Framework obligations, including maintaining the freeze on its nuclear program under continuing IAEA monitoring. The U.S. continues to seek additional HFO funds from the international community.

For these reasons, it is important to the security interests of the United States to provide \$15 million to KEDO notwithstanding any provision of law within the scope of section 614(a)(1).

TAB II



United States Department of State

Washington, D.C. 20520 9814832

August 27, 1998

UNCLASSIFIED

MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: Use of \$10 Million Contingent Appropriation and
\$5 Million from Economic Support Funds (ESF) Account to
Make a Supplementary U.S. Contribution to the Korean
Peninsula Energy Development Organization (KEDO)

This memorandum requests 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 Congressional and legal restrictions on providing assistance to the Democratic People's Republic of Korea (DPRK) in order to provide \$10 million from a contingent appropriation for KEDO debt relief and \$5 million in Economic Support Funds for a U.S. contribution to KEDO.

The United States, Japan and the Republic of Korea established KEDO to implement the Agreed Framework between the United States and the DPRK, which has frozen that country's dangerous nuclear program. Under the Agreed Framework, KEDO is responsible for arranging the financing and construction of two light-water reactors (LWRs) in North Korea and for providing annual shipments of heavy fuel oil (HFO) to the DPRK until completion of the first LWR.

In the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1998 ("FOAA"), Congress provided the full \$30 million requested by the Administration as a contribution to KEDO for the organization's administrative and HFO expenses, as well as \$10 million for KEDO debt relief, contingent upon a certification from the Secretary of State that sufficient additional funds had been raised from non-U.S. sources to complete retirement of the debt. Despite this action, however, KEDO's HFO account continues to be hindered by an accumulation of HFO debt which at the end of 1997 stood at approximately \$48 million. We therefore propose that the President use his authority under section 614 of the 1961 Foreign Assistance Act ("FAA"), as amended, to (a) waive Congressional restrictions on the \$10 million set aside for KEDO debt relief and (b) reprogram an additional \$5 million in current year ESF funds which will

UNCLASSIFIED

otherwise be unused, to make a supplemental FY 1998 U.S. contribution to KEDO. As the waiver authority contained in section 614 for North Korea is limited to \$50 million per fiscal year, this \$15 million additional contribution would exhaust the limit for FY 1998.

The \$15 million special contribution will be used as a supplement to the \$30 million FY 1998 contribution appropriated by Congress for KEDO to pay for HFO expenses and for administrative costs, and the \$5 million in reprogrammed funds which the President approved on June 19.

Because of various provisions of law that restrict assistance to North Korea, the President will again need to exercise his authority under section 614(a)(1) of the 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 1998 Appropriations Act.)

(NOTE: Attachment 3 is a draft Presidential determination pursuant to section 614 provided for review purposes only. It should not be signed by the President until after the Department of State's consultations with Congress have been completed.)

Notification Procedures

Before the President can exercise his authority under section 614 of the FAA, he must consult with, and provide a written policy justification to, Congress. State would initiate such consultations with a letter stating the President's intent to exercise his authority under section 614(a)(1) and transmitting the required memorandum of justification (Attachments 1 and 2).

Section 634A of the FAA and section 515 of the Foreign Operations Appropriations Act, 1998, require that Congress be given a 15-day advance notification of the obligation of these funds. Given the urgency of KEDO's needs and the extensive contacts already undertaken with Congress on this issue, we would rely on the President's invocation of his section 614 authority to proceed with the assistance without providing the otherwise-required 15-day notification. We will advise Congress in our consultations of our intent to do so.

In conclusion, we recommend that the President authorize the Department of State to consult with, and provide a written justification to, the appropriate committees of Congress. Upon completion of these consultations, we will forward an additional memorandum recommending that the President exercise his authority under section 614 to permit a supplementary \$15 million FY 1998 contribution to KEDO, notwithstanding any law within the purview of that section.

Rose M. Jenkins for

Kristie A. Kenney
Executive Secretary

Attachments:

- (1) Letters of Notification re: Section 614
- (2) Memorandum of Justification re: Section 614
- (3) Draft Presidential Determination under Section 614

Draft

To be sent to Chairs of Appropriations and Foreign Relations Committees:

Dear Mr. Chairman:

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 use of \$15 million to support the Korean Peninsula Energy Development Organization (KEDO). These funds are derived from \$10 million in appropriations under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" account ("NADR") in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (FOAA), and \$5 million in FY 1998 Economic Support Funds and would be provided without regard to provisions of law within the scope of that section.

The funds will be used to help pay FY 1998 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 on October 21, 1994. As described in more detail in the enclosed Memorandum of Justification, we believe that the use of the \$15 million in the manner described is essential to carry out the terms and conditions of the Agreed Framework and to achieve 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 for
Legislative Affairs

Enclosure:

Memorandum of Justification

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

The Administration proposes to use \$10 million from the Nonproliferation, Anti-Terrorism, and Demining Account for FY 1998 and \$5 million in FY 1998 Economic Support Funds to provide assistance 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. KEDO would use this U.S. contribution to help cover its FY 1998 heavy fuel oil shipment expenses and its administrative costs. The President would exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the "FAA"), to authorize the provision of these funds without regard to applicable statutory restrictions 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 1998 Appropriations Act.)

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Under the Agreed Framework, the United States 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." To meet this pledge, the United States, 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 (HFO) to North Korea and other possible projects called for in the Agreed Framework (e.g., the transfer of spent nuclear fuel out of the DPRK for ultimate disposition). The United States, the ROK and Japan have played and will continue to

play leading roles in KEDO. They were joined last year on the KEDO Executive Board by the European Union.

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. Korea's President Kim Dae-jung, during his June state visit to the United States, urged Congress to support KEDO.

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required to fund the LWR project. The economic crisis in Asia has affected the ability of these and other countries in the region to render significant additional assistance to pay for HFO shipments, despite continuing efforts by the U.S. authorities to obtain more contributions. By providing an additional \$15 million to KEDO for FY 1998, the U.S. Government would enable KEDO to resume HFO shipments, thereby ensuring KEDO's continued movement toward meeting its commitments under the Agreed Framework. This, in turn, should secure continued DPRK compliance with its own Agreed Framework obligations, including maintaining the freeze on its nuclear program under continuing IAEA monitoring. The U.S. continues to seek additional HFO funds from the international community.

For these reasons, it is important to the security interests of the United States to provide \$15 million to KEDO notwithstanding any provision of law within the scope of section 614(a)(1).

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

6002

August 29, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER *② TM*

THROUGH: KENNETH LIEBERTHAL *JK*

FROM: JACK PRITCHARD *J*

SUBJECT: Presidential Action Required to Supplement FY98
Funds for KEDO

Pre-consultations with Members of Congress have already occurred and we have obtained Livingston's approval to use 614 waiver authority to contribute an additional \$15 million contribution to KEDO for the purchase of heavy fuel oil. The President must now satisfy the requirement in section 614 that he consult with, and provide a written policy justification to, Congress. State has requested authorization (Tab II) to initiate such consultations with a letter stating the President's intent to exercise his authority under section 614 (a)(1) and transmitting the required memorandum of justification (Tab A).

Concurrences by: *CS MR JH* Gary Samore, Mara Rudman, Newell Highsmith

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I Memorandum to the President

Tab A Draft State Department Notification Letter with
attachment: Justification Regarding Intended Use
of Section 614 Waiver

Tab II Incoming Correspondence



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

6002

SEP 3 1998

MEMORANDUM FOR JOHN W. FICKLIN

NSC Records Management Office

FROM:


Bruce Sasser

Chief, State-USIA Branch
International Affairs Division

SUBJECT:

OMB Clearance of State Department Request to Begin Congressional
Consultations on a 614 Waiver to Obtain Funding for KEDO

Your referral memorandum of 27 August 1998 (ID 9806002) requested OMB's comments/concurrence on a State Department request for Presidential approval for Congressional consultations, including a Memorandum of Justification. These consultations are required by the Foreign Assistance Act before the President may authorize the Secretary of State to use authority in section 614 of that act to obtain an additional \$10M for transfer to the Korean Peninsula Energy Development Organization (KEDO) to be used to reduce KEDO's debt burden from past purchases of heavy fuel oil and \$5M for transfer to KEDO for a U.S. contribution. We have no objection to the President authorizing the actions requested by the State Department

We believe the draft Memorandum of Justification, which is attached to the package we were asked to review, could be strengthened by inserting material outlining the Administration's efforts since October, 1997 to obtain contributions from other nations for KEDO's use in purchasing heavy fuel oil.

SEP 01 17:26

Bartlett, L. June

From: Pritchard, Charles (Jack) L.
Sent: Wednesday, September 02, 1998 8:48 AM
To: Millison, Cathy L.; @ASIA - Asian Affairs
Cc: @CROSS - Cross Hatches
Subject: RE: #6002-KEDO [UNCLASSIFIED]

6002

This has high priority. We cannot fund heavy fuel oil purchases without this coordination. Failure to get this going risks the Agreed Framework. It should be signed as soon as possible.

Jack

-----Original Message-----

From: Millison, Cathy L.
Sent: Wednesday, September 02, 1998 8:28 AM
To: @ASIA - Asian Affairs
Cc: @CROSS - Cross Hatches
Subject: #6002-KEDO [UNCLASSIFIED]

Can you let me know timing on this package. Does it need to be signed by the President prior to his return to Washington? If it does, we'll need some justification to push it through. Thanks.

UNCLASSIFIED

FAX TRANSMITTAL SHEET

Number of pages + cover

FROM: MARA RUDMAN

TELEPHONE: 202-456-9171

FAX NUMBER: 202-456-9170

TO

PHONE

FAX NUMBER

1. Martha Foley
2. _____
3. _____
4. _____
5. _____
6. _____

THE WHITE HOUSE

WASHINGTON

August 20, 1998

Dear Bob:

In responding to your letter on funding for heavy fuel oil deliveries to preserve the Agreed Framework, my intent may not have been clear. Let me assure you, that the below listed points are unequivocal:

- We will insist and pursue discussions with the DPRK on complete cessation of all activities which would violate the Agreed Framework;
- The Administration will initiate meaningful discussions with North Korea on the full implementation of the Joint Declaration of the Denuclearization of the Korean Peninsula;
- The DPRK has various obligations under the Agreed Framework to accept NPT inspection requirements and we will insist they comply with these obligations.
- We again will raise the option of alternative energy sources with the North and in our bilateral talks; and
- We will provide detailed classified updates for Congress on the status of the North Korean nuclear weapons program by September 9th, and on an on-going basis.

Again, I appreciate your efforts to allow us to use FY98 funds to continue our obligations under the Agreed Framework.

Sincerely,



Samuel R. Berger
Assistant to the President
for National Security Affairs

The Honorable Bob Livingston
Chairman, Committee on Appropriations
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

August 20, 1998

Dear Bob:

Thank you for your willingness, together with your colleague, Chairman Callahan, to remove your hold on the Administration's proposal to utilize its section 614 authority to provide additional funds for heavy fuel oil deliveries to preserve the Agreed Framework. As we have discussed with your staffs, these funds - combined with other Department resources, if necessary - are a critical tool for managing a satisfactory resolution of the concerns we both share.

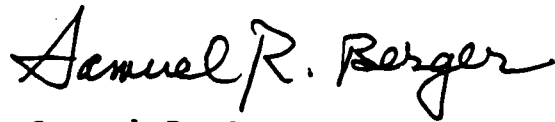
While I do not accept all of the characterizations in your letter, we want to proceed on as cooperative and candid a basis as possible.

Regardless the issues raised in your letter, I make the following assurances:

- We will insist and pursue discussions with the DPRK on complete cessation of all activities which would violate the Agreed Framework;
- The Joint Declaration on the Denuclearization of the Korean Peninsula is a bilateral document between North and South Korea. We fought hard to include it in the Agreed Framework and we will continue to raise it in our discussion with the North;
- The DPRK has various obligations under the Agreed Framework to accept NPT inspection requirements and we will insist they comply with these obligations.
- We again will raise the option of alternative energy sources with the North in our bilateral talks; and
- We will provide detailed classified updates for Congress on the status of the North Korean nuclear weapons program by September 9th and on an on-going basis.

Your concurrence in our use of FY 98 funds and your withdrawal of your hold is appreciated. U.S. national security policy towards the Korean peninsula, one of our country's principal security priorities, must be bipartisan if it is to succeed. I commit to you that the President's national security team will work closely with you.

Sincerely,

A handwritten signature in black ink that reads "Samuel R. Berger". The signature is fluid and cursive, with the first name "Samuel" and last name "Berger" clearly legible.

Samuel R. Berger
Assistant to the President
for National Security Affairs

The Honorable Bob Livingston
Chairman, Committee on Appropriations
House of Representatives
Washington, D.C. 20515

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August 19, 1998

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The Honorable Samuel Berger
Assistant to the President for National Security Affairs
The White House
Washington, D.C.

Dear Sandy:

Given the serious failings of the Administration's North Korea policy and the harmful effect this has on our national security, I believe I should be blunt in responding to your phone call yesterday regarding North Korea. For nearly four years now my colleague Chairman Sonny Callahan and I have expressed very serious reservations concerning the Administration's policy of providing advanced nuclear technology and training to North Korea, a nation that in all likelihood continued to pursue a dangerous nuclear weapons program. As a result, from the very beginning we voiced our strong opposition to a policy that could unwittingly support a clandestine nuclear weapons program in North Korea - a program whose sole purpose was to threaten the lives of our troops and those of our allies on the Korean peninsula. Yet we were repeatedly rebuffed by senior Administration officials who stated on the record that our concerns were unfounded and that the Agreed Framework had terminated the North Korean nuclear weapons program.

Sandy, I don't think I need to tell you that America's vital national security interests are not well served when the Administration pursues policies which are in effect dangerous illusions, ignoring grave national security problems instead of solving them. This is compounded when crucial facts related to this policy are repeatedly misrepresented to the Congress. For the past eighteen months the Congress was asked to provide funds to support this flawed policy based upon inaccurate statements made by senior Administration officials. On this issue alone I wish to be very direct. When issues have a direct bearing on America's vital national security interests, integrity and trust in the executive-legislative branch relationship is absolutely essential. The Administration's handling of this issue has dealt a serious blow to that trust.

Yesterday, you requested that I allow the Administration to provide \$15 million in fiscal year 1998 funds to further support this extremely questionable undertaking. After considerable thought, and in close consultation with Chairman Callahan, we agree not to oppose making these funds available *if* you agree to provide Chairman Callahan and myself with a number of important and necessary assurances. Frankly, Chairman Callahan asked me to convey to you his very strong reservations about the provision of any funds to North Korea. Therefore, both Chairman Callahan and I want to make it very clear that the withdrawal of our objection does not in any way constitute support for the Administration's current policy or the President's fiscal year 1999 request for North Korea. We cannot support a policy that entails the provision of nuclear reactors to North Korea if North Korea is undertaking actions which violate the conditions under which the Agreed Framework was originally negotiated.

Chairman Callahan and I would appreciate the following assurances:

- The Administration will pursue discussions with North Korea regarding the complete cessation of all activities which tend to violate the Agreed Framework;
- The Administration will initiate meaningful discussions with North Korea on the full implementation of the Joint Declaration on the Denuclearization of the Korean Peninsula;
- The Administration will insist on all NPT inspection requirements in order to assure that North Korea is not pursuing nuclear weapons related activities at other sites not covered by the Agreed Framework;
- The Administration will pursue with North Korea non-nuclear, fossil fuel energy production alternatives as opposed to the nuclear reactors provided for under the Agreed Framework; and
- The Administration will provide to the appropriate committees of the Congress by September 9th a detailed classified report on the current status of the North Korean nuclear weapons program.

Sandy, I would appreciate your written acknowledgement of these assurances at your earliest possible convenience. Should I not receive an acknowledgement by 4:00 pm tomorrow, I will not withdraw the hold on the funds you have requested.

Sincerely,

Signed for Robert L. Livingston by William Ingle
Chairman Robert L. Livingston
Committee on Appropriations