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POLICY IN CONTEXT

A History of KEDO
1994–2006

June 2012

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FREEMAN SPOGLI INSTITUTE
FOR INTERNATIONAL STUDIES

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Freeman Spogli Institute for International Studies
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Introduction

When the South Korean fast ferry *Hankyoreh* sailed out of North Korean waters into the cold wind and waves of the East Sea on the morning of 8 January 2006, it carried a sad and somber group of South Korean workers, ROK officials, and personnel from the Korean Peninsula Energy Development Organization (KEDO). These were all that remained of a decade long multinational effort transforming what in 1994 had been only a paper notion into a modern construction complex of steel and concrete. KEDO's profile on the North Korean landscape was unmistakable, its impact on Pyongyang profound. Yet, real knowledge and understanding about the organization in public and official circles in South Korea, Japan, and the United States was terribly thin at the beginning, and remains so to this day.

Officially, KEDO lasted from 1995 to 2007, though its productive lifespan was somewhat shorter. In September 2005, the organization was essentially torpedoed by Washington, and spent the next 16 months trying to extricate its people from the construction site on the coast of South Hamgyong province, preserve what it could of the approximately \$1.5 billion spent on the project to build two light water reactors in North Korea, and pay off the organization's remaining debts.

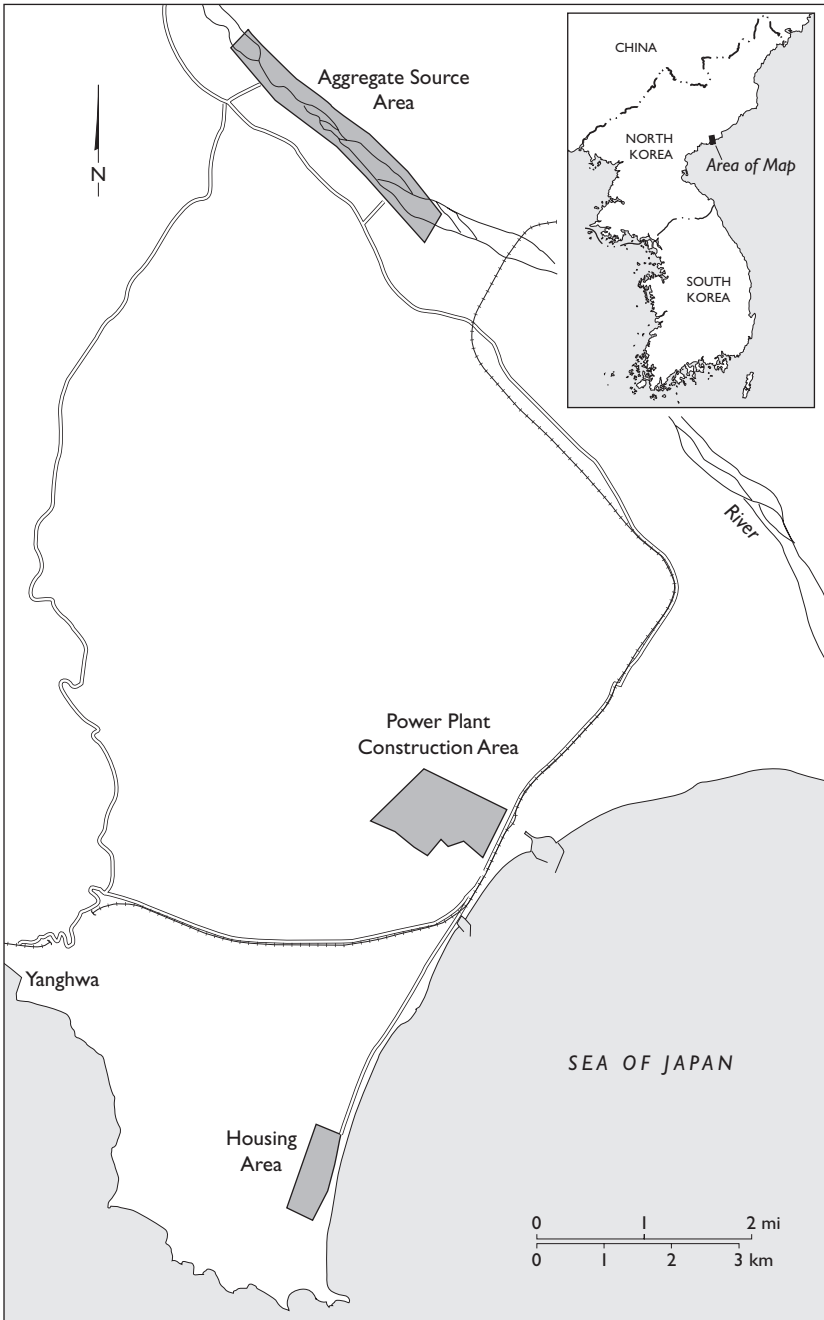
The purpose of this book is to save what remains of the living memory about KEDO, of the thinking that went into setting up the organization, the efforts to coordinate plans and translate them to realities on the ground in North Korea, and the struggle to maintain a sense of sanity while KEDO was pushed and pummeled into disintegration.

This is not meant to be the definitive study of KEDO or the surrounding events. It does not attempt to account for everything that KEDO did; we did not try to interview everyone who worked for the organization over its lifespan. There are undoubtedly some yarns left unspun. It is, and should be read as, a view from the foxhole. As an oral history, its goal is to record what things looked like at the time to those actually working the problems, buffeted by conflicting pressures and imperfect knowledge. Normally, in studies of the Agreed Framework period (1994-2002), KEDO is given only a few sentences. More than ten years of work with --and in -- the DPRK involving thousands of participants and over a billion and a half dollars of expenditures deserve, surely, something more. Neither press reports at the time nor official government documents adequately explain the challenges KEDO faced or the solutions it fashioned. We hope what follows will help fill out the historical record and provide lessons for future such multilateral diplomatic efforts, whether with North Korea or elsewhere.

The interviews utilized in this oral history were conducted from 2006-2008. In the years since, some of those we interviewed have retired, others have gone on to new positions. The views expressed at the time were those of the individuals, and should not be taken as representing the formal position of the governments involved, either then or now.

The manuscript was originally made available online through Columbia University but reached a very narrow audience. We are grateful to Professor John Lewis of CISAC at Stanford University for his enthusiasm and foresight in now giving the manuscript a broader platform that makes it available to students, those few officials and journalists with the time or inclination to look at history, and scholars of the North Korean nuclear issue.

MAP OF KEDO SITE IN KUMHO DPRK



Chapter One

KEDO'S Place in the Universe

In March 1993, North Korea announced that it was withdrawing from the Nuclear Nonproliferation Treaty (NPT), a step setting in motion a diplomatic crisis that smoldered and flared over the next 18 months. By the summer of 1994, matters moved dangerously close to a military confrontation, but thereafter, in several rounds of talks in Geneva, the US and the DPRK moved quickly to a resolution. In October 1994 they signed an agreement trading energy assistance and steps towards normalization of relations in return for the North giving up its fissile material production program. It was as part of this Agreed Framework, as it was formally called, that KEDO came into being.

From the beginning, the common wisdom held that KEDO was formed primarily to build two light water reactors (LWRs) under the terms of the Agreed Framework (Appendix 1). In fact, KEDO was not at its core a technical or a construction organization but a political one. It was an instrument meant to implement an agreement that the US thought would address its security concerns concerning the DPRK.

The Agreed Framework and KEDO were merely first steps, intended to lead to other, wider actions by both the US and the DPRK that would lower tensions and provide long term stability in Northeast Asia. In other words -- although this is a concept that moves in and out of favor in political circles -- these were unabashedly vehicles for engagement. Recall, Washington had decided as early as 1988 that at least a minimal engagement with the North had become a necessary part of US policy in East Asia. But those initial efforts were, in keeping with the "Modest Initiative" that announced them, understandably tentative and partial.

Although the policy rationale for the Agreed Framework was nuclear non-proliferation, its promise of normalization with the DPRK was seen as being in line with the approaches taken by previous US administrations going back to 1988. The Framework, however, was to some degree shaped to provide a better basis for sustained and substantive contacts than had the earlier attempts. It laid out not just the desired ends but also, in broad terms, the means by which each side could judge the other's intentions and performance. In particular, KEDO was seen as one of the main tools for regular, sustained, and long-term engagement with the North. Moreover, it was specifically designed to broaden the scope of engagement, to involve the ROK and Japan as well as the US.

Not well understood by any of those involved in establishing the new organization, at least not at first, was the complicated stew KEDO represented. It was supposed to build one of the most technically complex modern

facilities (a nuclear power plant), employing standard commercial practices (financing, contracts, legal liability, etc.), all to achieve a web of difficult political, diplomatic, and security goals. What this meant is that though KEDO was at its conceptual core a political organization with a clear political purpose, functionally it had to operate within technical and, to a lesser extent, commercial realities and constraints. To mention just one -- it needed to secure the wherewithal (\$4.6 billion, at least) to finance construction of the nuclear reactors, as well as funds to pay for 500,000 tons of heavy fuel oil (HFO) a year. This intersection of the commercial-technical and the diplomatic worlds complicated virtually every step.

Starting from scratch in 1995, KEDO faced a number of problems from the outset that it had to resolve even before it could turn to its main tasks.

-- It had to be established as an effective organization coordinating efforts of several governments (the US, the ROK, and Japan, joined later by the European Union.)

-- It needed to recruit technical and legal experts, and they had to establish trust and working relations with counterparts in the DPRK.

-- It had to negotiate a long list of protocols (Appendix 2) with the DPRK governing all aspects of KEDO operations on DPRK territory. Although the first of these were completed rather quickly, negotiations for the entire list took a considerable period, and in fact were never completely finished.

-- Finally, KEDO had to prepare the site on North Korea's east coast selected for the reactor construction. The site, originally surveyed by the USSR for its own plans to build nuclear reactors in North Korea in the 1980s, was chosen for its suitable geology. However, it was isolated and, for purposes of a construction project of this magnitude, completely undeveloped. Little support of any kind could be expected from the DPRK. A vast, self-contained infrastructure had to be put in place, both to support the work force and to support the construction itself. Roads, a port, water and sewage, housing, medical facilities, and reliable electricity all had to be provided -- and all the equipment necessary for building this infrastructure had to be shipped into North Korea from the South. The actual construction site itself had to be surveyed again and prepared. Those preparations included removing the top of a small mountain, no small task. All of this had to be done safely and according to certain standards, and within budgetary constraints.

All of these challenges were difficult but they could be met, and in fact they were. A more vexing problem remained, however. For a variety of reasons, KEDO was the most visible element of the Agreed Framework. This high profile made it the most obvious target for critics of the framework. Even worse, KEDO became a convenient if often misplaced point of leverage against the DPRK, in effect undermining one of the organization's longer-term

purposes -- that is, sustaining and expanding contacts with the North across a wide front.

It is worth noting here the oft-repeated allegation that KEDO failed to meet the obligations set out in the Agreed Framework in terms of the schedule. The Agreed Framework said that the “target date” for the completion of the first LWR was 2003. The term “target date” was not chosen lightly; it was the subject of considerable discussion during the Framework negotiations. The US was reluctant to put any date at all in the Framework, because there were significant unknowns in constructing a nuclear power plant in North Korea. We knew the average construction time for such construction in those countries where the infrastructure and legal frameworks already existed. Neither of those was in place in North Korea. The DPRK was understandably anxious to know when it would get the LWRs and pressed for a date, as early as possible, to be included in the Framework. At the very least, it was clear that the North’s negotiators in Geneva felt pressure to bring home a specific deadline. The compromise that was reached was to set down a “target date,” that is, a date that the US side would aim to meet, although it was made clear to the North Koreans that the 2003 date was highly unrealistic.

Chapter Two

KEDO's Creation

KEDO's origins some dozen years ago are now dimly remembered, if at all, so it may be useful to set down at the start of this history what its creators intended. As noted in Chapter One, KEDO emerged from the Agreed Framework, a US-DPRK agreement that contained elements pointing towards the very different objectives of the parties. The US sought the eventual, verifiable end to the North's nuclear weapons program through a series of steps spelled out rather precisely. The North, in turn, wanted economic and political normalization with the US, a goal left broad and vague.

A central element of the North's position at the negotiations early in the process -- ever since July 1993 -- was that it be provided with light-water reactors in exchange for freezing and eventually dismantling its nuclear facilities at Yongbyon. Quite apart from any policy question of whether or not it made sense to substitute one set of nuclear reactors for another, providing the North with LWRs would cost billions of dollars, much more than the US was willing to pay on its own.

Timing and phasing were critical elements in the final deal -- not only what each side would get but when. Completion of the KEDO reactors was to await international verification that the DPRK had come into full compliance with its NPT obligations. In the interim, the North was to be supplied with heavy fuel oil (HFO). Both of these jobs fell to KEDO. Its operational mission was provision of short- and long-term energy to the DPRK, critical to any plans for North Korea's economic development but still disconnected from what either of the parties most wanted to get out of the Agreed Framework. The KEDO reactors were to be instrumental in moving the North to abandon its existing nuclear program, but KEDO itself would have nothing to do *per se* with getting the North to honor its nonproliferation obligations. Similarly, though KEDO might over time help lessen tensions by increasing regular contacts between the North and the US, South Korea, and Japan, it could do so only indirectly.

Before agreeing to the swap of LWRs for the North's existing graphite-moderated reactors, the US insisted that it be made clear in the final document that the tasks of building the LWRs and supplying the fuel oil had to be undertaken by an international consortium, a proviso to which the DPRK grudgingly agreed. Putting together a politically, technically and financially feasible project became a top priority for Washington. After a whirlwind diplomatic tour of Russia, China, South Korea and Japan in the summer of 1994 by Ambassador Robert Gallucci, the chief US negotiator, the solution that slowly emerged was a multilateral organization to be led by three main participants,

the United States, South Korea and Japan. Although State Department experts had warned against attempting to establish a new international organization, the preference of its allies and the need for some insulation against liability finally drove Washington to opt for just such a structure. KEDO became a reality in March 1995 when the charter (Appendix 3) establishing it was unveiled at a conference held in New York City, attended by the main players and a small number of other countries who agreed to participate in KEDO's work.

While the United States made significant headway in building a multilateral organization to implement its key Agreed Framework obligations, the DPRK sought consistently to preserve the bilateral origins of the agreement as the early steps unfolded. Largely for that reason KEDO was established in New York -- on US soil -- with an American as Executive Director. At North Korean insistence, Americans sat as at least nominal heads of delegation in all KEDO interactions with the DPRK. At the same time, the US needed to pull in the opposite direction to attract additional participants -- especially acting as contributors -- to KEDO's projects. After President Clinton designated KEDO as an international organization (Appendix 4), the US began an exhausting and frustrating effort to expand the financial burden beyond the three founding governments. The one notable success, albeit one that engendered considerable fussing by the ROK, was the eventual addition in 1997 of the EU to KEDO's Board.

More than just a way to get LWRs, KEDO was, in the DPRK's eyes, a means of securing long term normalization of relations with the US, but a lack of clarity on this point in the Agreed Framework, the organization's international character, and a difficult domestic political situation for the US administration after the mid-term elections in November 1994 meant a formal, ongoing, high-profile commitment by the US Government to KEDO was beyond reach. Initial consideration of providing some token amount of funds for the LWR project was squashed by objections from the new Republican leadership in the Congress. While Washington recognized it had an obligation to "take the lead" in providing HFO, Secretary of State Warren Christopher made that task far more difficult by indicating to the Congress that the cost to the American taxpayer would be on the order of only \$20-30 million annually.

Apart from the onerous need to appropriate at least that amount every year (and failing to anticipate the runaway rise in oil prices that followed), the US administration treated KEDO as though the organization had no further connection to the policies or policy-makers that created it. Already by the beginning of 1996, there was a growing sense in the administration that the North Korean nuclear problem could be put on the back burner, essentially solved by the Agreed Framework. That was particularly true once the two individuals who had led the US team in the Geneva negotiations, Ambassadors Robert Gallucci and Thomas Hubbard, moved to other assignments, depriving

the administration of policy continuity. Other, more senior officials were either unfamiliar with the details or disinterested.

This lack of focus on Washington's part took a toll. If American leadership had been critical in negotiating an end to the nuclear crisis, its diminished role in following through undermined implementation of the Agreed Framework, perhaps nowhere more so than in KEDO. The KEDO charter established an organization that was to be run by all three of the founding members through an Executive Board that made important decisions by consensus. The hope was that all shared the same vision for the organization; the reality was that all of the founders had their own motivations for being part of KEDO.

Neither the ROK nor Japan was interested in highlighting US leadership. The ROK, coping with a serious downturn in relations with the North after Kim Il Song's death in July 1994, had its own plans for improving inter-Korean relations again. By providing not just the bulk of the funding for the new reactors but also the reactor model itself, Seoul gave itself considerable heft within KEDO to ensure that ROK interests remained paramount in the organization's interactions with the North. The different emphasis put by Seoul and Washington on KEDO was not hard to sense. While the Korean Government was gearing up to use KEDO as part of its overall policy toward the North, Washington consigned the organization to a dusty corner of the bureaucracy.

For its part, Japan was still smarting from having paid enormously for the first Gulf War (1991), and anything that had the appearance of more "checkbook diplomacy" was unpopular. Moreover, Tokyo was skeptical about putting reactors in North Korea -- too close for comfort if there was a nuclear accident -- and felt it had little political stake in the success of an agreement negotiated by the Americans.

According to a knowledgeable Japanese official, on the occasion of Prime Minister Murayama's visit to Washington the government decided to make a 'significant contribution' to the LWR project -- wording which committed Japan to participate in the project but did not define how much. (If the Charter had involved a specific financial commitment of more than one fiscal year, it would have required Diet approval.)

The Japanese liked the multilateral aspect of the new organization, both to avoid making payments directly to North Korea and to spread the financial burden as broadly as possible.

Although in the early years Japan eventually played a positive role, bilateral problems with North Korea beginning in the summer of 1998 became more and more of a drag on Tokyo's role in KEDO.

The difficulties of establishing a new organization from scratch, the immediately apparent shortage of funds to implement its responsibilities combined with tensions between its board members as well as with the DPRK meant that from the very start KEDO had to overcome a number of hurdles. In addition to these problems, KEDO very quickly became the “face” of the Agreed Framework and thus the target of all those opposed to that agreement. It made no difference to the critics that KEDO had no direct role in assuring progress towards the Framework’s most important objectives, the eventual denuclearization of North Korea and the political and economic normalization of relations. It was true that the faster the reactors were built, the faster the process would reach the verification of the North’s past nuclear activities, as called for by the Agreed Framework. But verification was the job of the International Atomic Energy Agency, not KEDO. As for normalization of US-DPRK relations, that fell to Washington and Pyongyang. Again, KEDO had no direct role. The result, somewhat ironically, was that the existence of KEDO may have allowed each side to justify its painfully slow progress towards the other’s objectives.

Ambassador Robert Gallucci

“I think the KEDO thing was born of the North Korean insistence that we build a reactor; our need to involve the South Koreans (against the North Koreans’) specific interest in *not* having the South Koreans build the reactor but their willingness to see other (countries involved). It was really trying to solve that problem – to square that circle – (that we said): ‘Let’s create something that will do this.’ (There was) some reasonable amount of fuzziness about what the organization would do; how it would relate to the actual reactor vendors. We were thinking of an international organization, some entity that we would create that would involve the United States to meet the North Korean concerns, clearly involve the South Koreans to meet South Korean concerns, and (involve) the Japanese because we weren’t sure that the South Koreans were going to actually pay for everything and do everything. We thought Japanese involvement as the third party made the most sense.

“This seemed to be something that we could simply do. In my mind, I had 1) a UN organization, and 2) a non-UN organization. The Multinational Force Observers was an entity where I had been Deputy Director General ... a free-standing organization that I had been associated with for four years.

“We weren’t going to be driven by anybody’s model. We knew we were going to have these three countries involved. There was going to be some concept that we were going to do this for the North Koreans; we spent a lot of time trying to figure out whether the concept had to include the North Koreans paying for it in some way or not. And then of course

we had to get the organization together and had to figure out how the organization mated with operations ... We were fairly certain that we did not want ... an organization that was actually going to be the engineering organization ... We really expected the reactor construction to come from the South Koreans, pending only on what kind of subcontracting role the Japanese might have in this ... KEDO was not going to build the reactors; there was going to be a vendor out there in South Korea.

“I had a difficult session with Deputy Secretary (of State) Strobe Talbott who was getting advice from people who knew what big engineering projects required. And Strobe said: ‘Frankly, they don’t believe *you* know about this, Bob, but *they* do.’ And I said, ‘Frankly, Strobe, they’re right, I don’t. But I don’t plan on building a reactor. I plan on having a political structure under which people who build reactors will have to do just what these guys are talking about, but it ain’t us.’

“(Others wanted KEDO to) have the expertise to oversee the reactor project. And that’s a fair amount of expertise (including) on-site ability (and) have that at every phase of construction ... something between 50 and 100 professionals for KEDO.”

Ambassador Thomas Hubbard

“The memory I have of where we came up with the idea of KEDO was I was in a conversation with (US Ambassador to the ROK) Jim Laney, Bob Gallucci and a few other people. Just as we decided that light water reactors in North Korea was something the US could live with someone raised the question: ‘Well, how on earth were we going to pay for these things?’ And Laney’s answer was: ‘It’s easy – we’ll get the Japanese to pay for them.’ And Gallucci’s follow-on was: ‘Then we’ll get them to buy Russian reactors. They’re cheap and good enough for the North Koreans’

“I think I was the only one in the room who knew anything about Japan. I said: ‘Hold it. One, the Japanese are not going to pay for the whole thing. Two, you’re not going to put Russian reactors that close to Japan.’

“I think I said: ‘Well, why don’t we set up an international consortium?’ I honestly think I was probably the first guy to throw that idea out (and) that’s what we followed on with. I think our original vision was that the Chinese and Russians would be substantial players. In fact, we went and asked them to participate. Taiwan volunteered and we sort of said that that probably wouldn’t work but KEDO was finally put together.

“The other thing of course was far from the Japanese building the reactors, and somewhat surprising to all of us, the South Koreans immediately demanded – I think KEPCO was very strongly behind it –

that the reactors would be the Korean standard reactor and pretty quickly volunteered to pay three-quarters of the cost or something like that.”

Ambassador Robert Gallucci

“As we talked about it among ourselves ... we used to say, it wasn’t hard to find people who would build the reactors, it was going to be very hard to find people to pay for them. But it was also complicated by the North Korean position. They certainly didn’t want South Korean reactors; they wanted American reactors.

“Put all these in a pot, stir it up, and you had a problem. Part of the solution to the problem would be to ‘multilateralize’ this ... because we thought we were going to end up with the South Koreans paying a significant portion of the cost of these reactors. The South Koreans were in fact prepared to do that -- in fact, probably be unprepared to have others do it. We were hopeful that the Japanese would take a piece of the burden of this. We had ‘soft’ views about the technology here. Clearly, if the South Koreans were to take on a large part of the burden then a lot of American technology would be involved because South Korean reactors come in many cases from American vendors.

“We needed in the first instance though to get the financing thing right because the deal that would have to be cut in Geneva would require us to provide the North Koreans some sort of written assurance from the President of the United States or from the US government that if there was a quid pro quo, and there would be in the eventual Agreed Framework, that there was some commitment to the effect that we would provide our part of this, which would be the reactors. We were not going to get anything like that out of the US government unless we had a financing scheme that did not in the first instance require the United States finance but would take, at the time, about \$4 billion and grew to about \$6 billion.

“So we went off to persuade Seoul, Tokyo and Moscow ... We were not only looking to see who was going to finance this, but there was also going to have to be some entity created to do this that was multinational in some way ... We were going to be trying to get the South Koreans to give us some language, ideally in written form, because we in the United States would have to get something written to the North Koreans. I was going to have a hard time, I thought, with policy makers in Washington, agreeing to provide something in writing if the commitments from the South Koreans and/or the Japanese were not also in writing.”

Ambassador Thomas Hubbard

“This all started as a European-based non-proliferation thing. We were over there in Geneva (negotiating with the North on the Agreed Framework) and we briefed the Russians a lot. I recall in various ways we went to their officials asking them to participate ... I think Bob (Gallucci)

had this idea all along that the North Koreans had some experience with Russian technology, the Russians had been in there, you didn't really have to have the best reactors anyway in North Korea, and (we should) somehow get Russian reactors in there. I knew that was anathema to Japan and would never happen. We weren't that far from Chernobyl then. And the South Koreans would have none of it either.

“We didn't have the Agreed Framework yet. We came up with the idea of the consortium before we actually concluded the Agreed Framework. In other words, this was assuming we get an agreement with the North Koreans, how would we carry out the reactor part of the program? Then later they threw in the heavy fuel oil. Originally, we just thought of this consortium as a way to pay for the provision of LWRs.

“I went to endless TCOG (the US/ ROK/Japan informal policy coordinating body, the Trilateral Coordination and Oversight Group) and semi-TCOG meetings in which we talked about what -- we hadn't named it yet -- what KEDO would be. Then I wound up going around and soliciting money from the ASEAN (countries) with my Deputy Assistant Secretary position at that time. Others were going here and there.

“We thought we had the ROK pretty well locked in ... The second step was getting the Japanese locked in ... (They) said they would contribute both to the nuclear (project) and to the heavy fuel oil ... Of course, that was against the expectation on our side as well as theirs that we would pony up something for the nuclear (project).

“One surprise to me was how hard it was to get money out of the Singaporeans ... Australia and New Zealand came to it very quickly and then it was like pulling teeth getting money.

“The first effort was to try to organize support.”

Gary Samore

“First, we wanted to implement the Agreed Framework, and from the beginning we envisioned that being done by a consortium ... that had the three allies working together. A secondary motivation was to raise money in order to pay for the HFO part of it ... that was really uncovered. There was always an agreement on sharing costs of the LWR between South Korea and Japan, but the HFO, that was very unclear, how that was going to be paid for.”

Ambassador Thomas Hubbard

“We were doing the contractual stuff for KEDO and we were calling it the ‘Korean Energy Development Organization’, and the South Koreans and North Koreans were all fine with ‘Korean’ ... (but) the Japanese said there is a law in Japan that says we cannot use a foreign- borrowed --

katakana -- word in a formal agreement and needed to use (the Japanese word) ‘Chosen’. That was unacceptable to the South Koreans (because it favored the North), so I asked: ‘Well, what do you call the (whole) peninsula?’ And the Japanese said: ‘Well. ‘Chosen Hanto.’ And I asked the Koreans: ‘Can you live with that, referring generically to the peninsula as ‘Chosen Hanto?’” It turned out they were okay with that, so that’s how ‘Peninsula’ got into the formal name, though we kept calling it KEDO.”

Ambassador Stephen Bosworth

“Did I have a sense of being closely connected to Washington? Not at all. Soon after I started, Bob Gallucci left (the State Department to become Dean at Georgetown). So there was nobody down there. And Tom (Hubbard) was helpful for a time but then he went off (as Ambassador to Manila).

“I’m not sure how deeply they (ROK Government) bought on to it (KEDO’s purpose). They were clearly worried that they were going to end up getting stuck with the whole bill. They wanted influence commensurate with their financial contribution. Of course, on the other side I was getting from the North Koreans, at that point, total reluctance to have any direct dealings with the South Koreans at all. It was though South Korea didn’t really exist, except informally.

“I went to Pyongyang in March 1996 ... met with Kang Sok Ju (the DPRK First Vice Foreign Minister who negotiated the Agreed Framework) ... (but when) I got back to the States nobody from the Department ever called to debrief me on what happened.”

Ambassador Chang Sun Sup

“The Kim Young Sam administration was very hostile. At the time, the relationship between South and North Korea was very bad, confrontational. And suddenly KEDO came up. (President) Kim Young Sam committed our government to provide 70 percent of the financial burden. I thought at the time that Kim Young Sam himself and his government wanted to make it a stepping stone to make some consultation with North Korea. In other words, KEDO was not a purpose itself; it was sort of a vehicle to reach North Korea.

“He was excited to use this project to promote his own objectives to improve relations with North Korea – and he wanted to have tete-a-tete contact with Kim Jong Il himself. So initially there were very high hopes at very high levels of the Korean Government.”

Ambassador Cho Kyu-hyung

“At the time, the KEDO project was the most important project ever launched. So, I think the Korean government was determined to do its best to see it function as we expected. Obviously, there were (internal) disagreements on technical matters. But when it comes to the direction of the project, I think there was no serious disagreement among the government agencies in that it should be implemented, not only for the solution of the nuclear problem but also for the sake of national reconciliation between South and North Korea.”

Kim Young-mok

“Almost all in the ROK government and most media agreed that South Koreans should have leading positions (in KEDO) ... because they believed there was too much political damage from the Agreed Framework negotiations ... I believe (Foreign Minister) Han Sung Joo, even though he contributed greatly to abating the nuclear crisis on the Peninsula, had to resign because of the public perception that there was too big a concession to North Korea. The idea then was to offset the loss in negotiations by securing the South Korean role in the LWR project. South Korea strongly supported the birth of KEDO because KEDO was believed to be a vehicle in which Korea can have a clear role vis-a-vis North Korea; and North Korea equally opposed KEDO at the beginning and hoped that everything would be done by the US government or US companies.

“The MOU (Ministry of Unification) had supported the LWRs even before the Geneva agreement. The Unification Ministry wanted to do something meaningful with North Korea. Accommodating the DPRK desire for a nuclear power project was very symbolic and could be powerful in this sense. It was hard for the Foreign Ministry to get a hold of this issue, even though the issue was apparently one of non-proliferation. It involved huge finance, construction, technology, etc. So it was decided the MOU would take the lead within the government ... (but) even so its voice was not so prevalent in the beginning of KEDO because there needed to be many negotiations among allied governments and coordination of their negotiations with North Korea.

“Minister Gong (Ro Myung) replaced Han Sung Joo ... He artfully negotiated the follow up. He was the one who greatly contributed to KEDO’s start even though he took the stronger, more conservative stance (on North Korea), but he knew the stakes.

“At the time, we had no great difficulty talking with Japan on how to organize KEDO because they didn’t have a strong viewpoint, except for some dissatisfaction on funding. They were ready to follow and support

the American government, believing the Agreed Framework was the only practical way to resolve the North Korean nuclear crisis.

“They were rather sensitive to funding questions, but on organization they were generally cooperative, as long as they could take care of finance and administration and (gain) some Japanese firms’ participation in the project. The Japanese were extremely adamant in minimizing overall LWR Cost and minimizing their financial share. I believed that Japanese had a bad memory about funding the Gulf War.

“In the beginning, few thought Chinese involvement would be helpful (so) their involvement was not actively sought. (And) the South Korean government was afraid that the Russians wanted to sell their reactors to the North Koreans with American and South Korean money, so they were not welcome. Actually, the Russians had sought to supply their technology and equipment to North Korea (to paid for) by South Korean money.”

Ambassador Choi Young Jin

“How to find the perceived interest of the three countries, i.e., Korea, Japan, and the United States of America? In the beginning, Seoul had a more hard line position towards North Korea, whereas Washington was more accommodating, and Tokyo’s stance was somewhere in between. Since there was always a contrast in the positions held by Seoul and Washington we aimed to reconcile them and find a workable formula through KEDO.

“At the onset, during the first couple of months, it was rather difficult as we were not quite sure why we were there and what we were supposed to do. We also had different views on how organizations should be set up. For instance, in setting up organizations, Koreans and Japanese tend to create the infrastructure first, by preparing the office and appointing the secretaries before choosing the head. On the contrary, in the American tradition, this order is reversed: first it is the leaders who are appointed and then the leaders themselves are in charge of recruiting their deputy advisers, secretaries, and even of finding their own office space. To my mind, KEDO represented the first example of Koreans, Americans and Japanese working together in our entire history.”

Kim Hyung-suk

“The (ROK) LWR Office was launched in January 1995, right after the Agreed Framework was signed. The ambassador from the Foreign Ministry became the head of the LWR Office and he brought some people from the Ministries of Unification, Foreign Affairs, Science and Technology, and Finance.

“The new office space was just found in the North-South Dialogue Office of the Ministry of Unification and they had just moved into the new building there. They were bringing in more people from KEPCO and KAERI, and it was not easy to start from scratch because we didn’t have any documents ... We had to make a lot of copies of cables in the Foreign Ministry.

“We were beginning a new project that was really huge considering the (state of) inter-Korean cooperation up until that time. Even if the working conditions were not that good at the beginning, people were full of energy.”

Ambassador Yanai Shunji

“I had several talks with Bob Gallucci and his team. They told me that we would have to provide one or two reactors for peaceful purposes in exchange for the cancellation of the North Korean weapons project. Frankly speaking, my first reaction was, ‘Why should we give them nuclear reactors?’ Because the North Koreans said they would need nuclear reactors for power generation. (But) when we looked at the situation in North Korea, they really didn’t need nuclear reactors to cope with the power shortage. They could have generated electric power with conventional generators; and they lost a lot of electricity in transmission.

“We were rather skeptical, frankly speaking, about the content of the exchange. But we were told that was the only option, so we had to accept the proposal.

“At the beginning we didn’t have any idea about creating an international organization, albeit very small. At (this first) stage, I think we talked a lot about how to get money for the budgeting of the light water reactors. So we considered the possibility of financing by ExIm Bank loans or all kinds of financial schemes. Then later on came the idea of creating KEDO. But I thought that the involvement of Japan and Korea was something natural because we are neighbors of North Korea and both Korea and Japan were countries which were going to be affected directly by North Korean nuclear programs. And having gone through the initial rather negative or at least skeptical reaction of the Japanese side, at least in my view it was perhaps a good idea to have some kind of international involvement. Perhaps without that small international organization we couldn’t have involved the Europeans.”

Chapter Three

KEDO Takes Shape

Even after KEDO had been officially established as an international entity, albeit one with varying degrees of oversight from capitals, it still needed to take on a more solid form and, eventually, begin to grapple with its primary mission of building reactors in North Korea. To create an organization out of, literally, nothing while working to meet the milestones in the Agreed Framework meant essentially building the airplane while it moved down the runway.

Besides recruiting an Executive Director -- former US Ambassador Stephen Bosworth -- and his Korean and Japanese deputies, the tasks ran the gamut, from finding affordable office space in New York, picking a bank and writing an employee handbook to securing legal recognition as an international organization.

Most important, as staffing was filled out, it became clear that creating a cohesive multinational organization would be, to put it mildly, a challenge.

Ambassador Stephen Bosworth

“I started in the spring of 1995, didn’t formally begin working at KEDO until July, but there was no KEDO in actuality. We had no office; we had no internal procedures; we had no people. So, when (Choi) Young Jin and Umezu (Itaru) arrived as Deputy Directors, they were the first two people. And we ended up working out of a temporary office in one of these office-leasing locations over on Park Avenue.

“And we were sharing offices, sharing space. I hired the accounting firm that was supporting the US-Japan Foundation, and they began to provide us with some administrative infrastructure. We didn’t have typewriters or computers.”

Ambassador Yanai Shunji

“The member countries all sent people with no particular clue what was needed -- but they were bodies.”

Ambassador Stephen Bosworth

“By this time (beginning work on the Supply Agreement in late 1995) we had moved into our offices down on Third Avenue, and we had more

of the trappings of an established institution. And we were beginning to bring in people to do this work (on various protocols). I was spending a good deal of time on the road in Tokyo and Seoul trying to make sure the governments were coming along as we built this relationship with the North Koreans.

“(The internal structure of KEDO) just sort of evolved. And it was not easy because I had not realized the extent to which I was going to find myself the meat in a Korean-Japanese sandwich. But fortunately the personal relationships were by that time strong enough to withstand a lot of argument and tension.

“Fairly early it seemed clear to me that South Koreans should be in the lead in terms of dealing with the North Koreans on construction issues because South Korea was providing most of the money, South Korea was going to provide KEPCO (as prime contractor). But we needed somebody who could be an intermediary with South Korean entities.

“The person who was really so essential in all this was (Choi) Young Jin because he could manage the Koreans on the staff and he had good access in Seoul. I traveled to Seoul three or four times that first year, and just sort of made the rounds.”

Lucy Reed

“I joined right after Thanksgiving in 1995. When I came to KEDO on my first day, what I most remember is having an office with no furniture, and just having a sort of credenza to work from.

“The first issue that hit my ‘desk’ was a question that came from Bob Gallucci, who was already gone (to Georgetown) by then but was still officially a Board member. He wanted to know if he voted in favor of the next (heavy fuel) oil purchase for the North, and there wasn’t any money in the (US) budget to pay for it, could he be personally liable for the amount that was owing when the providers of the oil came to collect? This was a rather urgent issue ... governed by New York law because KEDO was based in New York.

“I (also) had to write the Employee Handbook. We didn’t have that, including a section on sexual harassment ... Some members were very uncomfortable that this had to be in black and white but we had to insist on it because we were based in New York.

“The other really challenging thing was KEDO was set up before it was recognized as an international organization by the US under the US international organization legislation. To be approved as an international organization, you have to be explicitly approved, which Congress wasn’t about to do; you have to have your funding approved, which took a long time or the President has to issue an executive order, which didn’t come until sometime in mid-1996. Until we were an international organization

under US law, no (non-US staff member) was entitled to tax-free treatment or immunity. All the Japanese and Koreans had been brought over with the promise that their salaries would be tax-free. Covington and Burling became our lawyers on issues such as these.”

Ambassador Choi Young Jin

“With regard to the bank in charge of providing services to KEDO, we inherited it from the State Department. Yet, in order to maximize the benefits in terms of bank services, we decided to replace it with another bank which could provide better services and we were confronted with the choice among a Korean, an American and a Japanese bank. Since Korea was covering the lion’s share of the costs related to KEDO, it could not agree to choose a Japanese bank, even though the Japanese bank was offering the best deal, all things considered. Thus, in the end, we found a compromise formula: the Japanese bank would provide services regarding the KEDO administration account whereas each country would choose its own bank to administer its own contributions to KEDO; in our case, we chose the Korea Exchange Bank.”

From the beginning, there were differences in the way the three founding governments approached the staffing of the organization. Generally, Korea and Japan detailed their officials to KEDO in the same way they might send officials to any overseas assignment, with limited terms and an imperative to protect their careers in their respective home offices. By contrast, the US decided that the Americans at KEDO should be contractors who, for the most part, would serve at KEDO for the duration. The US Executive Director would be a retired ambassador whose willingness to work closely with policy makers in Washington could be counted on, but none of the Americans were to expect renewed employment by the government.

As a result, KEDO basically found itself with two kinds of employees: those whose first loyalty was to the organization and its mission, and those whose loyalties were at a minimum shared with their permanent employers. The earliest internal issues facing the executive director and his deputies revolved around creating a single corporate identity to overcome these divided loyalties and the attendant differences that came with a staff recruited from three different cultures, different social dynamics, and different bureaucratic ways of solving (or sometimes dodging) problems.

Internal frictions, cultural differences, and the “in-between” loyalties of the staff could not be completely eliminated, of course, but a great deal of thought and effort went into creating a unified sense of mission among the new staff members. The effective and cooperative leadership of the first Executive Director and his two Deputies was able to forge a more cohesive tri-national tool than anyone might have expected.

Aloysius O’Neill

“There was always within the Secretariat an interesting amount of by-play because, for practical purposes, only the American employees of KEDO were exclusively KEDO employees ... Almost all of the Japanese and Koreans, especially including the Deputy Executive Directors and office directors, were on loan from their governments. They communicated daily with their governments in much more detail than we did with the US government in Washington through the US liaison. That almost inevitably brought a certain amount of tension and the possibilities of conflict. They were usually able to be worked out but it was basically a feature of daily life in the Secretariat.”

Kim Eun Soo

“I think KEDO was different from other international organizations in one thing. Every step was instructed from governments. International organizations should be impartial and objective, but KEDO was not. In theory yes, but in reality, KEDO was too much a political organization: it was politically administered, and politically organized. It was a minus. I could not have an identity as a KEDO man ... I think the Americans were more or less independent from Washington, compared to the Japanese and South Koreans; but we were heavily instructed from capitals, most of us were seconded from governments.”

Hahn Choong-hee

“KEDO is a little bit in-between, not solely bilateral but not definitely multilateral. It’s a semi-multilateral setting. The members of the Secretariat are not working solely for the Secretariat itself, not like a UN-type of organization, but to some degree half and half. They work for their own countries or entities they’re representing. So it’s a middle way. It’s not totally Secretariat members, but it’s not totally government representatives. It’s in-between.

“When we talked about issues during our internal deliberations ... we often talked based on (our) ... respective countries’ positions ... Another thing is ... the cultural background of each country ... each has their own unique way of dealing with business ... Japan is more focused on financial issues, and then a legalistic approach. The EU is always citing their internal procedures ... Then the U.S. of course is considering ... its relationship with the DPRK, the Congress, and the general political atmosphere in Washington. The ROK is in-between: we are in the front row to move this project ahead because we have KEPCO and we contributed the lion’s share of 70 percent.”

Ambassador Choi Young Jin

“We, the leaders of KEDO (Umezu, Bosworth and I), understood the importance of creating a KEDO personality so as to find a common position rather than just follow instructions from our respective capitals. In fact, if we had to follow scrupulously the instructions emanating from our capitals, there would be no need to create a separate structure like KEDO. KEDO was established with a view to finding the common denominator among the interests of the three countries which we referred to as a ‘KEDO personality’.

“How to find the common denominator? How to find the perceived common interest of the three countries? Finding a common position was at times easy, at times very difficult, and at times impossible. As indicated earlier, in the beginning Seoul had the most hard line position towards North Korea, whereas the Washington’s position was the most accommodating and Tokyo’s position was somewhere in the middle. In fact, Japan ended up having to reconcile the contrasting Korean and American positions.

“With regard to staffing KEDO, we applied the principle of equal sharing -- i.e., an equal number of nationals from each of the three countries. We also found an agreement on internal responsibility-sharing. In this regard, after some discussion, we concluded that it was South Korea which had to deal with North Korea, and it would be a Korean Standard Nuclear Power Plant. Without Koreans really leading the process forward, we could not justify to the Korean people that we were paying the bulk of the cost for this initiative. Consequently, we decided that Korea would be responsible for maintaining contacts with the North Koreans internally, Japan would be in charge of dealing with the KEDO administration, and the US would be responsible for policy-making. This was the principle that we agreed on in terms of responsibility-sharing although our modus operandi was to take decisions always by consensus.

“Naturally there were some frictions, even disputes among the staff of different nationalities. In order to address this issue, Steve (Bosworth) had the idea of employing a consultant who would prepare a report on how to make KEDO work better, which Itaru Umezu and I considered to be rather expensive, as it would cost us approximately \$20,000. Yet, although reluctantly, we agreed to this idea. The consultant carried out interviews with all the staff and, after one month, produced a report which was rather disappointing as it focused on the negative aspects that each staff member had identified in colleagues of other nationalities rather than highlighting the good aspects.

“We then proposed to employ the consultant once more with a different mandate: to identify the good aspects we perceived in each other so that we could build on them and improve KEDO’s work. The result was a very positive report which, in short, highlighted the

following: the Americans were capable of taking initiatives, and in fact, it was them who had proposed almost all the initiatives; the Japanese had a very strong sense of devotion to their job, stronger than that of Koreans and Americans; and the Koreans were extremely motivated to complete the tasks under their responsibility. As a result, we decided to share only the positive report with the staff, keeping the first report highlighting the negative aspects to ourselves.”

Ambassador Stephen Bosworth

”We did a lot of socializing together. The three of us, the three Executive Directors, and our wives would go out for dinner every couple of weeks. When the North Koreans had been there for the Supply Agreement negotiations, Chris (Bosworth) and I hosted a reception for everybody in our apartment on Park Avenue, which made a big hit with the North Koreans especially, but others as well. So we would go out at night, and for lunch, at night we would go out and drink. It was kind of a classic Asian experience. We actually became very close.”

Lucy Reed

“We had a couple of retreats to talk about what our mission was. Steve (Bosworth) insisted we write a mission statement, which the Japanese and Koreans didn’t think was very important, especially the Koreans. But I think it was very helpful at the time. They even brought in a couple of cultural consultants to try to help the staff understand each other better, so I think that time was well spent.”

Ambassador Choi Young Jin

“We urged the staff to focus on the good characteristics of each other, try to learn and make the most out of them. In this regard, we created a KEDO luncheon initiative providing an incentive for three nationals to get together and discuss about KEDO, their personal life, etc., and KEDO would pay for lunch, up to \$15 per person. This initiative helped the staff understand each other and helped us infusing our ideas to other colleagues, as well as sharing the KEDO personality.

“We talked very frankly during the morning meetings indicating that Koreans, Japanese and Americans should work in KEDO in true partnership. With this mechanism, this new idea, after three months it was a real a pleasure working in KEDO. From that moment onward, I don’t think we experienced any internal difficulties.”

KEDO was quite small and somewhat different from other international organizations. Nonetheless, save for a few engineers, its internal process was shaped by bureaucrats who, despite differences

of nationality, shared common experience: distilling information and presenting options – albeit influenced to some extent by different national agendas -- so that the respective governments could retain effective oversight. Such oversight eventually declined into micromanagement far removed from the original purposes of the organization. If anything, the problem of micromanagement, which increasingly hobbled KEDO in its later years, was made worse by the different approaches of the three governments (eventually joined by the European Union) to staffing.

Hahn Choong-hee

“If there are any contending issues, we have an internal meeting to discuss what would be the best solution. Sometimes we make some kind of memorandum, position paper or document. Then we get clearance from upper levels, including (the Executive Director). Then we pass that information as the opinion of the Secretariat to be considered by each (of the four governments). Internal discussions were in different ways: sometimes with written papers, sometimes in a meeting, and sometimes with e-mail discussion. We have intramail ... Then we have an experts meeting, inviting financial or technical experts from each capital.

“The major events are the Executive Board (EB) meetings which take place every several months. With that EB meeting, we have expert-level meetings ... one or two days before. When we have an EB meeting, the Secretariat will prepare (the principal) document, annotated agenda, all supporting documents, and some options or recommendations. That information is all circulated the (four) capitals well before the EB ... That process is one of the most important decision-making procedures.”

The organizational issues were successfully tackled, but funding issues were a continuing problem. In fact, throughout its existence, KEDO's biggest problems were always about money (see Chapter 7, Funding). KEDO required a steady infusion of appropriated monies from its member governments, and in particular from the Executive Board members, for LWR construction, HFO deliveries, and administrative costs -- though the latter were relatively small. But apart from the continuing, monitored freeze of the nuclear complex at Yongbyon, there was no obvious benefit being returned to the taxpayers. The sense of nuclear crisis quickly diminished, and other irritants arose to make it hard to support continuing what seemed to be an unrequited benefit going to North Korea.

In particular, at least in the short term, there were problems with funding for HFO deliveries. Seoul and Tokyo --not pleased that Washington refused to put up any money for the LWR project -- decided that HFO was basically an American rather than a KEDO problem. The Japanese did supply a line of credit to bridge the gaps, but this was a temporary albeit recurring fix.

Eventually, the ripples from the constant HFO funding shortfalls washed over KEDO, however, when the US sought Executive Board membership for the EU, in large part as a means of securing more money for HFO. (See Chapter 6, Adding the Europeans.)

Ambassador Stephen Bosworth

“The most difficult problem we were dealing with all the time was money, largely money for HFO because we didn’t have any. We stitched together all sorts of temporary financial arrangements: a credit line from the Japanese, supplier credits, everything you can think of.”

Ambassador Thomas Hubbard

“It was a hard sell on KEDO (with Congress) ... I think we felt, based on the Democratic majority we were working with, that we could find a way – it wouldn’t be easy but we would hold our nose – to put up a minor part of the cost of the light water reactors. But when the Republicans came in, then it was just dead on arrival. And so we really didn’t fulfill what we told the Japanese we were going to try and do. And then they got beastly and refused to do heavy fuel oil.”

Ambassador Chang Sun Sup

“There was a lot of criticism against the (Korean) government that its financial commitment was too great ... 70 percent, while the US would not pay a penny and Japan around 20 percent. Why was Korea paying 70 percent?”

Kim Hyung-suk

“How we could finance the LWRs was not decided (until later). Whether the government should issue some bonds or increase the tax rate or increase the electricity rate, many ideas were being discussed. And that was not an easy matter to decide on. We had to talk with members of the National Assembly and also have inter-ministerial meetings.”

Gary Samore

“I don’t think we ever envisioned when we negotiated the Agreed Framework that the North Koreans were going to actually pay for the light water reactors. Never explicitly. But our assumption was this was a donation ... this was assistance to them. It was the Japanese who insisted that the North Koreans pay for it.”

Ambassador Yanai Shunji

“The Japanese government was heavily indebted, not externally but internally to the people. The government had issued a lot of bonds already, so we had to reduce the direct payments (to KEDO) as much as possible. There was a general consensus that we were not able to pay out of the government budget because everybody knew that the government was heavily indebted already. The payment would go over a certain extended period of time. And nuclear power generation is a business from which we could expect returns in the future. So against this background, we got the idea of borrowing money from the (Japanese) ExIm Bank.”

Other staffing and organizational issues emerged somewhat later, as the reactor type was accepted by North Korea and KEPCO (Korea Electric Power Corp.) became involved as prime contractor. For instance, it quickly became evident that KEDO needed much more technical/engineering support, which was provided both by a Technical Support Group (TSG) from Duke Engineering, and by KEPCO. This began a natural confusion over the relationships among the prime contractor (KEPCO, which was used to being an owner/operator), the owning agency (KEDO, which had no expertise at anything), and the final owner/operator (the DPRK, which had to learn how to operate a new type of plant).

Jack Mulligan

“There was no structure, no structure at all. It was just a bunch of people and we were in the phase of negotiating the Supply Agreement. There was some idea that the Japanese were going to run the financial end of it ... but (other) people just kept showing up. I am not sure it was fully understood that we needed to have a support group from the outside to help us ... That was a major political issue because the legend is that somebody from DOE (Department of Energy) who was in South Korea said there was going to be a US company running the project. Of course, the South Koreans did not want anybody running KEPCO. That always was a major political issue ... (that) the US company would serve as a program manager. I was the one who came up with ‘technical support consultant’ and that finally stuck. Everybody said we can live with that.

“(Then) we had to come up with a budget for it because we were going to try to get tenders for different companies to do this job. (The governments’) idea was that we would have five or ten people. (One expert) said: ‘Utilities have hundreds of people working for them. We need fifty or sixty.’ But they wanted to put in the RFB (Request for Bids) that it was only going to be five or ten people ... (but) we didn’t put any

numbers in.”

Yeon Byung Jun

“At first, (KEPCO) had just two small teams for the KEDO project in our head office, with approximately twenty persons. One is just technical; one is political and commercial. By 2003, our peak, the team in our head office had 90 people, and at the site 100.

“In the beginning, we started the project organization ... and how to mobilize our internal employees. That was very important to successfully complete the project.

“We had a lot of procurement activities. To complete one project at KEDO we had to procure a total of approximately 300 packages ... piping, pumps, cables, instruments, reactors, turbine generator, and engineering. Even though all major contract policies were decided by the Executive Board, we had to implement all our construction-related activities by ourselves, commercially ... (We would) discuss first with our government, with the LWR Office, then they would bring our combined ideas to the Executive Board meetings.

Chapter Four

The Supply Agreement and Protocols

Even before it could get to its teething stage, KEDO was supposed to conduct major negotiations with the North – a Supply Agreement on providing LWRs to the DPRK. It was stipulated in the Agreed Framework that “best efforts” should be made to conclude the Supply Agreement “within six months of the signing of the Framework, i.e., by March 1995. That deadline was simply beyond reach. KEDO’s founding charter itself was not finished until March, and at that point the North Koreans were still balking at the reactor type -- the (South) Korean Standard Reactor -- which had been selected as the model for KEDO’s two light water reactors.

Supply Agreement talks did not begin in earnest until October, in New York, and were not concluded until mid-December. Though late, success in these talks was an important milestone in several respects. It kept the Agreed Framework on track and moving ahead, demonstrating to the North the US commitment to the process. In more concrete terms, it was crucial for getting the LWR project underway. The Supply Agreement (Appendix 5) not only spelled out the reactor project more fully than had the Framework, but along with its numerous detailed protocols, it would become the bible for all interactions between the KEDO and the North during the ten years of the project’s existence. Through good times and bad, it remained the foundation on which the two sides were able to base all discussions on the rights and responsibilities related to KEDO’s operations on North Korean soil, resolve complaints, and work out new procedures to respond to changing circumstances. Finally, it was the first test of whether KEDO could be a practical channel for dealing directly with the North Koreans as well as for facilitating greater inter-Korean cooperation in the future. At the Supply Agreement talks, South Korea and Japan had their first seat at a negotiating table that had previously been occupied only by the United States and North Korea.

Ambassador Stephen Bosworth

“We first met with the North Koreans in September (1995) in Kuala Lumpur, and we had a very abbreviated round of exchanges -- the first time I met (North Korean representative) Ho Jong and his team. He was my counterpart at that point. We had two or three working sessions in which we really didn’t do much except dance around each other. We had a couple of social engagements which were probably more useful in the longer term. We agreed he would then come to New York with

his delegation sometime in late October and we would do the Supply Agreement.

“He came with his delegation (and) stayed for almost two months. That is when I first had serious exposure to negotiating with the North Koreans, which was an experience all its own.”

Gary Samore

“I had headed the US team that negotiated the KEDO Charter with the South Koreans and the Japanese, and then later on, I was the head of the working group negotiations to the Supply Agreement under Bosworth’s overall direction.

“The main Japanese concern was to keep expenses down ... That really came out in the Supply Agreement negotiations. That was the only thing they really cared about. And they were the ones who insisted on the clause that the North Koreans had to pay for the light water reactors.

“The South Koreans’ main issue was to make this a South Korean reactor, South Korean face, South Korean control, prime contractor and all of that.

“We had reached agreement in Kuala Lumpur ... and at the same time, we also issued the KEDO Charter which says Korean Standard Model ... I remember us arguing with the South Koreans: ‘But look, it’s a legally binding document so that’s much more powerful than any joint statement that comes out of Kuala Lumpur.’ I assume the North Koreans were not too happy.

“And we wanted -- because we thought the North Koreans wouldn’t accept it unless there was some American veneer -- to create an American face on the organization. For us, we wanted to make it work, and to make it work, we had to put the American veneer on it and get enough money together.

“The one thing I remember that was a big issue for us was to make sure that there was a clause for the removal of the spent fuel. As I recall, that was John Deutsch from the Pentagon insisting on this, we were putting it forward, and I was concerned that it would be a big problem. But the North Koreans agreed right away. They said, ‘Fine, you can have this s__t as long as you pay for it.’ I really thought that was going to be a big issue but it turned out to be nothing.

“I think (the negotiation) lasted a long time because it was a complicated document, (not) because there was a lot of posturing and stalemate. I remember one walkout: Lee Young Ho walked out ... It may have been (about having) to pay for the light water reactors. The North Koreans complained it was not what they expected.

“There was a big battle over when the project had to be finished. They wanted to say ‘deadline’, we wanted ‘target date’, so we compromised: ‘Aimed at achieving a completion date.’

“The great thing about negotiating with Lee Young Ho was that his English was so good, and he was confident. And I remember just sitting at the table at the Algonquin Hotel (in New York City); you know, it was a kind of odd negotiation because on their side are the North Koreans and on our side it was an international team, all three of the KEDO members. But I remember being able to do this kind of stuff at the table with him.

“It was more complicated (on our side). On some of these issues like target date, that was easy to compromise on because nobody (else) had a particular dog in that fight. But on money, the Japanese wouldn’t compromise, and on the prime contractor, the (South) Koreans wouldn’t compromise, so those were the tough issues. We had to sort of triangulate but, as I recall, it was a pretty easy negotiation for us because our government didn’t care about those things – we were really in the role of pure mediators among the other three.

“I remember having arguments with (the South Koreans) saying we shouldn’t humiliate the North Koreans, that we should do this in a way that makes it possible that they’ll stick to the Agreement, that they won’t back out of it once the balance of power shifts. But of course the South Koreans were never particularly happy with the Agreed Framework to begin with, so I think there was a bit of payback there.

“All we were doing was to set up a structure for the follow-up negotiations of the protocols ... This document was a framework document for the light water reactor project. (For) a lot of the much more detailed technical negotiations we just said, ‘Let’s work that out in the protocols, in the future,’ like any good negotiations. You have got to do this one step at a time because it is so complicated.”

Kim Hyung-suk

“I joined the Light Water Reactor Project Office in January 1995. As soon as I arrived there ... it was just before the Lunar New Year and right after the Agreed Framework was signed ... my first assignment was to go to Berlin where the American delegation was talking with the North Korean delegation over the reactor type that KEDO was supposed to provide.

“The Koreans and the Japanese went to Berlin and we stayed outside (the room) until after (the Americans) finished the negotiations and then we got the briefing from Gary Samore. We also tried to give some input through him for the negotiations. That was the beginning. Eventually that negotiation was taken up by KEDO after it was launched. When we had our first negotiation in Kuala Lumpur, still the North Koreans were

cautious. They were not quite confident of South Korean nuclear reactors. They still insisted on Westinghouse reactors or German reactors. It was not that easy to give them confidence about South Korean reactors and South Korea's provision of nuclear power plants.

“We would usually get our instruction cables from our Mission to the UN from 8 o'clock (a.m.) or before that. Then we had our own internal meeting, with people from the Foreign Ministry, KEPSCO, and KAERI (Korea Atomic Energy Research Institute)... Then a trilateral consultation -- US, Japan, Korea -- at the KEDO office.

“Then at 10 o'clock the North Korean delegation comes to the meeting room. Then we had negotiations for a very long time – all day long. We even had lunch at that meeting room. And the meeting came to an end at 5 or 6 o'clock. Then we had another trilateral consultation right after the meeting. We exchanged the evaluations of that day's meeting and we exchanged views on what to report to our capitals and what instructions we'll get for the pending issues. That internal consultation was done and then we had another internal Korean delegation consultation so that we could divide the work; KEPSCO people could contact their office to get some materials and other offices did the same thing.

“The working hours were killing us. But the trilateral meeting itself was quite good and interesting. We even wrote our cables together in the same room – the KEDO meeting room. We wrote the draft there and consulted each other on what we were reporting back to our capitals. The atmosphere was really good.

“For the Supply Agreement, we spent almost one year from the beginning (informally, in Berlin) to the conclusion (after three months of formal talks in New York).”

A good example of the sort of house-to-house diplomatic battles still being fought in early 1995 was the North's resistance to anything that overtly described the KEDO reactors as South Korean. The South wanted clarity on this point; the North wanted someone else's reactors or, failing that, ambiguity in the public pronouncements so they could preserve the public fiction that the project was entirely American. The problem was eventually solved through a semantic minuet. In talks with the US in Kuala Lumpur in the late spring of 1995, the North agreed to a technical description of the reactors, a description that just happened to describe exactly the South Korean model. That description was reiterated in the Supply Agreement, signaling North Korean understanding that the South Koreans would be the dominant presence at the construction site. It also opened the way to bring KEPSCO into the picture as a major actor once that semi-public utility was named as the prime contractor.

Ambassador Thomas Hubbard

“It became very clear to me when we got to Kuala Lumpur that the issue was not what kind of reactors we were going to build but what they would be called. We spent an entire month there haggling over what to call them. We said ‘the Korean standard reactors’, as Seoul insisted, and the North Koreans said: ‘They can’t make reactors. We know these are American reactors; we insist that’s what they should be called.’

“In fact the North Koreans started walking out. Their delegation kept getting smaller as we went on. We were having one really very heated session at our mission. I finally slammed my hand down on the table and said: ‘God damn it! Here we are going back and forth. We agree on what the machine is going to be and this is the Korean standard reactor. You insist it must be called an American reactor.’ We went back and forth on this and I said: ‘Let’s not call it anything! Let’s just do the reactor! I saw Kim Gye Gwan – he’s readable and I saw a flicker in his eyes that said, ‘maybe you’re on to something.’

“Gary (Samore) said: ‘You know, there may be a description of this particular reactor that doesn’t apply to any other reactor in the world.’ It turned out to be ‘1,000 megawatt reactor with two coolant loops.’ Finally we got to the point where the North Koreans said: ‘OK, we just won’t call it anything.’ If you read that Kuala Lumpur agreement, it was just the technical term. Then the South Koreans balked.

“They wanted their name. It was still Kim Young Sam’s administration; they wanted to stick it to the North Koreans ... We finally persuaded them ... we would have this neutral description in the actual agreement we would sign, and simultaneously KEDO would have a meeting and decide to call this reactor the KEDO reactor.”

The North Koreans were interested in more than just LWRs. They hoped the rehabilitation of their electricity transmission grid could be somehow slipped into the items to be supplied by KEDO. Upgrading the North’s grid was actually imperative if even one large LWR was to be put on line. Two such large reactors would certainly bring down the existing grid. International experts knew it, and so did the North’s. But the issue of a grid was as much a political and financial problem as it was a technical one. Neither South Korea nor Japan wanted to pay for the grid, in part because of the cost (a billion dollars or more). The Koreans felt they were already paying billions to finance an agreement whose costs had been handed over to them once the US had finished negotiations in which they had played no direct role. And according to one Japanese official, it was of overriding importance that their contribution be restricted to the specific purpose of building LWRs; it was understood that North Korea needed assistance building a power grid more than LWRs, but that was not KEDO’s but rather was North Korea’s sole responsibility.

Ambassador Choi Young Jin

“The Agreed Framework contained a number of key issues, including modalities for dealing with the power grid. In this regard, Washington intended to find a solution, and to my mind, it would have not been concerned if we had proposed a package deal to solve this issue. On the other hand, Seoul’s position was very clear: our aim was to build nuclear reactors; the power grid, which would cost around one billion dollars, was to be considered as a separate problem.

“The issue of the power grid was brought to the fore almost immediately because it was in the mind of Ho Jong and Lee Yong Ho (head of the DPRK negotiating team in 1995 for the Supply Agreement) from the onset.”

Kim Young-mok

“When we tried to wrap up the Supply Agreement negotiations, the North Koreans (urged) us to include the transmission system in the LWR project. Without (inclusion of) a transmission system, they were not confident of getting the benefit of actual electricity. They almost begged us to include this. And the Japanese government fiercely opposed that because already their commitment to the LWRs exceeded their initial calculation of total funding, so they opposed a number of auxiliary but necessary (items for the) LWRs, let alone the transmission system. And the South Korean government was not happy with the size and ratio of the funding, so both the South Koreans and the Japanese did not want to include the transmission system in the LWR project. Apparently, the North Koreans did not make their own investment plan (to fund a new power grid).

“The argument was that if we construct the LWRs, then at least the North Koreans should take up the burden of constructing the transmission system because it was only for them. Then the electricity they would generate would be worth tens of millions of dollars every year. Why should we do everything for them? The North Koreans must do something for themselves; so the transmission system was excluded from the scope of work.

“There was a side letter given to the North Koreans, finally, that if North Korea would build the system by themselves then KEDO would ‘help arrange’ international funding to supplement ‘their own efforts’ to finance it. So that was the compromise on the main agreement -- the side letter from Executive Director Bosworth to Ho Jong, then the top North Korean negotiator.”

“Another difficult issue was what type of reactor would be selected and supplied. North Korea wanted whatever reactors (so long as they were) coming from the US. South Korea wanted to provide the major

portion of the project, including a South Korean-made reactor. The Americans persuaded North Korea that an American firm would play a project manager role whatever (reactor) was supplied. Reaching the final agreements on the overall structuring of LWR project itself and structuring KEDO was an unprecedentedly hard process.

“The North Koreans’ final recognition of KEDO as their legal counterpart and acceptance of the LWR prototype selected by KEDO was perceived by the ROK Government as a great development. And indeed, it was a big departure from the earlier position of North Korea.”

The successful conclusion of the Supply Agreement opened the way for a series of negotiated protocols that were essential for KEDO’s access to the North and, most especially, to guarantee the rights and safety of KEDO employees and South Korean construction workers. The first three protocols (on Communications, Transportation, and Privileges and Immunities) were completed in July 1996. Guaranteed, regular access was crucial for sustained construction activity. Most of all, South Korean, American, and Japanese personnel had to be assured that their personal safety was protected under an agreed set of rules and procedures.

These protocol negotiations further broke down the reserve between the two Korean sides, and helped them establish an informal dialogue that, in many ways, was just as important as the physical work of KEDO. Their common language and the sheer number of South Korean experts involved in the negotiations played a part no doubt, but the North Koreans, most of whom had little or no previous contact with the South, also seemed to discover that substantive progress could actually be made when the two sides worked together.

In fact, North Korean negotiators appeared to have no compunctions about engaging directly with their South Korean counterparts as long as an American was nominally in charge. At working-level meetings, North and South Koreans frequently went out for smoking breaks together, or stood chatting in small groups. In schoolyard terms, the South Koreans had brought the bat and ball, and the North Koreans knew it.

Park In Kook

“At the initial stages, there were many mutual suspicions and misunderstandings of both sides’ intentions. (The North Koreans) were not successful in identifying the different policy approaches among the KEDO members. They were preoccupied with having bilateral

negotiations with the US ... They were only focused on their dealing with the US.”

Kim Eun Soo

“At first during the period of the negotiations on the Supply Agreement with the DPRK, my role was a very limited one, because mainly it was the governments’ job. After the conclusion of the Supply Agreement, then KEDO and the DPRK began to negotiate protocols ... My impression was that the North Koreans were friendly with the Americans because most of them were involved in the Geneva Agreed Framework process. They were involved, so they knew the American counterparts already.

“But the North Koreans ... at first they hesitated to talk to us. They had no confidence in us ... we had no confidence in them. But later we began to have some understanding of each other. ‘Ah, they think like this.’ And we came to understand (each other).

“(In the first stage) I think that when they (North Koreans), saw KEDO they saw Americans, not an impartial international organization; it was another face of the United States.”

Yeon Byung Jun

“At the first time, I got the feeling that (the North Koreans) just treat me as an enemy, not as any cooperative partner. (It was a) very cool situation, environment. Even though a foreign country, we may communicate; (even though there was) just one language, actually the language was different; we didn’t understand their words, they didn’t understand our words ... a lot of communication barriers.”

Kim Young-mok

“The negotiations were always difficult. They (the North Koreans) were always trying to block any so-called spoiling influence from the outside, from the Americans first of all; (and) they were so suspicious of South Korean intentions. They tried to block as much as possible. But we had to open them up because this was a real project to create the physical and technical ground for construction and putting standards for (nuclear) codes and safety in place.

“The problem for us was we could not gauge their intentions – (that is,) if they would abide by the non-proliferation side (of the Agreed Framework) -- because we (KEDO) were not allowed to take up that issue except for matching the schedule of their commitment to non-proliferation along with our schedule for construction ... We had an uphill struggle.

“However, we couldn’t even secure an agreement on specifically matching schedules between LWR provision and North Korean performance before and during the Supply Agreement negotiation and in the course of negotiation of many side protocols.

“That agreement was supposed to come up as the LWR project progressed, but an effort to secure this non-proliferation aspect within the KEDO framework was hardly sought by any government afterwards. American efforts at securing the control of spent fuel and restoring (the IAEA’s) monitoring system were done separately from KEDO, but (again) there was no clear coordination on how to match the (KEDO) construction and North Korean performance, partly because of different focus of each government and partly because of the slow pace of the LWR project, which couldn’t meet North Korean insistence and expectation at all due to practical obstacles and the North Koreans themselves.

“We thought we needed at least four or five key protocols. We needed to secure the rights of KEDO persons in the DPRK – Privileges and Immunities. Without proper transportation routes, it wasn’t possible to start anything. The same was true for communications, especially (between) the site and KEPCO. Fourth was the security of the site, and securing rights over how to use the site. Those were the four basic protocols we needed. One additional one was the service protocol: how to use their men and materials, how to deliver resources and equipment from outside the site. Those five protocols, which were essential to carry on the project, took about two years to negotiate with North Korea.

“The funny thing was, at least with our DPRK counterparts, they were eager to start work as soon as possible. But their (negotiating) position ridiculously opposed that purpose of the protocols. We witnessed this all the time in negotiations. Finally, because they wanted the project started they made some key concessions such as acceptance of South Korean brands on supplies/equipments, satellite telecommunication between the site and South Korea, and accepting South Korean companies’ lead with provision of North Korean workers, etc.”

Ambassador Choi Young Jin

“The overwhelming majority of delegates in charge of negotiating protocols with North Korea were South Koreans. For instance, out of an 80-man team sent to North Korea, around 75 would be South Koreans, two or three Americans and two or three Japanese. Since we knew the mentality of North Koreans, it was natural that it was us who took the main responsibility of dealing with North Korea. However, in order to enhance the acceptance of the discussions on the part of North Korea, we always included an American as head of delegation, even though the negotiations inside KEDO had been led by a Korean.

“Therefore, even though delegations were headed by an American, many deals were in fact made informally, at times over drinks, between the two Koreas. It was us who would provide the Americans and the Japanese with information on the possible North Korean intentions related to the protocols. Our initiatives were almost always successful.

“The North Koreans did not want to talk with the South Koreans formally but accepted an informal channel because I kept faithfully to the words of the proposition. I also asked my South Korean counterparts from the capital (Seoul) and KEDO members, including the Americans and Japanese, to never lie to the North Koreans; never, never, never. If you lie to or cheat North Korea once to extract a good deal and were discovered later, then North Koreans would lose confidence in you and it would be difficult, if not impossible, to reestablish such confidence. We were frank in our discussions with the North Koreans and, as time went by, they understood that we were telling the truth and they accepted it.”

Lucy Reed

“The diplomatic and consular protocol was one of the first two protocols; it was very much international law oriented so, as a lawyer, I led the delegation. Particularly some of the representatives from Seoul were concerned whether a woman could and should do it. I wasn’t worried about the North, I was worried about the South Koreans. So I determined to be much tougher than I normally am in these negotiations. Generally, I am a good conciliator, but these lasted six weeks and we had some extreme positions on diplomatic and consular property. Basically, we were asking the North to give every South Korean laborer full diplomatic immunities and protection, unless they would explain to us what their criminal law was because, of course, we have to protect all these people at the site.

“So I basically made my talking points on basic IO (international organization) immunity law and explained why we needed all these huge immunities for everybody ... I didn’t budge one period or comma for weeks. And I raised my voice and I said this is why I am going to keep telling you again, I know what the law is, and this is what is going to have to be.

“The reason I did so well chairing the negotiations was I knew the material and I was firm enough to please the South Koreans and the Japanese, but also Steve (Bosworth) gave me full authority. He let it be known very early on that I was head of delegation and I was a very senior person. He had given me all his negotiating power to do it. Over the negotiations and the months that followed, it became clear to most of us that my negotiating style worked well with the North as well as with the KEDO team, and the North was very happy to have me. More important, the Japanese, the South Koreans, and the Americans all felt

that I stood up for all of their positions; I wouldn't give one away without full consultations, and I didn't favor one over the other.

“At the very end of the diplomatic and consular protection negotiation, we had come to an agreement and then we had to take two matters we had agreed on – the role of policemen or something – off the table. Then the North Korean negotiator refused to come back, he was so insulted. So I didn't go into the room either; I left it to the deputy.

“I never tried to speed anything up. I never tried to go beyond the negotiating authority that the KEDO member states had given me, whether I agreed with it or didn't agree with it, or whether I saw a jump I could make to get to where we wanted to go. I just didn't do it. I just was very loyal to very limited negotiating authority.

“Choi Yong Jin played off very well having the US be the principal point of contact. He used that to his advantage. I always agreed with him on what I was going to do. He would be in the background; I did the talking; I made the hard statements; he could do some of the backroom negotiating.

“(Other times) there was a lot of friction between the American and South Korean negotiators.

“We went off (to the North) with me technically the head of a delegation with 102 experts. There were policemen and bankers, telecommunications experts, mailmen, prosecutors, agricultural experts – basically all the people needed to negotiate the basic legal infrastructure that is a given on any other project ... We had to create that (legal infrastructure) before ground breaking.

“The trip was very emotional because when we got out of international waters into North Korean waters, they had to lower the South Korean flag on the deck of this big (ROK) Coast Guard training ship. People were crying to see the South Korean flag go down, and were afraid of what was going to happen.

“The North Koreans brought counterparts – I don't think they had 102 – but they had a lot. By the end of our ten days you couldn't separate the (South Korean) doctors from the (North Korean) doctors, and the agricultural experts were talking about where to grow crops, and marine experts about how we were going to expand the docks and rebuild the port. They enjoyed talking to each other (so much that) we had to rip them apart to come to an agreement. That was really so interesting and exciting ... It was the spring of 1997. Ground breaking was the summer of 1997, so there was a lot of time pressure to get these talks done and agreed – all these protocols of how we would do it.”

Chang Ho Jun

“When we negotiated about sea transportation, the North asked for all the KEDO vessels to turn off the communication and navigation systems and equipment when the vessels entered into the port. But that was technically impossible: if the vessels had to observe that rule then the safety of the vessels could not be guaranteed. So we opposed it. But the North was also very firm, probably because the North Korean military had a very strong position on this matter ... there were some submarine bases around Sinpo. So one day I told the North Korean delegation, ‘If this is a must, if you cannot make any concession on this point, then we cannot send our ships to Sinpo, and it means no materials and equipment can be transported to Sinpo. Report that back to Pyongyang.

“The next morning, before we started the plenary session, one of the North Korean delegates approached me and whispered in my ear and said: ‘We called Pyongyang last night, and still the military maintains a very strong position. So we did not persuade them but give us time; next time it can be solved.’ ... That matter was settled at the next meeting, as he promised me.”

Kim Hyung-suk

“The protocols were easier (than the Supply Agreement). We adopted the language of the Vienna Convention for diplomatic and consular protection. At the beginning they really didn’t like the language at all. The North Korean head delegate said, ‘I’ll never be able to agree to this kind of language considering that my grandchildren or my children will see this language and they will complain.’ Finally, they accepted almost all the language ... perhaps because they really wanted to the LWRs.”

Taisuke Mibae

“The most impressive thing is, to the last moment North Korea was not happy with the draft submitted from our side ... The night before (we left), Lucy Reed got very upset and tore up the paper and kicked a chair and left the room. Two or three hours later, the North Koreans told us that they are OK with that draft. That was the moment I first thought (I understood) what negotiations with the North Koreans were like. We needed to show that we are ready to break up. This is very important in dealing with them.

“The other thing was be careful: North Korea will use anything as an excuse not to move forward. I remember when I was in Myohyangsan, there was an incident where a South Korean guy told a girl at the bar at the hotel that there were a lot of good guys in the South. That North Korean waitress interpreted it as a sort of solicitation and told her boss,

and there was a very strong protest from the North Korean delegation. Eventually, we apologized. So, we should be very, very careful.

“The negotiations were tougher (than expected). North Korea sometimes makes a compromise suddenly, all at once, at the last moment. They do not make piecemeal compromises – all or nothing. They continue to stand tough but eventually, if it can be acceptable they might compromise all of a sudden, all at once.

“Going from one paragraph to the other, we had to hear a lot of North Korean lectures about their ideology, about their philosophy ... but we had to bear it.”

Ambassador Choi Young Jin

“After our successful Supply Agreement and other protocols, our staff started becoming really present on North Korean soil, which made us realize that we needed to ascertain the conditions of the health structures in the country, in case our staff fell ill during the performance of their duties in North Korea. When we explained this problem to the North Koreans, we were told that there was ‘a first-class facility’ in the country. Yet, South Koreans knew about the conditions in North Korean hospitals so we insisted on seeing the facility as, otherwise, we would be held responsible. These discussions dragged on for almost eight months, without the North Koreans giving us the chance to see the facility. In the end, we could not wait any further as we were concerned about our staff arriving at the site who might fall ill. Thus, we gave an ultimatum to North Korea: ‘if you do not show us the hospital, we will pack up and go’.

“Subsequently, the chief North Korean negotiator, in a very open-minded way, metaphorically stated: ‘Suppose that you have a daughter that you absolutely have to marry, but she is not beautiful, in fact she is ugly. Would you show her around? Remember that regarding your hospital ultimatum. We have no hospital to show you. We cannot show it to you. That’s all. If you want to pack and go, go ahead.’ Thus, we understood that there was no hospital to treat our staff in case of need.

“We then discussed the issue of medevac (medical evacuation). North Korea refused to open a new route, which meant that, in case of need, we would have to evacuate our staff to Seoul through Beijing, thus endangering their lives as the journey would be too long. We indicated that this would not be acceptable. Finally, we agreed on evacuating possible patients through the East Sea, on direct flights, but not over the DMZ.

“These incidents persuaded us that the real problem is the North Korean question itself, which is inseparable from the North Korean nuclear question because North Korea did not develop nuclear weapons

out of ambition but rather out of desperation. The North Korean nuclear problem is not a stand-alone issue. Each new negotiator had to learn to perceive the depths of the problem, the linkage between the nuclear issue and the North Korean problem, North Korea's isolation itself."

In August 1997, a year after the three core protocols were signed, KEDO held a ceremonial ground breaking ceremony at the construction site. To mark the occasion, the White House issued a press statement and the US representative, Ambassador Paul Cleveland, delivered a message from President Clinton.

THE WHITE HOUSE

August 19, 1997

STATEMENT BY THE PRESS SECRETARY

KEDO and DPRK Groundbreaking

Today in North Korea, the Korean Peninsula Energy Development Organization (KEDO) and the DPRK held a groundbreaking ceremony marking the start of construction of the first of two light-water nuclear reactors to be built in North Korea under the terms of the 1994 U.S.-DPRK Agreed Framework.

Ambassador Paul Cleveland, the U.S. Representative to KEDO's Executive Board and Chairman of the Board, attended the ceremony and delivered a message from President Clinton.

Groundbreaking for the light-water reactor project marks an important milestone in our efforts, in cooperation with the Republic of Korea and Japan, to denuclearize the Korean Peninsula, contribute to peace and stability in Northeast Asia, and strengthen the international non-proliferation regime. It also occurs against a backdrop of significant progress in other areas of Agreed Framework implementation.

North Korea continues to maintain the freeze on its nuclear facilities, under IAEA monitoring, and is nearing completion of a joint project with the United States to safely store its spent nuclear fuel, which would otherwise be available for the production of weapons-grade plutonium. Moreover, the Agreed Framework continues to provide a foundation for us to discuss issues of bilateral concern with the DPRK and, along with our South Korean and Japanese allies, to engage North Korea in meaningful dialogue and work toward a permanent peace on the Korean Peninsula.

Chapter Five

Submarines, Missiles and Secret Nuclear Sites

Once KEDO had been established and had concluded the agreements with North Korea necessary to work in the DPRK, it should have been a relatively simple business to start construction. It wasn't. Site preparation was proving to be very difficult; other issues cropped up that were even harder to deal with, not least because they were completely beyond KEDO's control. And in at least two instances, the governments involved allowed themselves to become sidetracked, choosing to involve KEDO in crises rather than look for ways to protect the organization's work against extraneous developments. The contrast between how the capitals handled such issues is instructive, because it casts light on the environment in which KEDO operated.

In December 1994, barely two months after the Agreed Framework was concluded, an American helicopter accidentally intruded into North Korean airspace and was shot down, with one pilot killed and one captured. In an effort to quickly resolve the incident, the US negotiated directly with Pyongyang, first via visiting Congressman Bill Richardson and then Deputy Assistant Secretary of State Thomas Hubbard, who had played a prominent role as Gallucci's deputy during Agreed Framework talks. Hubbard was able to bring about a successful conclusion to the crisis, albeit not without causing some discomfort in Seoul over a vague promise of high-level bilateral US-DPRK military talks. Washington's immediate concern was obtaining the release of the surviving pilot, but there was also a strong motivation not to let the incident derail the Agreed Framework. Subsequent incidents were handled, first by Seoul and later by Tokyo, in ways that caused a sharp drop in interest in and support for KEDO.

In September 1996, a North Korean submarine accidentally grounded itself off the east coast of South Korea during an apparently routine operation to set ashore a team of commandos. Everyone on board -- 20 crew and five or six commandos -- was forced to abandon ship in South Korean territory. Quickly discovered, one North Korean was captured, the largely unarmed submarine crew was killed, presumably by their officers or the commandos, and the well-trained commando team began a journey home overland. Tens of thousands of South Korean soldiers were mobilized in an intensive and lengthy effort to hunt them down. A number of South Korean soldiers and civilians were killed during the commandos' attempted exfiltration, and as the drama unfolded, the media poured out every minute detail of the story. Finally, after seven weeks the manhunt was called off, with all of the commandos killed but one -- and his fate was unknown.

The entire country was outraged, and no one more so than President Kim Young Sam. The submarine incident was a serious blow to South Korean confidence in the Agreed Framework, and ROK support for KEDO was suspended until the incident's conclusion with an American-negotiated apology from the North Koreans in December 1996. Seoul then resumed its support, but there was a sense that high-level ROK officials were no longer paying close attention. US backing for KEDO was perhaps less directly affected, but the Republican Congress found the drop off in Korean support conveniently matched its own inclinations to approve as little support as possible for the Agreed Framework in general, and KEDO in particular.

Ambassador Chang Sun Sup

“Three protocols were successfully negotiated, namely privileges and immunities, transportation, and communication. And that protocol negotiation success was quite surprising to me, even for the government itself, because nobody expected ... the North Koreans to make concessions that far to accommodate KEDO's requests. So the start was very positive. We were committed to continuing the negotiations and we (next) took up the services protocol, including labor and salary issues. Then, quite a surprise came in September (1996): the North Korean submarine incursion into the East Sea. Then the whole thing just collapsed ... (President) Kim Young Sam was very upset; so were all the Korean people at the time.

“It was pouring cold water on the KEDO project. There were a lot of people who thought the KEDO project was over because of that incident.

“The submarine incident almost quenched the passion shared by the Korean people. After several months the North Korean apology came out, then the people tried to rethink (their anger) but by that time the passion, the zeal, was cooled down. (Afterwards) there was not much attention paid to the KEDO project itself. The KEDO project was the US' project – it was business between the US and North Korea. We are just (giving) money; let them go on ... Even the Foreign Minister (Gong Roh-myong) by this time had lost much of his interest in this development.”

Kim Young-mok

“My impression was the ROK President (Kim Young Sam) almost thought about blowing up the whole process out of anger over the North Korean sabotage infiltration on an espionage submarine, (but) the senior foreign and security policy adviser Yoo (Chong Ha) and Minister Gong (Ro Myong) thought it more important to make adjustments with the American government and save the deal with North Korea.

”The President finally agreed to make adjustments, and the last-minute agreement on the important “Service Protocol” was saved. With the American government’s efforts (to negotiate an apology from the North Koreans), it turned around. If the advisers had only followed the President, they may have blown up the process. The President was already unhappy with the Agreed Framework negotiations and extremely suspicious of the sincerity of North Korea’s non-nuclear commitment.”

Ambassador Cho Kyu Hyung

“The position of the Korean government at that time was unless the North Koreans offered a sort of apology and unless they promised that this kind of thing would not happen again in the future, we would not restart (the LWR project) again.”

Kim Hyung-suk

“We were actually talking with the North Koreans in New York ... over the Site Protocol at that time. We were about to end the negotiations; we almost agreed on all the clauses and language, and there were only two or three brackets.

“When we got to the KEDO office, we saw the newspaper articles and when we checked with our colleagues in Seoul, the atmosphere was not that good. We could sense that it was not the right time to conclude the negotiations. We wanted to postpone the conclusion of the negotiations, but we were already close (to the end) and the North Koreans didn’t want to postpone. We kept our position very strongly about the remaining language ... and finally they agreed.

“(After returning to Seoul,) for awhile we were in a wait-and-see attitude because we had asked the US government to negotiate language with the North Koreans over the submarine incident. As a matter of fact, the North Koreans expressed their apology. It was unprecedented.”

Ambassador Stephen Bosworth

“Everything was put on ice. We didn’t do anything. The South Koreans basically made that decision. I don’t know if Washington would have gone along with it or not. But what had happened (is that) political support in Washington for advancing the goals of the Agreed Framework withered because there was no political capacity.

“The Republicans were in charge of the Congress, and the right-wing of the Republican Party, particularly in the House, ran the Committees. So we couldn’t get any money. And the notion of somebody going down there and saying, ‘Well, let’s get back on track to establishing a diplomatic connection (with North Korea),’ it was just never going to happen.”

Only a bystander throughout the submarine incident, Japan discovered its own reason for outrage when the North Koreans tested a new, intermediate-range missile on August 31, 1998, by odd coincidence exactly when Tokyo was about to move ahead with the final signatures required for approving Japan's portion of LWR financing. The Taepo-dong missile flew over northern Japan before disintegrating, the pieces splashing into the Pacific. Although the DPRK claimed it had been a successful effort to put a small satellite into orbit, the rest of the world regarded the launch as a significant and troubling next step in the North's efforts to extend the range of its missiles. South Korean support for KEDO had proven to be unsustainable while northern commandos were at large. Now, Japanese support for KEDO faltered when a North Korean missile passed overhead. Tokyo put on the brakes, the approval process for its loan stopped, and the KEDO Secretariat was left hanging, with no way to proceed at a key juncture in the project.

Ambassador Terada Terusuke

“(When I heard about it) I said to myself, there would be a tremendous shock to the Japanese people ... and the reaction shown by the government was quite extraordinary in terms of the sanctions imposed on Pyongyang ... I understood the Japanese government had decided to refrain from actual participation in the work of KEDO.

“(I had to) tell all the people concerned, ‘Now listen, let's get back to the club.’ After all, KEDO was one of the surest ways of removing North Korea's nuclear threat through this sort of multilateral participation.

“I really thought that the Foreign Minister himself was looking for a suitable timing to restore our relations with KEDO. Because after all, from the start we were aware of the purpose of the 1994 negotiations, and the government was well briefed from the start. So the missile test was really a shock but the shock could be overcome after a short period of time.”

Nakano Kenji

“Tokyo was very much upset, angry with the launch of the Taepo-dong missile. They really wanted to make a strong protest against the North Koreans. That was during the final phase of the financial negotiations among the Executive Board members. The KEDO Executive Board ambassadors were about to sign a resolution that would officially decide that the Republic of Korea would take up 70 percent of the LWR project and Japan would shoulder up to the yen equivalent of \$1 billion.

“Japanese Ambassador Terada was about to sign the paper in his

office in Tokyo when the Taepo-dong missile was launched. All the others had (already) signed but within that day the Japanese government made an announcement with measures to be taken following the launch, including suspension of cooperation with KEDO. They allowed KEDO to at least continue what it was already doing but they did not really want us to start something new. They did not want us to initiate any new meetings in KEDO. During that time, we had already started our project in Kumho, in August 1997, but that was before the signing of the Turnkey Contract in 2000, so the project was not going on full-scale.

“We were doing three-monthly or six-monthly renewals of a temporary arrangement (a line of credit to help finance heavy fuel oil). The North Koreans were complaining: ‘Oh, KEDO, you broke ground but there’s no tangible progress, you guys are just digging holes. What’s going on?’ They kept complaining, especially to the US ...

“In order to proceed with the US agenda, the US felt some need to accommodate the North Korean demand on the so-called delay in the LWR project, so the US made an agreement with the North to ‘accelerate’ the LWR project, which took Japan by surprise. I think the US made an advance notice to Tokyo, which tried to modify it because Tokyo was not in the mood to accept any acceleration of the LWR project. There was quite an intensive exchange between Washington and Tokyo but it ended with a phone call between (Secretary of State) Albright and Foreign Minister Koumura (in which) Tokyo accepted the US explanation ... in early November Japan withdrew its measures on KEDO ... so that we could proceed to the next stage of negotiating the governments’ financial agreement – those treaties between KEDO and the governments of Japan and South Korea separately for those governments to commit to providing financial resources to the LWR project.

“That had to be followed by the loan agreements between KEDO and the banks. And then the financial mechanisms had to be in place in time for the Turnkey Contract (TKC) between KEDO and KEPCO. Without all these in place, we could not start the full-scale construction of the LWR project. Until the TKC work started, what we were doing was just the temporary work and we did not achieve anything towards the construction milestones; no matter how much we did, the procurement process and the manufacturing of major components did not start. We could not commit to manufacturing those until the TKC was in place ... the first month (of construction) never started, so the 2003 ‘deadline’ certainly kept looking more unlikely.”

Ambassador Terada Terusuke

“After a month the public feeling was very much calmed. We emphasized the importance of this regional organization: if we failed, Pyongyang would continue its nuclear development. That’s actually

what happened (in 2002). Our contribution to KEDO can be seen through Japan's financial offer to help pay some portion of the construction costs. And through constructing two LWRs, as long as the agreement is valid, we can freeze the North's nuclear capability, but only freeze not dismantle (sic). I said this is a very, very expensive business -- even the freezing of the Yongbyon reactor will cost \$1 billion. In fact, I did emphasize the potential nuclear threat of North Korea. That was easily understood by most of the parliamentarians because we kept talking to the major people here."

KEDO weathered both the submarine and the missile storms, but not without losing time and money. The construction schedule slipped further behind. Slowing the schedule did not reduce the costs associated with maintaining KEDO's headquarters in New York, nor those at the construction site itself, where several hundred laborers and other staff were engaged in seemingly endless preparation work. Somewhat ironically, the longer the construction of the LWRs was delayed, the longer HFO would have to be delivered to North Korea, since those deliveries were to continue until the first reactor was operating. In other words, much of the financial burden for the negative political reactions in Seoul and then Tokyo had to be borne by Washington.

The US also faced a challenge in 1998 that might have adversely affected KEDO, but in its handling of the matter, Washington protected both the Agreed Framework and KEDO from domestic political storms. In some sense, the challenge was more serious than either the '96 commando incident or the missile launch because it involved the accusation that, in direct violation of the Agreed Framework, the North had developed a secret underground nuclear site. News of the alleged site was leaked to the press, threatening both to destroy any political support that remained for the Agreed Framework and for KEDO, as well as to trigger a new crisis with the North.

Ever since the Korean War, North Korea had been obsessed with placing high value installations in secure, often secret underground locations. It could be truthfully said that the country was riddled with caves and tunnels as a result of its permanent wartime state. American intelligence agencies had begun to suspect one such project at Kumchang-ri, in North Pyongan Province, of having nuclear-related purposes, and the US Defense Intelligence Agency (DIA) in particular became convinced in 1998 the North intended to utilize the site to restart its nuclear work out of sight, underground.

By the fall of 1998, briefings to the Joint Intelligence Committee of the Congress were underway, before there was a consensus among the intelligence agencies about Kumchang-ri. Anger over perceived North Korean duplicity was mounting in Congress and the press, and in short order dealing with the

worst-case scenario became a prerequisite for the next year's appropriation for HFO. The Clinton Administration, however, had tools available to it that proved to be critical in resolving the problem. First, there was an ongoing bilateral dialogue with the DPRK; second there was a convenient excuse for periodic meetings under the umbrella of the Four Party peace talks at which the United States, North Korea, South Korea and China were seeking to replace the temporary armistice ending the Korean war with a more permanent peace arrangement; and finally, there was a well-established precedent for providing humanitarian aid to North Korea. At the same time, the Administration appointed former Secretary of Defense William Perry to undertake a full-scale review of North Korea policy, a move Congress had demanded with special fervor.

By March 1999 the two sides reached an agreement, in effect permitting an inspection (the North Koreans insisted it be called a "visit") of Kumchang-ri by American experts in exchange for food assistance, both through the World Food Program, and bilaterally. The episode never had an impact on KEDO operations, but it was clear to most people that the future of the Agreed Framework and thus of KEDO hinged on a successful outcome of the negotiations.

The inspection of Kumchang-ri cleared away suspicions that the underground project was intended for a large nuclear facility. And the "Perry Process" went a long way towards convincing critics of the Agreed Framework that the Administration was not simply putting ad hoc patches on North Korean problems, but rather was pursuing a broader policy of engagement in order to deal with those issues of highest priority, i.e., removing both the possibility of North Korea developing an arsenal of nuclear weapons, and their means of delivering such weapons with long-range missiles.

For KEDO, the resolution of the Kumchang-ri episode in the spring of 1999 provided welcome and necessary breathing space to get on with finishing preparation work at the LWR site and actually starting to lay the foundations for the reactors.

Chapter Six

Adding the Europeans

Creating KEDO had been necessary because the United States was not willing to take on the LWR project or the HFO obligations by itself. The South Koreans would have limited KEDO membership to the three founding members. For domestic political reasons, the Japanese preferred an organization with a broad international membership. And the United States, after gradually recognizing that the three founding countries were not going to provide full financing for KEDO's projects -- particularly for HFO -- became a strong supporter of enlarging the membership. Voices within the State Department -- notably, the Bureau of European Affairs -- were not enthusiastic about pressing the Europeans to join KEDO, but these were overcome.

Financial considerations were paramount. Russia put out informal feelers about joining, but only if it was given a seat on the Executive Board without a commensurate financial contribution. That was rejected. Washington soon began to push for inclusion of the EU in KEDO and launched an intense diplomatic offensive in Brussels as well as in each of the capitals of EU member countries. For months, a steady stream of demarches was sent out to each of the EU member capitals and Brussels trying to garner support for EU membership in KEDO. Virtually every senior US government official who visited Europe in late 1995 and 1996 was armed with talking points on supporting KEDO. When European officials visited the United States, they inevitably heard a US request to join KEDO. Asked to provide a substantial annual contribution to KEDO to help fund the organization as well as its projects, Brussels made it clear that to secure such support, Europe would have to be offered a seat on the Executive Board, a price Washington was more than willing to pay.

Seoul and Tokyo readily understood the value of having another source of funding that might eventually also be used for the costs related to the LWR project. While initially wary that EU membership might disrupt KEDO decision-making, Tokyo became very active in pushing the Europeans to join. For the Japanese, this was "checkbook diplomacy" with a new twist. Japan had provided financial support to help rebuild Bosnia and Croatia after the end of the Balkans conflict. If Tokyo was helping out in Europe, why not ask the Europeans for a financial contribution to KEDO, since that organization dealt with an important issue in Japan's back yard?

South Korea remained concerned about giving the EU a seat on the Executive Board. Seoul was not only wary of allowing a European voice in KEDO's decision making, which had hitherto been guided by well-developed trilateral consultations, it was also concerned that ROK influence in KEDO

would be diluted. There was also the clear possibility that Brussels would demand for European firms a share of the contracts for construction of the two LWRs.

Adding Europe to the Board, while necessary, was something of a calculated risk. The EU was a newcomer to KEDO's issues. It was encumbered by ponderous and nearly opaque mechanisms to gain approval from its member countries, which could and often did have quite different views on KEDO's approach to nuclear non-proliferation. Germany, for instance, had an important voice in EU decisions, but was dominated by the Greens and their anti-nuclear (and thus anti-LWR) platform. France was another influential voice in Brussels, but had a strong aversion to any interaction whatever with the DPRK; it was the only EU member not to eventually have normalized diplomatic relations with the DPRK. The strongest support for KEDO probably came from within the Commission itself, and in particular from one Member of the European Parliament, Glynn Ford.

The process of getting the EU into KEDO took almost two years of contacts and talks -- sometimes rather bruising not only between KEDO and the EU representatives but also within the KEDO delegation itself. The negotiations concluded successfully with the EU's signing an accession agreement on September 19, 1997, one month after the groundbreaking ceremony in Kumho. In the end, the EU decided to contribute less than KEDO had hoped (\$15 million per year for five years), and wanted a more prominent leadership role than the others were prepared to grant. The EU did win a seat on the Executive Board, but procedures were installed to insure that, *in extremis*, the original three could overrule an unreasonable European position.¹ The EU wanted its own Deputy Executive Director to give it equal status with the ROK and Japan, but settled for professional staff positions including the Director of Public Affairs. Later, the EU was given a Senior Advisor position and its Public Affairs directorate was traded for the somewhat more substantive Legal Affairs Division.

The EU wanted above all to be protected from financial liabilities beyond its formal pledge of \$15 million/year. It also wanted a commensurate share of the commercial contracts from the LWR project. The first of these was met, the latter was not, at least initially, and became a source of grumbling and unhappiness.

The EU's accession to KEDO proved to be a positive step. Aside from introducing a new source of sorely needed funds, the EU provided a helpful perspective that was, for the most part, unsentimental, pragmatic, and unencumbered by historic biases. Not surprisingly, the EU was not deep in expertise on Korean affairs, reflecting the lower priority most of its members gave to that part of the world, and this was especially evident when the EU

¹ A protocol signed by the Governments of the Republic of Korea, Japan and the United States on 19 September 1997 in Washington amended several articles of the Agreement. Art. VI (e) reads: "Decisions will be made by consensus or if consensus is not achievable by majority vote."

Presidency was occupied by one of the smaller countries. On the other hand, the EU was rich in other multilateral experience, whether regarding legal, organizational, or economic development matters.

The EU brought out of retirement one of its most experienced and accomplished diplomats, Ambassador Jean-Pierre Leng, to be its representative to the KEDO Executive Board. Ambassador Leng served in that role until 2008, and his institutional memory well complemented his outstanding professionalism. His skills were essential for steering KEDO's affairs through the cumbersome EU machinery.

The EU's place in KEDO was never completely comfortable, unfortunately. Despite the arrangements to secure EU accession and membership on the Executive Board, the Europeans felt like second-class citizens. They chafed at not being a part of broader policy discussions on North Korea in which the other three governments took part. And they felt effectively boxed out of securing a fair share of contracts for the LWR project when the three original members reached procurement guidelines just before the EU accession.

Roland Tricot

“We were lobbied by the Americans very soon after the signature of the Agreed Framework and the creation of KEDO. There was not much desire within the EU to put a lot of money into that particular project at that time. The reason the EU moved was the fact that we were also lobbied by the Japanese from whom we were always asking money for Croatia, then Bosnia. And on the Bosnia financing, Japan came back and said: ‘We are going to give as much money to Bosnia as you are going to give to KEDO.’

“So it was basically almost for free for us, in a sense, because it was hundreds of millions of dollars that the EU would have had to pour into Bosnia. It was an important argument to convince the (EU) Parliament at the beginning. The Parliament was very helpful at a later stage, but at the beginning it was digging in the purse and didn't like things like building light-water reactors in North Korea, which doesn't sound very appealing to start with ... A third of the member states among the fifteen were clearly anti-nuclear; they were against building nuclear reactors anywhere, including North Korea. So it was an uphill battle. Interestingly, at the end of the day, Japan contributed more than \$400 million to Bosnia and we contributed \$130 million to KEDO.

“We always thought KEDO is an international organization. We chose our internal legal (justification) accordingly: EURATOM Treaty, Article 101.2. KEDO was to us a political enterprise rather than a

commercial one. I remember being told by the Executive Director after six months working in the KEDO Secretariat, ‘The least important thing KEDO is doing is building light-water reactors.’ The issue was peace and stability.

“Also, we had a very good relationship with Japan and South Korea in the WTO, which is one of the main things the Commission does. So helping them on the KEDO issue was something the EU was always placing on top of any bilateral meetings agenda in order to say, look how unselfish we are. It was true, too, because we didn’t join primarily to have an industrial return even though we appreciated (that we got) 117% back in industrial contracts value on a purely competitive basis.

“It was clear from the beginning that we wanted to be part of the Executive Board. It was a deal breaker for us because we thought this is a political adventure, so either we are in or we are not interested. We wanted to be part of the critical process.

“We always thought there was a chance that KEDO would change from energy to economic development. Remember the October 2000 visit to Pyongyang by Secretary of State Madeline Albright with its broad agenda (‘more for more’)? KEDO was in a unique position to implement it. In the process, KEDO could have been replaced, supplanted, enlarged or changed but we thought it could have a future.

“Remember also that Europeans always believe in the importance of cooperation among countries that had waged war, like North and South Korea. At some point, you need a cooperative approach, some common project, which is going to put everything back together, like the Coal and Steel Community for the EU in 1951. So the general direction that KEDO had from the beginning was something the EU could not easily ignore.”

Bram Brands

“There was a lot of skepticism on the whole Agreed Framework and the KEDO project as implementation of the Agreed Framework amongst the EU member states. ‘It was in conflict with the NPT; it was something parallel.’ People spoke about how acquiring some modern nuclear power installations (would help the North) to develop a nuclear weapons program.

“I think it was important that President Clinton at a certain moment came to Europe and he talked with Bundeskanzler (German Chancellor) Kohl, and Kohl at that time was an extremely influential person in EU, in the coordination of the EU. And I think he was convinced by Clinton that the EU should make a contribution.”

Ambassador Chang Sun Sup

“When the EU issue came up, I for one was very much reluctant to give a green light to the EU’s joining because, you know, two’s company, three is still always complicated, but four is next to impossible to make a decision. And the EU contribution, compared to the others, was (pretty insignificant). We could not accept that kind of imbalance between one member and the other members. But by that time, the government had lost much of its interest in the KEDO project, let alone the EU’s joining, so I was a little bit frustrated by this change in atmosphere. Finally, (bowing) to US pressure and to some extent Japan’s, we agreed.

“Actually, the EU’s membership turned out to be not that bad – not in terms of the oil money, but sometimes the EU gave us help when Korea was alone coping with Japan and the US – so I was wrong.”

Kim Young-mok

“I didn’t really welcome the EU joining, but others did ... simply to reduce the South Korean burden. I opposed mainly because the decision-making process in KEDO was already complicated and I thought that the EU’s involvement would make it more so.

“(The new Foreign) Minister Yoo Chong Ha understood it would complicate the process. He had a hard time gauging whether we should give the right of veto to the EU, and seriously thought about this. We made a compromise, giving them the same Board status but not the veto. It was finally agreed that this organization would work by consensus, but the veto could be used by the original three, though it was never exercised.”

Chang Ho Jun

“In our understanding, the real reason we needed the EU on the Executive Board is that the US had to find some sources they could get money (from) for HFO. So our initial perception was that it was a US problem. But it was OK if we could help the US. Then the EU’s condition was that they had to be treated on equal terms with the other Board members. But on our part we had to provide about 70 percent; the EU’s (total) contribution was (only) \$100 million. So our sense was that this was nonsense. It didn’t make any sense if we had to be treated equally, so initially we were opposed to (giving) the EU equal status. But as time went by it got more and more clear that the EU would not make any concession, at least on their status.

“There were some meetings in Brussels and New York. After the second one in New York, we began to try to find some way out ... My idea was we could have the EU as an equal member on the Executive

Board (but with the original three agreeing to always vote in unison). The previous practice was all Board decisions had to be by consensus. As the EU has more than 15 members, their decision-making time will be much longer than the other three countries. Then what could we do if the EU cannot decide on their position, on a certain issue within the proper time? Then we think we have to vote. My idea was in such a case, if all three (original) countries agreed to vote in unison, then we can beat the EU in any case, so the practice of decision-making by consensus could be maintained. So we made such a proposal and the EU joined the Executive Board.

“They were allowed to participate in procurement as well. But I think the main principle was each country could participate in procurement within the limit of the amount of their contribution. So if the EU contributes \$100 million, that is the maximum limit of their participation (in procurement). There were some limits on items for participation as well; in case of some important items, including NSSS (nuclear steam supply system), only those three (original) countries could participate.”

Gary Samore

“Obviously getting the Europeans on the Board was essential to getting their contribution. But the Charter was designed in a way to accommodate them without wrecking the whole structure.

“The political support was good, but mainly we needed the money.

“(Decision-making) was a contentious issue. The South Koreans were worried about possibly being outvoted on some issue. They wanted consensus. We wanted majority vote on the grounds that to function the organization needed to be able to make decisions without achieving consensus. I know we made a trade in my office ... I remember that moment where we agreed to make that trade that resolved the main issue of contention.”

Yamamoto Eiji

“Our position was quite open, like (the US): why not invite the Europeans as an equal partner? We had no objection to their accession. South Korea insisted on special treatment for only the three (original members). We didn’t care, that was our position. Better to have special treatment, but if not, we didn’t care. The South Koreans insisted on that special treatment so much. Then a new idea came up to have a secret arrangement among the three of us and then whenever a draft resolution is tabled, we never vote unless consensus is reached for the three of us. That idea faced a technical/legal problem because we are not allowed to make secret agreements after World War II ... So there was a strong

objection from our Treaty Bureau. Finally someone came up with (the means by which we) overcame this legal obstacle.”

Ambassador Stephen Bosworth

“The EU and South Korea were somewhat reluctant about coming together as prospective partners. Seoul did not want its position in the KEDO hierarchy and decision making process to be diluted, and in their eyes the relatively small sum the EU was proposing to contribute was just not worth all the fuss. Also, there was something of a clash between the subtle Europeans and the Koreans who were telling it the way they saw it. The EU negotiators were not accustomed to the aggressive Korean negotiating style, and (their) blunt responses to their requests bruised their sensitivities. The Japanese were not any more eager than the Koreans to bring in the EU but they were happy to have the Koreans in the forefront (on this issue). The US on the other hand very much wanted the EU to come on board. Quite simply, KEDO needed the money and there seemed little prospect that the Clinton Administration could pry any more out of the US Congress.

“The final negotiating session in Brussels took place in the week before Christmas, but there was little spirit of giving and generosity. The EU was blatantly mercantilist, and the Koreans were not inclined to give up on anything.”

Lucy Reed

“KEDO went to them (in Brussels) three times in December just before Christmas 1996. The EU wanted to join and they were open, just transparent, that one reason they wanted to join was to get contracts for their nuclear industry. As a lawyer I was saying, we’ve got to have an international organization veil, that what we are doing is not for national interest ... It’s like a corporate veil. We have an international organization with combined interest ... Eventually, we did cast it in a positive way, and they understood why we couldn’t promise them all those contracts anyway.

“Some didn’t really want the EU to come in. They certainly didn’t want them to have an equal role on the Executive Board, (an equal) vote, contracts; they knew they needed them for the money for HFO among other things, thanks to the US government. So we just couldn’t get anywhere (among the three original members) on a negotiating position. Once in Brussels Steve (Bosworth) stood up and said: ‘There’s really no reason for us to keep talking because no one at this table really wants a common negotiating position. I cannot create one out of whole cloth. I cannot make you do what you don’t want to do. I represent KEDO and I’m trying to bring you together. (But) it’s not there; it’s not going to

happen, so I think we should all just go home.’ It was a very honest thing to say under the circumstances and, of course, people were shocked. Eventually, that day it came together.”

Aloysius O’Neill

“The European Union wanted to have a Deputy Executive Director, just as Japan and Korea did. Eventually the outcome of that was that the other members of the Board agreed that the EU could have a person who had the title ‘Senior Advisor.’ My recollection is that the Koreans and the Japanese vigorously resisted the idea of a third Deputy Executive Director in part because they didn’t think the EU’s contributions matched or were commensurate with theirs.”

Bram Brands

“There is some bad blood in Brussels about the way we were treated in KEDO. There were TCOG (Trilateral Coordination and Oversight Group) meetings going on and we were regularly confronted with *faits accomplis*. Of course we recognized we were not a main player, but when you are four it is difficult to accept if the three others have organized things in advance without you. Very negative was also the way that the economic possibilities were divided amongst the three: a resolution on the division of the construction activities was adopted by the three the day before we became a member of KEDO ... That did not create the best conditions for the EU membership and explains that the ‘no say, no pay’ mentality today has a strong voice in Brussels.”

Chapter Seven

Funding

In the event, the EU's contribution was not sufficient to make up the shortfall in funding for HFO. This necessitated two separate tracks, the first of which involved continued efforts to raise money by appeals to current and prospective non-Board members. Contributing members had unfettered access to KEDO staff for information, and all the representatives to the Board attended an annual General Conference at which they and members of the staff were available to answer questions. However, the funds collected from non-Board members totaled only \$2.1 million annually, about half of which was contributed by Australia.

The second track was the American effort to increase its HFO funding through the Congress in larger appropriations requests, both normal and supplemental, and redirecting funds from under-spent line items in the State Department's budget. All of these required constant and often adversarial briefing sessions with Congressional staff, and opened the door to increasingly burdensome conditions being attached by the Congress to the money. And any appropriated money, moreover, regardless of how obtained, came so late that it was impossible to provide it to KEDO on a reasonable schedule. That, in turn, meant that HFO deliveries to North Korea were frequently late. In fact, it was once necessary to finish shipping the oil in the next calendar year, something the DPRK strongly protested. To assist the process, the Japanese Government provided \$14 million to establish an account that could be drawn on to pay for HFO, on the condition that the account would be replenished by the next available funds. The end result was Rube Goldberg contraption of financial accounting, which often left the North Koreans without oil in the winter months when they most needed it.

HFO delivery, however, was the lesser of KEDO's two missions. LWR construction was going to cost about ten times as much as providing HFO, and the lion's share of that was going to come, by agreement, from the ROK.

By the time of the Agreed Framework, South Korea had become one of the world's foremost users of nuclear power. Given the ROK's expectation of continued high economic growth and a policy of seeking to reduce its dependence on foreign energy supplies, its decision to rely even more heavily on nuclear power in the next decade was quite understandable. Although inevitably there was local opposition to any proposal for a nuclear waste site, the general public had fully accepted that nuclear power would provide an increasing share of the country's electricity.

Two considerations thus emerged for the Korean Government when LWRs were raised in the Agreed Framework negotiations between Gallucci and Kang Sok-ju: the opportunity to display the Korean Standard Model reactor as a viable export, especially to the large Chinese market, and the realization that Seoul would be hard pressed to find domestic sites for new reactors after completion of all plants then in planning. Whether or not unification occurred, there were serious hopes for a more integrated economy on the Korean Peninsula, with electricity from South Korean reactors sited in the North possibly leading the way in cross-border trade. At the least, having a major South Korean project with South Korean personnel working in North Korea was an enticing prospect.

Some in the ROK Government had wanted to undertake the LWR construction as an entirely South Korean effort, and thus completely under their own control. However, North-South relations were still so tenuous that for Seoul to undertake such a project totally on its own, even if Pyongyang had been willing, was thought to be a step too far. Notwithstanding the lingering resentment over having been “outside” the negotiations that led to the Agreed Framework, the ROK needed American involvement at least at the political level and, if possible, other foreign financial involvement as well to help insulate the project from DPRK mischief. South Korea had offered to assume a “central role”, which became a firm commitment to fund 70 percent of the LWR project costs.

A similarly vague promise from the Japanese eventually became a commitment to provide \$1 billion to the LWR project. According to one Japanese official, it was considered essential that the three founding countries should have a special legal status, like the P5 in the UN Security Council, and securing that status for Japan was a telling argument for making a large contribution.

These two commitments were the basis for the Agreed Framework’s promise to build two LWRs for the DPRK if it met its own obligations. Although the very nature of the negotiations made some American involvement in the LWRs inevitable, Washington made it clear that it did not intend to play a role in financing that aspect of the agreement, but would take the lead on providing HFO.

KEDO inherited these rough commitments, which added up to an unequal division of labor and created tensions among the participants even while leaving the project without secure funding. One of the first tasks on the new organization’s plate was to reach agreement with the prime contractor on costs, and then divide those costs in a manner that was acceptable to the participants. Although the turnkey contract negotiated with KEPCO came in at a reasonable \$4.6 billion, some at KEDO felt the governments worried excessively about KEPCO’s profit margin.

Ambassador Chang Sun Sup

“One of the most difficult issues for me was how to fund the 70 percent share ... Even at that (ministerial) level, no compromise was possible, especially (between) the budget and finance ministries (which) had diametrically opposed views. One compromise was ... we issued a treasury bond, kind of an accumulating national debt, and it’s still going on, even today.

“There were several (other) ideas from my office. One of them was to have a special tax ... another idea was to add ... a surcharge to electricity bills. Another option was to include our project contributions in the national budget each year. Finally in my consultation with different ministers, we came up with one solution, to rely on a surcharge to electricity bills. In order to do that, the law must be amended. So inside the government, we made all the preparations, ground works, and referred this to the Blue House. Okay, this is the only possible idea to fund this big bill. Then, in 1998, we sent the bill to the National Assembly – it was totally rejected. So after that rejection by the National Assembly, the compromise plan was to issue Treasury bonds to fund (our share of) this project. So our national debt is enormous.”

Yang Cheong Sok

“There was a debate inside South Korea (over) how to finance the LWR construction. As an interim measure, we set up an account within the Inter-Korean Cooperation Fund ... sort of borrowing money from the ROK Government. Then we said: this cannot be a permanent solution because it would be a burden for future generations. Some ministries, like the Ministry of Commerce and Industry, suggested that electricity charges for domestic people and industry be increased and part of that could be used to finance the LWR construction.

“But the other ministries, including the Ministry of Economy, were opposed. They just wanted to borrow from the Inter-Korean Cooperation Fund. Finally, we enacted a law to the effect that we impose a surcharge on electricity costs. Then, I think in 2000, there was an election and the ruling party was opposed. That bill was passed to the Committee for Unification and Foreign Affairs in the National Assembly but it was unable to take it up and the session ended without any discussion. We failed to enact the bill. How to finance the LWR project was a big issue because it could impose some burden on the people. So the press was really interested in how the bill was being discussed. That’s why, I think, in order to avoid any political repercussions, the ruling party decided not to (push it in the National Assembly).”

Kim Young-mok

“Few people (in the Korean government) knew that the ROK started negotiations (about funding) before going to Geneva. There was a political arrangement about the ‘lion’s share’. Few knew about the ROK commitment in this aspect. Many in the finance side did try to overturn this commitment -- to make it less than 70 percent by arguing that ‘a majority share’ of 50 percent could be enough to secure the leading role.

“And then when they knew the American government would basically not take care of (any) funding of the LWR portion, they strongly refused to support the LWRs. There was a fierce struggle between the Foreign Ministry and Finance about the financial burden ... I think American involvement in the LWRs would have helped a lot in the beginning in many aspects.

“You must remember the political consequence of the Agreed Framework negotiations, because the President, Government, National Assembly, right-wing people and newspapers (all) so criticized the Agreed Framework. Many argued that since the ROK didn’t participate in the Geneva negotiations, the ROK should not only pay for the bill (coming) out of it.

“With that background, some engineers created another crisis by insisting publicly that the South Korean prototype model LWR plant should prevail over the American (models). They argued that unless the Korean prototype is pre-selected, the Americans would push out the ROK. Many media supported that theory and made South Korean Government efforts extremely difficult to coordinate among the US, ROK and Japan, and particularly (hard for) North Korea to accept (either) KEDO as their (proper) counterpart or whatever decision KEDO (made) in relation to LWRs.

“The North Koreans were vehemently opposed to accepting the South Korean prototype at that time.

“The theory that the Americans would only pay for American companies’ involvement was widespread among journalists and in the some parts of the government. They suspected that the only aim of the Americans and Japanese was to secure (Korean funding) for KEDO and they argued that South Korea, having the technology and companies, had no reason to miss the opportunity of leading but with the least share of funding.

“South Koreans were not happy about (the American) negotiation of the LWR project as a non-proliferation project. They had made clear to the Americans before the Geneva Agreement they would pay for the LWR portion only when and if the DPRK will have complied with all necessary mandatory IAEA inspections including the special inspection. But they believed this request was not respected.

“Since this full compliance with IAEA inspections as agreed was (to take place) only at some point over the course of LWR construction, senior members of the Government came to feel that their position was damaged.

“The logic to accommodate the conclusion of negotiations was to do this more for engagement (on a large) scale with the North Koreans, and for eventual unification. This could be more suitable logic ... than claiming we had secured the complete foregoing of the North Korean nuclear program.”

Yeon Byung Jun

“During the start-up period, we were already designated as the Prime Contractor for the KEDO project ... (so) we already had our authority and responsibility to start and complete a successful project. We just needed a commercial-basis contract ... It took three years to complete the turnkey contract (TKC) with the KEDO Secretariat! (There were) a lot of conditions, responsibilities, draft terms and conditions: What is the schedule? What will be our penalty if we did not complete on schedule? What will be the risk – a lot of risk – to be divided among KEDO, KEPCO, and the DPRK? Total project costs?

“KEPCO is a government-run company. But even though we are a state-run company, we have a lot of foreign and local investors ... so we cannot (take on unacceptable) risk by contracting with KEDO’s project. That’s why we had to estimate the optimized, equitable total cost without any terms and conditions.

“We had nothing at the time in the DPRK. What was the productivity of the labor? We didn’t know! (It was all) just based on our assumptions, on estimating all costs and factors. Then we submitted it to our government and the Board member countries. Eventually, \$4.6 billion was the financial arrangement. It was a compromise and took two years from when we submitted our (initial) estimate. So we had a lot of hard times, a lot of questions.”

Hahn Choong-hee

“The Japanese side was often cautious, putting up strict criteria for implementing (any) project that required a large amount of money, and presenting a series of questions before agreeing to move ahead that project.”

Yamamoto Eiji

“The most important issue was burden sharing and also the cost estimate because our position was that we have to try our best to minimize

burden sharing. Of course, we were ready to take some appropriate portion, and we openly expressed our willingness to contribute to the project.

“Of course, we were willing because this is our security-related issue. It was only natural we should make a security contribution. The major contribution should be Korean, second comes Japan’s but we have to minimize our burden. The total estimate should be minimized. The problem was that KEPCO naturally tried to inflate the estimate. They are a company; they want to get profit from the project. But we are saying we have to squeeze this estimate as much as possible ... The American technical expert said ‘well, this estimate may be right.’ He sided with KEPCO. I was very angry at that time. I told him: ‘You have to think about the sponsors. You have to think how to balance between this technology and the budget.’ I tried my best to squeeze the budget.

“On the one hand my job was to squeeze the estimate, on the other hand I had to find a way to appropriate this burden. And so I first consulted with our budget division in our ministry (MOFA). First we have to find the necessary funds by ourselves in our system. If I go to our Finance Ministry, they would say please find the necessary funds from your ministry. You find your own resources by yourself. If you think this is important, you just find on your own the necessary resources.

“I consulted with ExIm Bank -- this is supposed to be a loan; no interest, but this is supposed to be a loan. We don’t have to give a grant to North Korea. But ExIm Bank asked: ‘Does North Korea pay (it back)? Do you really believe that?’ So I had a hard time to persuade them.

“It was hard to persuade ExIm and the Finance Ministry. It was a very difficult experience. We had to really make sure that not only South Korea and Japan, but also other partners took up this burden, including the US. The US was paying for the heavy fuel oil but we still said, even symbolically you should pay (something) for the LWR project. The US position was (they would not) pay for the LWRs ... EU, other countries, the more the better. The worst scenario for us was only Korea and Japan paying (for the LWRs).

“The KEDO business started as a result of the Agreed Framework ... And this Agreed Framework was negotiated between the US and the DPRK, unlike the Six Party Talks. When this agreement was negotiated, and we were informed of the result, some of us thought: ‘Why LWRs? Why not conventional (power plants)? Some people in the ministry were not 100 percent persuaded this was necessary. But in any case, the North Korean nuclear development should be stopped. The Agreed Framework was the most feasible (approach), so we had no choice but to go along with it.

“Our position, in my view, was reactive to that whole event. Rather than take the lead (in opposition), we still thought this was necessary,

even if there could have been a better way. It was probably second best but we had no choice but to go along. So that was part of the reason why we tried to minimize the estimate, minimize the burden. If we had taken our own initiative, if we had really led this project, then Japan would have been more willing to do something.”

Ambassador Suzuki Katsunari

“From the beginning, it was very clear that the project is a kind of baby created by the Clinton administration, and Japan and the ROK were kind of forced to contribute massively in terms of monetary contributions while the US agreed to supply 500,000 tons of heavy fuel oil. So during the negotiations for that project, during negotiations between the US and the DPRK, Japan and the ROK were mostly out of the room. We tried to be kept informed as much as possible. We sniffed around, listened carefully to whatever the US side said and so on, but we were not a part of the negotiations. At the end of the day, we were told that this is the final package and that the US wanted Japan and the ROK to contribute such and such amount of money. So frankly speaking, there was a feeling that it’s not a fair deal.

“On second thought, particularly in the case of Japan, we wanted a non-nuclear DPRK on the Korean Peninsula. We had no capability to ensure that. Only the US can do that. So after all, what the US decided to do is a good thing for us. That’s why we decided to continue.”

Ambassador Terada Terusuke

“I had two jobs: one was to persuade the Japanese parliament, and secondly I had to negotiate on behalf of the Japanese Government the contribution agreement ... \$1 billion.

“After a month the public feeling was very much calmed. We emphasized the importance of this regional organization. If we failed, Pyongyang will continue its nuclear development. That’s actually what happened. Our contribution to KEDO can be translated into Japan’s financial offer to help pay some portion of the construction costs. The other thing (we emphasized) is that through constructing two LWRs, as long as the agreement is valid, we can freeze nuclear capability, only freeze -- not dismantle (*sic*). In fact I did emphasize the potential nuclear threat from North Korea. That was easily understood by most of the parliamentarians.

“After the Ministry didn’t have any intention to finance the project, what can you do? So, it’s a loan after all which we made available to Pyongyang ... but everybody knows North Korea is not capable of returning the money to us.

“In 1965 when we normalized relations with South Korea we concluded an agreement which helped South Korea to develop economically. So, with that in mind, supposing that Pyongyang used all of the loan from Japan, \$1 billion, and was not able to return the money. Then at the time of normalization talks, we would tell them as we did in 1965, we are responsible for financial help, but we have to reduce that amount of money from the total amount of economic cooperation. In other words, reduce it by \$1 billion.

“One thing pleasantly surprised me: the contribution agreement at that time was approved by both houses on the basis of consensus. I think it was signed by the Upper House. There was one dissenting vote. In fact, the Senator made a mistake by pressing the wrong button. At least at the time of the passing, there was such a consensus in Japan as for the desirability of Japan’s participation in KEDO.”

Nakano Kenji

“The funding was done in the form of loans from the Japan Bank for International Cooperation (JBIC), to KEDO for the yen equivalent of \$1 billion on the premise that the North Koreans would repay that amount to KEDO, which KEDO would use to repay JBIC. That scheme was established instead of making a grant to North Korea because the Supply Agreement provided that North Korea would repay the money to KEDO.

“In my understanding ... the North Koreans insisted that they were not beggars asking for the LWRs for free. Therefore, they could not accept any grant, it had to be a loan. It’s sort of hard to believe but, you know, that’s what I heard.

“The bank was quite cooperative towards the government and was doing pretty much everything that the government asked in order to have this project move forward within certain legal constraints. So they did not really come to micromanage the project, they didn’t really say no to the project at any certain time. Rather, it was between the Foreign Ministry and the Finance Ministry that lots of our financial issues in KEDO arose...

“I remember that in early January 1995 then Prime Minister Murayama came to Washington for the meeting with President Clinton. It was during that time that Japan expressed its willingness to make a “significant contribution” to the LWR project. The US side explained to the Japanese that HFO will be taken care of by the Americans but the South Koreans and Japanese will be expected to work on the LWR project.

“An effort at fundraising in other countries, mostly in Southeast Asia was made and still the funding for HFO was not really keeping pace with the commitment that was made to the North Koreans. In early 1996,

there was a real cash crunch, a cash shortfall for KEDO. It was serious, and Japan saw the priority in at least making this Framework work. They saw an interest in having smooth implementation of the HFO project also. But at the same time, there was this principle that Japan will make a significant contribution to the LWR project and the US is the primary actor (for HFO).

“So they scratched their heads in Tokyo, and then Foreign Minister Ikeda, a former Finance Ministry official, came up with this idea of a revolving fund. There was some money left at the end of the (Japanese) fiscal year 1995 – towards the end of March 1996. So, using that money, the government decided to make \$19 million available to KEDO as a revolving fund to be used as collateral when there was a cash shortfall for KEDO projects. It was certainly mainly for HFO, and when there was not enough money for KEDO to spend on HFO then we could always rely on this Japanese fund to use as collateral. So the money would stay in the Bank of Tokyo-Mitsubishi in New York, in KEDO’s account, and we borrow money from the same bank using the Japanese fund as collateral. When we got money a few months later, from the US usually, then we used the US money to repay that loan to the bank. But still we can buy time by making the oil available to the North Koreans in time (*ed. - i.e., more or less on their desired schedule*). So that bridge fund was made available by the Japanese.”

The Japanese pledge of \$1 billion towards a \$4.6 billion project, when added to the Korean commitment to fund 70 percent of the project, left a gap that all hoped would be covered by contributions from other countries. In theory, this gap might have been deferred until the final stage of the project. However, the lending institutions in both Japan and Korea insisted on procedures that made the gap an annual crisis for the Executive Board, and a headache for the Secretariat. The Korean money came, as promised, as a fixed percentage (70%) of the value of the invoices received from KEPCO, on an annual basis. The Japanese money was provided on the same basis, as a percentage (22%) of the invoices received from KEPCO. According to the Japanese, this was not a matter of policy but rather prudent financial management by the lending authority, which insisted there could be no flexibility on this point. From a political point of view, this was not entirely unreasonable, given the uncertainty over how long the project might last: if the Japanese contribution was exhausted too early, it might find its leverage on the Board or within the Secretariat to be diminished.

The EU’s initial five-year commitment was encouraging, but was immediately swallowed by the rising costs of HFO. The EU indicated that its next five-year commitment would be larger, and the US was steadily increasing

the amount of its contribution for HFO, but in the meantime KEDO had to pay the bills coming in from KEPCO.

Yamada Yoichiro

“The Japanese Government had much interest in reducing the cost to a minimum. So I received a lot of instructions from Tokyo to make the point of reducing the cost to a minimum. The Korean Government agreed to fund 70 percent of all the cost. The main contractor was KEPCO, and so I think the Korean Government probably had an interest in reducing the cost but at the same time did not have such a strong interest in seeing that the plant was constructed at a minimum cost.

“There was also the 8 percent funding issue. It was about the funding shortage, and how to bridge the funding gap was always a matter of contention between the parties. Japan agreed to fund \$1 billion, which was 116.5 billion yen. It was fixed at that sum in terms of the Japanese currency and, as the currency fluctuates, that value of the Japanese contribution fluctuated as well. Initially, the Japanese Government said that the US should bear some costs towards the construction of the LWR project. 70 percent of the cost was covered by the Koreans, but (only) 20-22 percent was covered by the Japanese and the remaining 8 percent of the funding was left uncovered. As each construction milestone approached, how to finance that 8 percent was always a point of contention.

“(Cost) was one of the main concerns but not one of the main political concerns. It was more like an administrative concern. From the mid-1990’s the funding that the Foreign Ministry got was declining all the time. The Japanese Government would pay the interest for the JBIC funding. If there were a cost overrun, then that would hit the Foreign Ministry purse directly. There was a constant pressure to keep that amount to a minimum.

“In a big construction project, in almost every case, there is a cost overrun. We agreed to contribute \$1 billion but we were expecting that KEPCO or KEDO would cry one day: ‘Oh, we are short of money! We have to seek more funding.’ We knew the US would strongly say no. There would be strong pressure on the Japanese Government as well as the Korean Government to increase funding. We had to make sure that such a day would never come...

“The US attitude was not to pay anything for the LWR project, so who is going to check the cost? The Japanese Government considered it their responsibility to make sure the cost of the project would be kept to a minimum. Obviously the South Koreans thought that the money it paid

would be returned to a South Korean firm, so whether the cost is bigger or smaller than expected would not make much difference.”

The Korean and Japanese governments were not the only ones to complicate the financing of the tasks they set for KEDO. The Clinton Administration found itself bowing repeatedly to a Republican-dominated Congress that, even when it was not overtly hostile to the Agreed Framework, was not inclined to give the White House a free pass on North Korea policy. Of course, the Administration itself consistently made its task more difficult than necessary, starting with its first utterances about its low expectations regarding the annual bill for HFO. And having set the bar at about one-third of what the cost of HFO would eventually reach, it also created expectations for international funding help for which it had no reasonable basis, though not for want of trying. Lacking a more comprehensive policy for dealing with Pyongyang -- something like Kim Dae Jung's Sunshine Policy, for instance -- every bump in the road became justification for additional Congressionally-imposed conditions on the needed money. These ordinarily took the form of certifications that the Administration had to supply before the money would be released.

The Administration was so leery of Congress that it chose to insist to Seoul and Tokyo that it would not contribute even a symbolic amount to the LWR project, and thus foreclosed the option of getting their help with HFO. And a perennially underfunded HFO account meant that it was necessary to return to Congress again and again to seek permission to reprogram funds later in the appropriations cycle. (Technically, active Congressional approval was not necessary, but Congress had the right to object within thirty days of being informed, and the political atmosphere on the North Korean issue was poisonous enough that the Administration felt the need to step carefully on funding.)

Ambassador Jack Pritchard

“At the NSC, when it came to Congressional certification for KEDO matters, the norm was for the issue to be taken up administratively by the Nonproliferation (office) under Gary Samore ... it was relatively routine (and) non-controversial ... until 2000.

“There was a point in which Congressman Livingston had a conversation with Sandy Berger and then followed that up by sending a piece of paper that suggested that there were some ten issues or prerequisites that needed to be done in order to gain his/Republican approval for the certification. We ended up having to go through and respond to each of his points as best we could to be able to move that

forward. But there was no hesitation and no lack of commitment to do it.”

Chapter Eight

On the Ground in Kumho

Sometimes diplomacy is dismissed as empty talk, but practiced carefully, the process of negotiations becomes a catalyst for change. What seemed impossible at the start of KEDO's talks with North Korea gradually became possible, as both sides became accustomed to new ways of viewing old problems. This did not happen quickly, and sometimes only happened one small bite at a time.

From the beginning, the North Koreans were suspicious of the intentions of those involved in KEDO. They considered the South Koreans to be pursuing their own agenda; they viewed the Japanese through a lens of decades of resentment for their behavior during the colonial and wartime years; and they were convinced they had no reason to believe that the Americans would deliver on their carefully worded promises. Still, the fact that the Americans were committed to a long engagement with and in the North through the LWR project apparently struck Pyongyang as an important political step forward in the DPRK's quest for improved relations with the US.

Although mistrust was never completely overcome, it dissipated -- or at least diluted -- over time. At KEDO headquarters, Americans continued to occupy the role of Executive Director. When Ambassador Bosworth left in 1997 to become the US envoy in Seoul, he was replaced by Desaix Anderson, another retired senior diplomat with extensive experience in Asia. And an American continued to function as the KEDO Board Chairman. However, in the ongoing protocol negotiations, while Americans continued nominally to lead KEDO's delegations, more and more of the real work was done by the South Koreans. North Korean officials found it easier and more useful to converse with their South Korean counterparts, and relatively cordial relations became the norm. This proved to be an essential feature of interactions in North Korea.

KEDO's dealings with the North rapidly went beyond the negotiating table to implementation on the ground, specifically, the ground encompassed by the site in the Kumho District on the coast of South Hamgyong Province on North Korea's east coast, thirty kilometers north of the city of Sinpo. A decade earlier, the Soviet Union had planned to build four smaller reactors at the same site but had abandoned its plan as international nervousness over the North's nuclear weapons program mounted.

Kumho was very rural with a local population of about 5,000 villagers supplemented by military personnel stationed on bases in the area. The reactor site itself was not far from the coast. Much of the area was sandy,

with scrub pines and marginal farmland. The surveyors determined that the reactors should be built on the land where a small mountain rose gently from the coastal scrubland. Over the next few years, KEDO construction workers would not only pave roads and improve local port facilities; they would also remove four million cubic meters of rock and soil from the mountain, exposing the bedrock which would be the foundation for the new reactors. During those years, the site eventually became home to thousands of KEDO employees. A small South Korean community sprouted inside North Korea, complete with two restaurants, recreational facilities, a medical clinic and a stable supply of clean water and electricity.

There were several non-contiguous areas that encompassed the overall project -- a housing area, a power plant construction area 6 km away, and some distance further still, on the Namdae River, a site for producing aggregate to use in making the vast amount of concrete needed for the reactors. These three sites were connected by precisely defined "corridors," (i.e., roads) along which KEDO's vehicles were to have free access but which were open, as well, to North Korean vehicles, bicyclists, and pedestrians. (See map)

At the level of operations at Kumho, the North's stricture that the Americans stay visibly in the lead quickly came into conflict with the practical requirements for such a large project. The prime contractor, KEPCO, was South Korean, and it was with KEPCO's site managers that the North Koreans had to deal on almost a daily basis. KEPCO had typically hired South Korean subcontractors to handle the construction work. The subcontractors were organized into something called ICG (Integrated Construction Group), and they, too, had regular working-level contacts with North Koreans.

Well out of the public eye, the job of maintaining the formal relationship with the North Koreans at the construction site, turning the legal requirements of the protocols into everyday routines and normal patterns of behavior, resolving disagreements and smoothing ruffled feathers, was given to the KEDO Office in Kumho (KOK), manned by a small ROK, US, and Japanese contingent.

This group of laborers, managers, and KOK officials faced huge challenges of living for extended periods in a place without any of the normal comforts; having only spotty communication to the outside and no emergency health facilities; and in a country that was not only in a technical state of war but more importantly was in a state of perpetual hostility that sporadically -- and sometimes fatally -- erupted beyond rhetoric. The laboriously negotiated protocols protected them, but perhaps even more important to their well-being was the sense of gradual improvement in relations cultivated by the Agreed Framework and KEDO.

KOK, however, was first on the ground in Kumho. There was never a diplomatic mission so isolated from its headquarters than that tiny KEDO

mission in those first months of 1997. In some ways, the experience must have resembled service on a submarine, but unlike submariners, none of the individuals sent to Kumho was psychologically screened for their suitability for such an environment. That they coped as well as they did was worthy of high praise.

John Hoog

“KOK would be the overseer, insofar as we were able, of the whole project. We saw ourselves as having four basic missions. One was consular protection of the KEDO people that were there in-country; the second was interfacing with the North Koreans diplomatically; the third was keeping New York (i.e., KEDO headquarters) up-to-date, keeping them informed as any embassy would keep its foreign ministry informed of what was going on and what the problems were, and so on; and the fourth was, to the extent we were able, keeping some technical oversight over the prime contractor and the subcontractors. We did some limited inspections of the work for the engineering people back in New York ... (but) we saw (the consular mission) as our first job.

“As far as input on the protocols, I had some but at that time the push was to get these things signed, get them in order. A lot of the protocols including the consular one and the telecommunications one were very sloppily drafted and had a lot of ambiguities. I genuinely did feel a real sense of responsibility for the people that were going to be up there (in Kumho). And the idea of, maybe to some extent literally in the more panicked moments, having to throw myself in front of a North Korean with a gun to keep him from shooting a worker was something that didn't sit too well.

“I went out in mid-February of 1997, three weeks ahead of a South Korean drilling team that was going out to get core samples of the mountain to make sure the place was a stable platform. We had been trying to get the Russian data with no success – mostly money if I remember correctly.

“I flew into Pyongyang with three engineers and our job was to start installing flow meters on some of the power plants (that would be getting HFO). That was quite an introduction to North Korea. We were bouncing around the boondocks in the middle of winter. We had a minder from the North Korean national oil company with us. We went (to a plant) about 40 or 50 miles from Pyongyang, and to Yongbyon – not to the nuclear site but to the oil-burning site there – to install these meters.

“Those trips were eye openers. At (the installation near Pyongyang) ... the plant was just dingy. The control room had a lot of missing meters

where things had been cannibalized to go into different places. A lot of the instrumentation was Chinese, with Chinese lettering on it. Finally, I asked the plant manager when the plant had gone into operation. It had been there for only 20 years! It was a fairly new place but it was already just falling apart.

“I really thought I was going off into a black hole (when I went to Kumho for the first time) ... I was rattling along in this train mostly in the middle of the night. We pulled out of Pyongyang at about 4:00 p.m. I noticed that the windows of the train would only open about two or three inches at the top and I wondered what would happen if this thing, as it rattled along, went off the tracks; it didn't look as if we were going fast enough to really do major damage. We got to the site the next day, I guess 9:00 or 10:00 in the morning.

“There were a couple of North Koreans at one end of the sleeper and I was at the other end. When they took me to the train station (in Pyongyang), they whisked me right onto the platform in a car. And I got out and was whisked directly into the sleeper. I learned later that they didn't really have very many of these sleepers and so that was one of the reasons we couldn't always travel when we wanted to. But they didn't let anybody else, any of the North Koreans that were traveling, embark until the foreigners were safely hidden away. (When I arrived at the site) the drilling team had already arrived and was in the guesthouse.

“We got to see a lot more of the country in the early days than we did later, especially when the barge came in (ed.: at Yangwha, the North Korean port several kilometers south of the construction site, in contrast to later, when KEDO was using its new dock at the site itself). You could see glimpses of North Korean life ... Even that five-hour trip from the site down to the airport (ed. in Hamhung) was something. For example, driving through Sinpo, which was not a small city, it looked like a disaster area. So they did their best to hide the realities of North Korea from us but they couldn't do it completely and they couldn't do it nearly as well when we were on the train ... The South Koreans looked at the chance to go through Pyongyang on the way in and out of the site as one of the perks of the job.

“The site area is basically just scrub pines and sand. There are a few agricultural plots scattered here and there, and some rice paddies up closer toward the mountain. Of course, in February it was hard to tell what was able to be planted and what wasn't. But it sort of looked in a way like some of the scrubland in Florida without the verdant sort of semi-arid vegetation, (but just) scrub pines everywhere.

“The guesthouse was mostly fenced in. It was a single story sort of a T-shaped building -- two wings. The wide part of the T was in the front facing the road. In the center, sort of toward the back was the dining room.

“It was cold, very cold. I had a so-called suite, two big empty rooms instead of one. There were four of those along one area of the wing. So I got my computer set up and sort of waited around to see what happened next. The drilling part of it was pretty uneventful. We went to the mountain every day. They cranked up their big derricks and drilling machines and went to work.

“That went on for almost three months (but) after about six weeks I got a break. The KEDO staff contract was to be in-country six weeks, out-of-country two weeks. We significantly modified that later since it took two days to get to the site from anywhere and another two days to get back to civilization. Taking four days out of a two-week vacation was not so hot, so we decided to stay longer, sometimes as long as twelve weeks, and took a correspondingly longer break.”

This was an uneasy period of getting acquainted; it was also the occasion for psychological probes, and for symbolically establishing subtle rules of behavior. It is one thing to interact with diplomats. It is something else again to be out in the field, far away from where the agreements were signed.

John Hoog

“The drilling crew kept to themselves and drank. The North Koreans were curious enough about their southern brethren that there weren’t any ... incidents except for one ... (one) young KEPCO guy came to my room one night just shaking with anger. He sat down and we communicated half in English and half in Korean. He had been talking to one of the North Korean guys. There was a little bar at the front of the building (and) they had been there drinking, and the North Korean asked this fellow where he had met his wife. ‘Oh,’ the KEPCO guy said, ‘I met her while I was in the army doing my military service.’ The North Korean said: ‘Oh, she was a comfort woman?’ And boom! He controlled himself, just barely, but unloaded on me when he got back. We talked about it for a while and said (the North Korean) probably didn’t know (how it sounded). I had no idea whether it was intended as a deliberate insult or not -- but the KEPCO guy calmed down and let it go.

“The other interesting thing that came up was because the telecommunications agreement was not rock solid; it never was. I had a printer-scanner in my room and I was using my laptop as a fax machine, hooked up to the North Korean phone system. I’d send a fax back to New York every night. The North Korean telecomm guy wanted to inspect the fax machine; for what purpose I have no idea. I brought him in and he

looked around the room, and then pointed at the printer and said, 'Is that the fax machine?' I said, 'No,' and pointed at the computer and said the fax machine was in there. He wouldn't believe it. He just had no idea how something like that could happen. That guy was there for a long time. He (finally) OK'd it; he couldn't find a reason not to. I told him that we couldn't continue the work if we couldn't get written instructions from New York, from higher headquarters. He understood that -- that you couldn't do anything without somebody authorizing it. So life went on.

"We were very bored because we were basically restricted to the guest house. The basic agreement said that we would have the run of the sites, but the sites weren't (yet) in place. So anytime we went out of that guesthouse anywhere, we had to be with a guide, including to the mountain. So basically we all sat around and drank. To this day I can't stand Stella Artois beer because the only beer they had at the guesthouse other than the North Korean brew was some liter bottles of Stella Artois that was about two years out of date. It was awful, but not as bad as the North Korean stuff.

"By the summer of 1997 two Koreans and the Japanese representative had arrived. We were all in the guesthouse, sort of working only from the very limited information we could get by fax from New York -- the lines weren't always up ... We sort of set a collaborative tone for our dealings that I think stood us in good stead. They deferred to me on a lot of things. I deferred to them on matters involving the Korean workers when they finally got there. Actually, on a lot of the day-to-day dealings with the North Koreans I deferred to them.

"Although we had a general idea of what was going to happen, all we really knew was this big old barge was going to come pulling into Yanghwa and we were going to get everything we needed. So the barge pulls in and there's this parade of dump trucks and SUVs, a couple of sedans and heavy equipment. It was the closest thing to a traffic jam I have ever seen in North Korea. They were entirely dirt roads at that time.

"Customs went smoothly. I think at the time the North Koreans had instructions that this was a priority project. It was a priority for them on several levels. There was still a lot of optimism obviously about the project. So at the national level, the North Koreans were interested in seeing things move along quickly. At the local level, this was seen as a career builder ... The local people also, by this time, were already busy refurbishing bars, bringing supplies into the gift shops. There was the beginning of some additions to the Okryugwan restaurant behind the housing area. So, they were also seeing some big bucks in their future -- at least, big bucks for North Korea. Everyone had an incentive to get things going well. There were no real customs hassles. We sort of improvised: the North Koreans might say something wasn't quite right. 'Well,' sometimes we'd say, 'Come on.' Other times, we'd say, 'OK,

leave it here, we'll deal with this box later,' because it wasn't on the inventory or something. So it went fairly smoothly.”

Living arrangements at the site in the early years were not for the faint hearted. Virtually everything needed for building the site infrastructure had to be shipped in on barges from the south, and there were limits to how fast the necessary materials could flow in.

John Hoog

“The happiest day was when the housing containers (arrived), the old green things ... Some of them looked just like a 40 ft. container. Others were chopped in sort of an L shape. When we moved into those places and our own generators were fired up -- boy, that was heaven! The first mess hall there was five or six of these containers butted together. The food (wasn't great) but it was a marked improvement over the guesthouse.”

Kim Hang-kyu

“When I was there in June 1998, we used 20-foot containers for living -- one container per person for KOK, a good space, but for workers it was one container for four people. KOK even had air conditioners in the summer, but there were no air conditioners for KEPKO or ICG or the workers, so they were very, very hot in the summer ... People were worried about a kind of a chemical smell that came out of the containers.

“The food was OK, especially for the first three or four days. The problem was that after three or four days (there were) no fresh fruits or vegetables. There was a small greenhouse in between KOK and the Okryugwan in North Korea. There was one ICG person who was allocated for agriculture -- growing lettuce and vegetables. Because of budget issues, ICG sent him back (to South Korea). I think the salary was about \$2000 a month, and the ICG sent him back. I couldn't understand at the time. We were building a \$4.6 billion project and this was \$2000. We needed fresh vegetables.”

Ambassador David Lambertson

“They (the containers) were comfortable ... There was a separate bedroom, and an area that was your kitchen, and then another room, and then at the end there was a bathroom. All of it small, compact, all of it

organized pretty well. Like the apartments, the containers were heated with coils in the floor, Korean style.”

John Hoog

“The pipeline from the river didn’t come in until much later. There were three shallow wells there -- I guess two were in operation at first -- and a little purifying plant to make (the water) potable. The only struggle with the North Koreans at that time was their insistence that we put up both the construction and the housing area fences, the perimeter fences. We had already started having some problems with pilfering.

“(Building perimeter fences) was low down on the list in KEPCO’s schedule. They didn’t have the materials or anything they needed (for fences). The basic agreement didn’t have any wording that said we had to put up a fence. We told them we were just going to lay out markers at the boundaries and keeping people out was their responsibility. They didn’t really like that very much ... possibly because the bulk of the pilfering was done by the army troops.

“We had our offices; the first thing in the housing area was our office. The housing containers had not quite been finished yet, so we were still at the guesthouse. We ended up sleeping several times on the floor of the office because we did have AC (air conditioning) units in the office. During late July and early August it does get hot up there, for about six weeks or so.

“There must have been about fifty workmen or so: pipe layers, electricians, carpenters building housing for the generators, and so on. The first priority was the housing area so we could accommodate the rush of workers that started coming in shortly after that. The first order of business at the construction site was tearing down that mountain; that was a several year project.

“The roads took a little bit longer (because) they couldn’t pave in the winter. They started working on the road paving in the spring of 1998. The first roads to be paved were the ones inside the construction site; only later did they get around to improving the roads between the site and most of the way down to Yangwha. They were (also) working on administrative buildings, a laboratory for analysis of various kinds of samples, and the machine that crushes gravel at the aggregate site, 15 km or so from the construction site.

“The North Koreans decided that we did not have free access to the (aggregate) site and they wanted us to notify them in advance before we went there. We resisted that successfully for a while, and then later it fell back and they wanted us to notify them again. I’m not sure that was ever settled. It was just one of those things that, like so much else up there, you just sort of made up the rules as you went along.

“Communications were always a problem until we got the leased phone lines, four or five of them, from our site to Pyongyang, Tokyo, and Seoul. After that, communicating got a lot easier -- we even had Internet access! I got two or three dial-up accounts at the telephone company’s ISP in Seoul and we could connect and get on with about 2400 bps and sometimes even 5400 bps, about a tenth of the speed you would get on an ordinary clean dial-up line. But it allowed us to drop the faxes and send our daily report by encrypted e-mail, which was quite an improvement. We could be a lot more frank with the folks back there than we could before.”

Under these challenging circumstances, the distance between headquarters and outpost was even further than the half-globe that separated them. Most of the New York staff had only a vague understanding of the hardships endured in Kumho, and those at the site could hardly comprehend why decisions came so slowly from New York. With a small contingent (never more than four or five) to oversee such a massive project and deal with all the complexities of an untried relationship with the DPRK, KOK could hardly be called grossly overstaffed. In fact, the staffing seemed driven more by national needs than a logical plan. Some of the South Korean KOK members seemed much more closely attuned to their home government offices than to KEDO headquarters. All in all, without the iron requirement that all three of the founding EB member countries had to be represented and that South Korea itself needed more than one person, after a few years KOK could probably have been reduced slightly.

John Hoog

“The site-opening ceremony in July (1997) was quite an extravaganza. CNN came in with a satellite link. They didn’t have that many problems getting it in, which was amazing. The entire headquarters staff was there. We had a lot of Pyongyang dignitaries, and that was when the first semi-serious incident came up. KEPCO was not supposed to put up anything in Hangul (Korean writing), they were not supposed to have their own logos without KEDO’s next to it, and they were not allowed to use the term ‘Hankook’. They could only use ‘KEPCO’ and not their full name because it had that magic, forbidden word. So they had this big wooden signboard (that broke all the rules) and it was our fault for missing it.

“But the advance team for the North Korean big shots noticed it right away. We finally found some banners that somebody had trucked in for some reason -- you know, the congratulatory things that Koreans are so proud of -- and we put those banners up across the face of the offending (signboard) and promised the North Koreans we would get that down as

soon as possible. That held up the ceremony for an hour but, anyway, it went off after that without a hitch. Fireworks went off, smoke came out as Bosworth and the others plunged the plunger. All had a great time. We sort of felt orphaned when they left.

“Even though some of the folks from headquarters had been out to the site, our collective opinion was that they didn’t have the foggiest idea of how difficult it was to do business out there. Things got lost in headquarters ... turf fights or something. We could never seem to get administrative support for what we wanted to do. Of course, this is every embassy’s complaint about every home office.

“But it took a long time to get anything, to get any sort of opinion or clearance to do something from New York and in many cases we just sort of ignored them. Our budget was not being overseen that carefully, and it was pretty generous to begin with. So if we wanted some new equipment or something, we’d just buy it in Seoul and just bring it up, sometimes, as I learned later, without regard to US export restrictions on things like computers. When I was back (in New York) I asked to replace a couple of them. And they said: ‘Oh, too much of a hassle to get the export clearance,’ and I thought, ‘whoops!’ I went into a computer shop in Yongsan electronics market and just bought the doggone things.

“The biggest burden was really boredom more than anything else. We had a limited amount of work; we had too many people at KOK.”

Kim Hang-hyu

“Maybe it was a communications problem, but from KOK’s point of view HQ considered some small issues as too big ... Plus, when there was a meeting between headquarters and GB (the DPRK General Bureau of Atomic Energy), there were too many headquarters’ delegates attending, but headquarters was trying to limit KOK representatives’ travel. There were money issues also.”

Ambassador David Lambertson

“In theory the KOK was the senior office on the site; we were the representatives of the purchaser, after all ... and treated very deferentially by the KEPCO leadership. But in some respects it was a little bit like being a State Department representative in Baghdad: you have a larger group of people (from the Department of Defense) with a lot more real power, and so the project manager, the top KEPCO guy, was always clearly very important and was seen by all of his people as the big gun ... (KOK’s) power and prestige vis-à-vis KEPCO were not always clear and uncontested in the eyes of the large KEPCO staff and subcontractors.

“There were aspects of the daily interaction between us and the North Koreans which were highly routine. For example, a KEPCO man

who dealt with port arrangements would talk directly with somebody (from the North) about when the ship was coming in, what it had on board, and what we were going to need that day -- that sort of thing. But I think they were generally good about going through us and they valued our being the interlocutor with DPRK authorities and providing that sort of official protection.”

There was another entire layer of personnel who can be only superficially touched upon here, the workforce drawn from South Korea, Uzbekistan and North Korea. These men, responsible for building the reactors, eventually reached several thousand based on the small plot of land on the eastern coast of North Korea. KOK lived and ate with these men (and a handful of women -- nurses and cafeteria staff). Their recreation, such as it was, was taken in that same community. But KOK did not in any meaningful sense supervise the workers. They were led by managers sent by KEPCO and the construction subcontractors, and it was those managers with whom KOK worked. KOK only stepped in when problems arose.

Relations with the North Koreans at the site remained remarkably stable. Despite the orientation training each worker received before ever going north, however, the conditions at the site made it inevitable that problems would occur given North Korea’s isolation from the outside world, the presence of a growing number of South Korean workers and the need to work together on a complicated, massive construction project. While there was a constant danger that misunderstandings could escalate, thanks to the professionalism of the KEDO staff at the site, a number of potentially explosive situations were quickly defused. It also helped that the North had established a counterpart to KEDO in Pyongyang -- the General Bureau for the Light Water Reactor Project -- which maintained a liaison office at the reactor site. Working together, the two managed to keep the project moving forward.

John Hoog

“GBOK (the DPRK’s General Bureau liaison office in Kumho) had been sort of set up. There was an engineer from Pyongyang who came out to run the office there, and he was not an ideologue to the extent that some of the later people were. He genuinely wanted to get this project going and started. His staff was composed mostly of engineers as well. Several of the South Korean engineers, the KEPCO people, actually struck us some friendships with their northern counterparts. At the time though, neither the North Koreans nor we knew very much about what was going to happen except that they were going to come and we would

get our permanent housing and get the hell out of the guesthouse where, by that time, the food was pretty awful. We finagled it so that when I was in Seoul I could go to the Embassy commissary and ship stuff up (to Kumho). Our rooms were packed with peanut butter and crackers.”

Ambassador David Lambertson

“The frequency of our meetings (with GBOK) varied a lot and they became less frequent toward the end as we had less business to do. But formal meetings, even in normal times, seldom happened more than about once a week. We would see them on other occasions, however: twice weekly, for example, when the boat came in one day and then left the next day.”

Kim Hang-kyu

“We talked with the GBOK. There was no formal set of regular meetings between us ... if there is an issue we can just go to the guesthouse and talk to a waitress there and they let (GBOK) know that the KOK representative is here and in five or ten minutes somebody would come ... whenever there was a (routine) issue the same person came to talk to us. If there was a bigger issue then we would have a full meeting and the head of GBOK joined.

“The biggest issues touched on the highest command of the DPRK side, like Kim Jong Il. If somebody mentioned (anything negative) about Kim Jong Il or Kim Il Sung, there was a big problem. So whenever that kind of thing happened, then we had to have a formal meeting. Then there was a one or two week cooling off period on that issue ... (But) if they took that issue too seriously, then sometimes KOK (would retaliate and) not use the restaurant or guesthouse or Okryugwan, one by one ... Normally, when we did that they would approach KOK: ‘Oh, when are you going to lift that ban, because we opened this for you and if you don’t use it then it’s a waste.’ That was the card we held -- it was a money issue.

“When there was a farewell or welcoming party, or commemoration or celebration, we all gathered, (alternating between) the guesthouse and the Okryugwan. The only dinners GBOK came for were when we had a meeting between GBOK and KOK or between headquarters and GB meeting at the site. But there were some very limited number of informal lunches between one or two KOK representatives and the GBOK guys. Sometimes there were informal drinking sessions. When both sides thought we had to get through some problem, that there was no progress, then they would meet and have a drink and talk to find some way out.”

Chapter Nine

On the Ground (continued)

Given the circumstances, the underlying tensions, and the wide gulfs of misperceptions on each side about the other, it is not surprising that there were incidents. What is surprising is that there were not more, and that they were not more serious.

John Hoog

“The first incident of any real magnitude was what we still call the *shinmun munje* -- the newspaper problem. When we moved into our offices at the beginning, before things at the site were built, our offices were at the guesthouse also. I operated out of my room and so did the other KOK guys, but there were some offices at the back for the KEPCO and ICG people.

“Somebody had torn up a copy of *Nodong Sinmun* (note: the Korean Worker’s Party newspaper), which was available everyday in a little bookstore at the guesthouse. It was torn. Whether it was deliberate ... who knows? Nobody knows really who was responsible for the outrage that a picture in the newspaper of the Great Leader and his son would have been ripped and tossed into the trash. It was the whole newspaper. A cleaning woman found it and reported it, and they went berserk. They demanded that the perpetrator be punished, and refused to meet with us for several days except to talk about that incident. They wanted the person identified so they could arrest him ... Just like so many other things, after the initial bluster and dire threats, it just sort of trickled away. They demanded an apology which they never got. Bosworth and we tried all sorts of formulations well short of an apology. So we didn’t back down and after a while I guess they just decided they had extracted all the political capital that they could from it and it just sort of disappeared and wasn’t raised again.”

Ambassador David Lambertson

“There were special meetings regarding unfortunate incidents that would occasionally occur. When I was there the first time, we had two rather serious ones from a North Korean point of view. Both involved the railroad, about which they are sensitive. In the first, a truck with a mobile crane on top was going out to the aggregate area. The road goes under a (railroad) overpass, but the crane was up a little bit higher than

it should have been, and it hit the bridge and actually dislodged the rails a few inches. Then not very long after this happened, a guy was coming back from the aggregate area in a dump truck, and the bed was raised slightly and clipped the electric wires at the little village just north of the construction site, thereby causing the train to stop somewhere -- as it frequently did anyway because the electrical system would just go out. So at that point the North Koreans saw a pattern of sabotage -- a deliberate effort to undermine their national economy. So we had meetings about that. And KEPCO hopped right to it in making the necessary repairs.

“The one thing I remember about all of our meetings was how physically uncomfortable they were because poor GBOK was in this sort of concrete building without any heat whatsoever. You would go over on a bright, sunny winter day and then step into that icebox. You’d always dress warmly for a meeting with GBOK, and when you came out outdoors at its conclusion the sunshine would be a welcome relief even if the outside temperature was about freezing.

“But they did things appropriately. They always served coffee or tea and were always courteous and professional in their dealings with us. However, in the immediate aftermath of the President’s ‘Axis of Evil’ remarks, the atmosphere deteriorated at Kumho, and this was reflected to some extent in our relationships with GBOK but not to the point that it inhibited our ability to do whatever little business we had to do.”

John Hoog

“Potentially the most serious incident was a fight between a South Korean truck driver and one of the North Korean laborers. It started over one of these mundane things. The North Korean, while he was working, had a truck door open and music from a North Korean radio station -- the propaganda music -- was going full blast. The South Korean was not very happy about that. He finally told the guy to turn the radio off. The fellow refused, and said he wanted to listen to songs about his Dear Leader. The South Korean persisted and the North Korean said something to the effect of: ‘This is a song about our Dear Leader who is going to move us to become the best, the perfect country on earth.’ The South Korean said: ‘Don’t be stupid, you’re going to starve to death before that happens!’ The North Korean then took a swing at him and the South Korean swung back (before) they were separated. The North Koreans (all) walked off the job for that for three days. They wanted to arrest the guy and take him into custody. We told them, ‘No way,’ but we did agree to remove him from the site. That’s something technically we didn’t have to do, but common sense tells you, you don’t want a guy like that around.

“About 1999 or so, when the paving of the roads between the compounds was just about finished, KEPCO put reflective cat’s eye markers everywhere. They couldn’t have been more than 10-20 meters

apart -- about 9,000 of them. The North Koreans called an emergency meeting with KOK. And what was the emergency? On the back (of the markers) in English it said Hankook, the name of the manufacturer. 'Oh, this is a serious offense!' Eventually, KEPCO went out with a grinder and ground off the word Hankook off all of them.

"Things would come out of the blue like this, things that you just couldn't anticipate. You would wake up in the morning expecting another boring day but just wondering what in the hell could go wrong. We had one death at the site, a South Korean worker who had a heart attack while he was jogging. There was one drunken driver who hit and either injured or killed -- we never knew -- a North Korean soldier or some sort of security official along the side of the road. We eventually repatriated him. The South Koreans there (at KOK) asked the people back home in Seoul to charge him, but they never did, as far as we knew. We did pay an indemnity, condolence money as they called it.

"There was a lot of drinking, but to the workers' credit I'm surprised there weren't a lot more incidents. For the most part, they were quiet drunks. They were noisy when they were singing in the karaoke, but they behaved themselves very well and, a lot of times, under a lot of provocation.

"There were a few other incidents. We had two nuns up there, Catholic nuns, who were nurses and worked at the hospital. Christmas of 1998 or 1999 they got the idea they were going to do something for their brethren. So they got seven big trash bags and filled them with winter clothes, took them out into the scrub pines around the site and left them at various locations. 'A Christmas present for our comrades.' The next morning we got a call -- of course, the North Korean guards had seen them go out. They said this was unacceptable. But they only found six of the seven bags.

"There were other cases where the North Koreans would come to us asking for medicines mainly and guys would bring the medications up from Seoul and pass it to them discreetly. There was a fair amount of that going on: a sort of humanitarian black market, if you would. We didn't look in that direction on this kind of stuff when it was going on. A lot of it we didn't know about at the time, we just heard about it later.

"(Once, Mr. Lee) the head of the ICG was driving north of the construction area toward the aggregate site, and he came on a North Korean soldier holding the handlebars of a bike on which a North Korean officer was slumped over. Lee stopped and asked what was going on. 'My officer is sick. Can you give us a ride to the clinic in the next village?' ... The officer was really moaning -- appendicitis or something, perhaps. So Lee and the enlisted man helped the officer into the car and dumped the bicycle in the back. It was one of those SUVs. So they were driving along when the officer recovered enough to realize it wasn't a

North Korean car, and he asked where they were. ‘Oh, the KEDO fellow is taking us to the village.’ ‘No, no, no,’ the officer said, ‘got to get out. Stop, stop!’ They got out. And thirty minutes later, they were still along the road, the enlisted man pushing the bike. So an officer isn’t even going to (take a) risk when he is deathly ill.

“Another time, after we finally got access to the beach at the housing area, Lee was out there one night, walking along, and encountered a North Korean. They started talking. The North Korean said: ‘You know, we have got to end this separation. With your industrial strength and our political ideology, we will be unstoppable and we can defeat the Japanese.’ So you knew there was more going on than the official line.

“(Religious proselytizing) was always a problem. It started early because the first doctor we had at the site was an evangelical Protestant missionary. and it was pretty clear he took the job up there in the hopes of being able to proselytize the North Koreans. Religious tracts were left around here and there. That was something nobody in KOK was willing to put up with. We told him that anybody who did that would be removed immediately.

“The funniest thing I was ever involved in up there was in the summer of 2000, shortly before I was going to leave. There was a huge rainstorm that knocked out all communications to and from the site. No North Korean phone lines ... all gone; we had no communications. We were expecting a delegation from headquarters and a barge was on its way, but we had no idea what was going on. We told the North Koreans we wanted to use the satellite phone we had up there (for emergencies). They never said no,(but they never said yes.

“Another day went by. We were supposed to meet them at the guesthouse at 9:00 a.m. (to use the satellite phone). Nobody showed up. The satellite phone was in a metal case in the guesthouse. It had two locks on it: they had one key, we had the other. The senior South Korean (from KOK) was just as concerned as I was about not knowing what was going on, so we cooked up this plan to steal the satellite phone ... Finally about 11:00 a.m. we told the guesthouse manager -- a low-level functionary -- that the GB is coming, let’s put the box out on the porch, (which we did). And I then asked the South Korean (in Korean), ‘does our key work?’ ‘Oh, I don’t know.’ ‘So what happens if the GB gets here and the keys don’t work?’ ‘Well, let’s try it.’ So we unlocked it, and by now the (guesthouse manager) is getting agitated but he really didn’t think he was in any position to give us a lot of grief about it.

“‘Uh, the lock works.’ The North Koreans hadn’t locked their side of it. It was completely open. So the South Korean walked back to his car and I just calmly picked up the satellite phone and got in the passenger seat. One of the junior KOK representatives, the Unification Ministry guy, stayed there to sort of run interference, and we headed back

to the construction site. We got the thing back in our office and called everybody we needed to.

“I’m certain that the local North Koreans didn’t tell (their superiors), but suddenly they wanted to renegotiate the agreement on the satellite phone. They agreed we could keep it at the security shack at the construction site -- same conditions, two keys but now with their side locked. But we could keep it on our turf.

“But the North Koreans got back at me. I was scheduled to leave and the final details hadn’t been arranged on the new agreement. Nothing had been signed yet, the barge was there, and they told me I couldn’t leave! I was stuck at the site for another two weeks.

“You can get away with some things with the North Koreans if you just gut it out and act like you know what you’re doing. I suffered for it but I still laugh about that day.”

Kim Hang-kyu

“(Local North Koreans) wanted to watch us, but they didn’t turn their faces; they just moved their eyes. They had a lot of interest in us, and they heard a lot of things about the project. As time went by, their attitudes changed a little bit ... they watched more freely and, sometimes, they smiled.

“One day, there was a problem at the site because somebody broke into an apartment and stole something. It wasn’t just (a question of) money or material, because anything which touched the lives of the people there could be a huge, huge issue. So everybody got tense at that time. Our guards found the route (the thief) came in -- over a wire fence. So they found the route and waited all night. Then maybe at 1:00 a.m. or so, there was a radio communication: ‘Oh, he’s right there, grab him!’ It was a real operation, but (the guard chief) Mr. Son just let him go. If the security guards had grabbed him, he (might have fought back) and it could lead to some different problems.

“We called a formal meeting (with GBOK), and they had to accept what we said because things were very clear that this was a problem created by DPRK soldiers. We don’t know whether it was one person or two or the whole military.”

Ambassador David Lambertson

“(One) early morning, I was jogging -- starlit morning, snow on the ground, just gorgeous. I went up the mountain from the hotel at Hyangsan (note: Hyangsan, in the mountains in North Pyongan Province, about 110 miles from the construction site, was where KEDO delegations and the North Koreans occasionally met for formal negotiations on broader

issues about the LWR project) and I came to a bridge over the little river that comes down that valley. I decided to cross the bridge, which was a big mistake. There was this sentry on the other side who unshouldered his rifle and pointed it at me, making clear that I was to hold up my arms and turn around. There were three other people who subsequently came out to see what was happening and finally the third one had sufficient rank and self-confidence to allow me to put my hands down and escort me back across the bridge. We then waited for another fifteen or twenty minutes for a van to show up with an officer and someone who spoke English. When they learned that I was with KEDO, they knew I was supposed to be in the meeting down the mountain at the hotel, and told me to go. But it was an uncomfortable, cold forty-five minutes.

“We just didn’t have any interaction (with the military at the Kumho site). A couple of times there were (North Korean) fishing boats in distress in our area. One of them was washed up onto the beach right outside the housing area, and we got a backhoe and kind of nudged it off and got it going again. That little operation required meetings with GBOK and a lot of ‘arrangements’ were necessary, and there were people involved representing the military borderland defense unit in that area. It was not an easy relationship.

“Several times I traveled by land from Kumho to Pyongyang and back. The trip took all day, always with a stop in Wonsan for lunch. There were also occasions when we would go to Hamhung by bus and then fly from there to Pyongyang. But even driving around within the Kumho special zone, if you smiled and waved at people, nobody smiled and waved back unless they were little kids.

“We traveled to Pyongyang from Hamhung on the Antonov-24 a number of times. And one time, the senior South Korean KEDO representative and I went to Pyongyang by helicopter. There was no scheduled flight at that time, but they weren’t allowing us to go by land either during that period. So (we boarded) this ancient, ancient North Korean helicopter with a semi-flat tire ... (at) a helipad about a couple of kilometers from the housing area, near the guesthouse ... just a slab of concrete. We took off from there and landed at a remote corner of the airfield in Pyongyang maybe an hour and a half later. We followed the same route as when we went by land, i.e., down to Wonsan and then inland. No new scenery; they just didn’t want to show you anything.”

With the exception of such relatively few incidents over the years, relations with the North Koreans at the site remained remarkably stable. Thanks to the professionalism and good sense of the KEDO security staff at the site, a number of potentially explosive situations were quickly defused. The most neuralgic problem came to be exit procedures, when DPRK customs and immigration

officials engaged in petty harassment of workers rotating home or going on leave. Detailing its complaints on one occasion, KOK noted the objectionable actions by North Korean officials:

- Opening and reading private letters. Opening wallets, and carefully sifting through the contents.
- Opening sealed KEPCO documents marked “confidential”, and reading the contents. These included technical documents relating to the project as well as internal documents that were administratively sensitive, such as personnel evaluations.
- Confiscating and holding for arbitrary and unreasonably long periods of time personal items which passengers had inadvertently failed to declare. In a typical two-month period, some 33 items were being held by the North Koreans. These included cameras, tape recorders, film, personal radios, videotapes, computer diskettes, books.

KOK also provided a rare (if pinhole-sized) window into North Korea. The members of KOK were kept fairly isolated and thus had only infrequent opportunities to observe everyday life beyond the perimeter of the KEDO reactor site. But even inside the site itself, occasional glimpses of the realities of North Korea were inevitable, if only because of the close proximity caused by working together on the KEDO project. Those experiences were often difficult, sometimes, harrowing, frequently frustrating, always illuminating and occasionally touching and rewarding.

John Hoog

“In theory, the North Koreans were supposed to be in gangs that were supervised by a North Korean and only have contact with the senior ICG people. On the ground, it wasn’t that segregated at all. So there were plenty of chances for interaction and some of it good. There are little stories that came up about heartwarming exchanges of photos: this is my wife; and this is *my* wife; things that sort of make you believe maybe something is going on that will start a little thaw. But for the most part, these things turned out badly because the North Koreans had nothing but pride, and the South Koreans tended in general to be a little, or even more than a little, disdainful of the northerners. It was clear how dirt poor they were.

“On many different occasions we invited the North Koreans to come onto the site for a meal and they would never accept. All our meals with the North Koreans and all our meeting with them in fact were off the site at the guesthouse. At first the guesthouse, then at the Okryugwan, and finally when GBOK moved into a little building north of the housing area we would meet them there all the time.

“They would come in (to the site) occasionally when there was a visitor from Pyongyang, and KEPSCO would show them around. They weren’t by any means forbidden to come in but they didn’t like the idea that in the protocol they had to ask our permission to come inside the site. I think (another) reason they didn’t want to come in for a meal was because the food was so much better. Later, when the North Korean workers began signing on and eating at our mess hall ... one of the cooks estimated that on average the North Korean workers ate about 75 percent more rice than the South Korean workers did. I guess that was basically their one real meal a day.”

Kim Hang-kyu

“I traveled by DPRK car from Hyangsan to the site many times, maybe four or five times. When we traveled by bus between Sondok airport and the site, there was a DPRK vehicle about a mile ahead of us, I think clearing (the road) for KEDO. But when I traveled by car (supplied by the DPRK), it was just us, one car, and the road was clear. I saw some soldiers right in the middle of the road who yelled ‘Stop!’ The guide in our car said: ‘Oh, this is KEDO! This is KEDO!’ (The trip by car) took eight hours plus one hour lunch break in Wonsan.

“When they thought that the project was moving, the North Koreans were cooperative in many ways, except in some cases when they felt there was a safety issue like a big snow or big rain -- then they just stop everything, all transportation.”

Ambassador David Lambertson

“There was a lot of interesting, authentic North Korean life taking place within the Kumho zone, including the market days. We weren’t allowed to get close to (the market), but there was one just beyond the construction site at the little town en route to the aggregate area. People would come from the direction of Yangwha. They would walk all morning, get to the market, and then walk back home, having traded something for something.

“But there was no meaningful interaction (by us) with anybody, other than perhaps a few GBOK people. This was true for the South Koreans who were there as well. The only people they had real conversations with were the gals in the restaurants.

“There was at least one of our KEDO people representing the Unification Ministry who felt when he arrived that he was going to really be able to get to know his northern brethren ... It wasn't long before he was thoroughly disillusioned. He realized it was just not going to be possible.

“The North Koreans did allow side trips to the nearby cities in the early days of the project, when seismic measurements were being taken. A couple of times I was able to go to Pukchong and the hills just a little beyond. That was very pleasant; these were North Korean guided outings and we had nice picnic lunches both times. We'd also get permission periodically for our photographer to go up into the hills above our housing area and above the construction site to take pictures for progress report purposes. Again, there would always be two or three GBOK people with us on what were pretty vigorous climbs. On at least a couple of occasions we ended up with little informal picnics on top of the mountain. We would also go to the major village en route to the aggregate area on a fairly standard tour, when we had visitors from New York or elsewhere. It had been visited by Kim Il Sung, and was quite picturesque, surrounded by apple orchards. They always took us to the home of a Mr. Lee who was a hero during the early Japanese colonial days. These were real tourist outings.

“From time to time, the GBOK guys would unbend a little bit. And on a number of occasions we had KEDO-KEPCO-initiated picnics along the river, in the spring and summer, to which we invited the North Koreans, and a few would always be there. We had a very pleasant picnic one time out under the pine trees in the area adjacent to the new port. There was always plenty of *soju* and a lot of raw fish of various kinds. And very often, if it was a smaller event like the picnic in the pine trees, the two or three North Koreans who were there would always be intelligence people. They could do it; nobody else had permission to fraternize with us.

“(GBOK sometimes asked us to give the local community) electricity, (potable) water, fuel oil, etc., and there was always a kind of disposition on the part of KOK and KEPCO to be helpful, although toward the end their requests became a little more insistent and rather large scale. It would have meant a significant contribution of our resources. But there was also a lot of sympathy, especially among the Koreans in KOK and KEPCO, for the plight of these villagers. One of the things that probably never got reported to New York was the incursions into our construction site (by North Koreans) to cut firewood. KOK and KEPCO people never really wanted to make a big deal out of it because they just felt sorry for them.

“I heard about one guy, an unfortunate fellow who came to the front gate and thought he could somehow find liberty that way. He was turned

away. It happened at night and hopefully he got away without being caught.”

John Hoog

“One of the first summers, 1998 or 1999, suddenly there was an influx of bicycles in the area inside Kumho. Everybody seemed to have a bike. So we figured the Dear Leader had showered his generosity on these folks. Most of the people though were pushing them. It gradually dawned on us that these folks didn’t know how to ride a bicycle but they had been told to get out and show the foreigners how rich they were. And so they would walk down the road pushing a bike. Finally, more and more of them learned how to ride them. And occasionally they would all sprout new clothes. It became clear they were getting preferential treatment. From their point of view, that was compensation for having to live with the barbarians, and from the government’s point of view it was showing us that the North Koreans were really in pretty good shape.

“The train caused a lot of heartburn for the North Koreans. That was one of the reasons why they were so picky about the wording of our signs. Everybody going up to Rajin-Sonbong could see the construction site. Those trains would rattle along and they were really in horrible shape – no windows for the most part even in the winter; people hanging on, crowded; whole families riding on flat cars; really some strange stuff. Occasionally, probably the Dear Leader himself ... several times we were told to stay inside the compound. ‘Don’t go out.’ They would have their security guards block us physically from moving for an hour or so.”

Although KOK and KEPCO had daily contact with North Koreans, the KEDO project was in some ways like a cyst within the DPRK body, one that the authorities were determined to keep from infecting the surrounding tissues. Still, it is possible that a more determined effort by the KEDO governments could have created more opportunities for access to the project’s neighbors, if only to provide humanitarian goods and services. For instance, KEDO’s medical facilities, though small, were light years ahead of anything in the Kumho District, and possibly anywhere along the North’s east coast. The doctors and nurses at the facility were more than willing to offer their services to the people in the area. Ordinary North Koreans walking along the KEDO constructed roads or traveling on the country’s east coast railroad could easily see the modern, high-quality construction, and farmers on the nearby hillsides daily observed the KEDO housing site. This surely affected common people’s perceptions of their own government.

More aggressive outreach might have had an even greater impact. All in all, Kumho was a concrete example of KEDO’s strengths and weaknesses: the governments could and did organize a massive engineering project in the most inhospitable environment imaginable; but

they failed to see it as more than that, as a potentially important source of interactions with North Korea that could have advanced broader goals.

Chapter Ten

Nuclear Liability

Who pays when things go wrong? Union Carbide paid out hundreds of millions of dollars after a major accident at one of its chemical plants in Bhopal, India, and lost its corporate identity. Because the consequences of a nuclear accident can be even more far-reaching, for many years it was all but impossible to construct new reactors in some industrialized countries, including the United States. A country like the DPRK, lacking any prior experience with light water reactor technology and known more for famines than industrial safety, raised especially stark liability issues for the companies that were to supply components for the KEDO reactors. Could North Korea operate the reactors safely and, if an accident occurred, could its impoverished treasury afford to pay potentially enormous damages? Even if its opaque and government-controlled judicial system did not shift the blame and financial burden onto the foreign firms connected with the reactors, what would prevent downwind victims in other countries from seeking redress from the deeper pockets in the KEDO countries?

By the late nineties, the world's shrinking nuclear industry was already concerned about liability in general, and was seeking a broad solution that would cap liability and pay damages from an insurance pool. It happened that this effort fit the needs of the KEDO project, which would surely represent the most extreme case. KEDO's task was to bring the needed companies into the project even before the broad solution had come into existence, and at the same time educate and persuade the DPRK that it would have certain responsibilities under a still-notional liability regime, responsibilities that would require the North Korean government to make substantial changes in its laws.

By the time construction was effectively suspended in 2003, KEDO had made significant progress on the liability front in only one area: it had succeeded in enlisting companies to supply all needed components by offering them a "walk-away" option if they determined the liability arrangements still to be agreed on with the North Koreans were not sufficient. (General Electric, the maker of the turbine generator used in the standard Korean nuclear plant, was the exception. GE wanted much more in the form of an absolute government-backed indemnity, and it was never clear that it would provide its turbines even then. After a year of unsuccessful American efforts to persuade GE to accept the "walk-away" option without a government indemnity, Japanese firms were finally approached and they agreed to provide turbine generators on the same basis as all other vendors.)

Meanwhile, the education of DPRK authorities on the subject of liability and insurance had just begun, and it was still too soon to tell what the greatest problems might be. And the excruciating process of creating an international treaty to cover nuclear liability was under way but was faltering; it was entirely in the hands of governments that had differing political priorities, and KEDO had no role in it. Liability loomed as an enormous obstacle to completion of the project, but it was one that for the most part was beyond KEDO's control.

Ambassador Chang Sun Sup

“After GE's nonparticipation became clear, we instantly started negotiations with the Japanese government. Those negotiations cost us almost a year. Finally Hitachi-Toshiba came along. That was a big fight for us; without GE's participation nothing could be done – the turbine generator was such an important component.”

Jack Mulligan

“Everyone else thought GE was going to agree (to supply the turbine generator). I didn't have much confidence in it at all. For whatever reason, Jack Welch (the Chairman of GE) was dead set against it ... (and) Doosan was about to be privatized. GE had a lot of work in Doosan's factory down in Changwon. I was told that GE came back and said to them, 'If you build that turbine and send it to North Korea, (or even) sign a contract saying you are going to provide that turbine, we are going to pull all of our work out of your factory. And we were going to invest heavily in your privatization but we won't do that.' So Doosan ... refused to provide the turbine. We actually put a tender on the street (trying) to get somebody else to do it, (but) everybody else came back and said no. So we had to get the Japanese Government to twist the arms of Toshiba and Hitachi. They had a previous GE design and they weren't afraid of GE, so they were going to provide (the turbine generators). Doosan would manufacture one and they (Toshiba/Hitachi) would manufacture the other.

“It was a major setback because the design of the plant used what they call a common base mat ... Well, the (Toshiba/Hitachi) turbine is heavy and it turned out to be something on the order of five meters longer. So what it did was move the whole center of mass. In an earthquake it would behave differently ... Every seismic support in that whole plant had to be reanalyzed ... It put a one year further delay in the schedule and cost \$100 million.”

Lucy Reed

“I could rarely get anyone to focus in the early years on these issues that everyone knew about at the time of the Agreed Framework. It’s an ultimately hazardous and dangerous thing that requires a lot of licensing and training. It is inconsistent with the level of skill that they (the North Koreans) had or the amount of trust that the West would want to put in it. Why would GE make turbines for nuclear power plants that could blow up and be another Chernobyl? Because then GE would be liable, everyone’s liable.

“We were negotiating with help from Paul Bowden, who was a partner at Freshfields and had done all the nuclear liability work for British Nuclear Fuels, who so is expert in this area, and Joe Huse, the other partner at Freshfields, who had done 20 turnkey contracts for Electricite de France -- whereas the US hadn’t done any for 20 years.

Jack Mulligan

“There were international protocols, a whole nuclear liability regime that had been developed over many years. The contractors were simply asking for coverage. They didn’t think the North Koreans would ever provide coverage, or even would be in a position to provide coverage if there was a nuclear accident. It was not going to work. I kept going to the member countries and telling them: ‘Look, you guys have got to provide nuclear liability coverage’ ... They kept accusing me of representing the contractors and not KEDO ... but I was just telling them what’s reality.

“After a couple of months when I saw we were getting nowhere, I came up with this walk-away clause. I basically said: ‘Do you want to get this contract signed? Just tell the contractors that they are not required to ship anything to North Korea that, in their sole discretion, they believe is going to cause them to incur liability; and we will pay them to keep it in their warehouses until such time as they get nuclear liability coverage that, in their sole discretion, they believe is satisfactory.’

“In 1997 we negotiated a contract with KEPCO to do the preliminary site work, the PWC (Preliminary Works Contract). That was relatively easy because we eliminated all the nuclear stuff from it; they were going to build houses and roads and all that kind of stuff. Once we got that in place ... we started negotiating the TKC (Turn Key Contract). I brought a big team over to Seoul in late 1998 and we negotiated for 10-12 hours a day for two straight weeks, Saturdays and Sundays too. The final day, we negotiated until about 3:00 in the morning ... We basically had everything in the contract done except nuclear liability.

“Just about that time a new guy came in as the deputy in the (Korean) LWR office; he had just come from the IAEA and he understood (the issue). What we (then) did was, instead of just KEDO and KEPCO

negotiating, we brought in representatives from each of the member countries, and KEPCO was allowed to bring in a representative from each of the major contractors -- Toshiba, Hitachi, Doosan, and Westinghouse. KEDO and KEPCO would sit across the table -- we were only negotiating nuclear liability -- and there would be the contractors at one end, member countries' representatives at the other. Then, when there was a break in the negotiations, KEDO would caucus with the member countries representatives and KEPCO with the contractors. This went on for an entire year!

“The final resolution was what I had proposed over a year earlier. Everybody finally agreed to it. (One of the vendors) was very leery of it: ‘Oh no, we never sign a contract unless we get nuclear liability coverage.’ (I kept repeating to them,) ‘You just keep it in your warehouse.’”

Roland Tricot

“My impression was that the American demands on nuclear liability were quite unreasonable ... It was from the US “do as I say, not as I do’ including joining international conventions that the US did not plan to join anytime soon. North Korea was very sensitive to what it perceived as being discriminatory demands. We almost thought the US Administration at that time was using nuclear liability to hold up the whole thing. There were other ways which were not explored. Regarding the insurance pool issue, KEDO requested the most demanding plan of action you can think of. We knew for a fact that what we were asking from the North Koreans in nuclear liability was not always reasonable.”

Chapter Eleven

Labor

The original plan had been for most of the cheap, unskilled labor to be provided by the North Koreans, while expensive skilled labor would come from South Korea. This made perfect business sense, but failed to consider the inevitable impact of opening the North to outside economic forces, not to mention the pride of the North Koreans, who were wounded by the enormous wage disparity between the two nationalities' workers. As so often occurred, the initial North Korean demands were completely unrealistic. Then, despite fairly rapid concessions from the North, compromise eluded the negotiators until -- again rather typically -- the negotiating environment was destroyed by outside events, in this case the submarine incident (see Chapter 5).

Ambassador Chang Sun Sup

“The North Koreans wanted to seek as much as possible for their wages. Initially, they indicated something in the neighborhood of \$900-\$1000 per head (per month). At the time, I was involved in the interagency negotiations; some people strongly asked me not to give away more than \$50-\$60, maximum of \$80. The gap between \$900 and less than \$100 was impossible to narrow between the two sides.

“The negotiation was very pessimistic because the gap was too wide. Then suddenly this incursion (the submarine incident) broke out. Then I was quite surprised to see the North Koreans suddenly agreed, not in terms of the specific amounts but they agreed to the criteria KEDO asked to apply, according to the wage system they accepted when foreign companies invested and worked in North Korea.

“They had refused (previously to apply) that criteria because the KEDO project was exceptional. They (then) asked for the wage system that North Koreans get when they go abroad, like in Libya or Syria -- \$300 or \$400 a month. After the submarine incursion, the KEDO delegation threatened to break off the negotiations. Then suddenly (North Korea) accepted KEDO's criteria, which was the wage system North Koreans get in those foreign companies working inside North Korea. The service protocol was agreed and almost initialed, but Kim Young Sam was very upset (about the submarine) and the South Korean government refused to sign the protocol.

“Then there were a lot of pressures I felt coming from Japan and the US, mostly from Japan. My counterpart at the time was (Ambassador)

Seki Hiromoto, who advised me: ‘You South Koreans must rethink your strong reaction (to the North) because you have to give them some room to maneuver to accommodate some of your requests.’ A non-confrontational route was prevailing strongly (on the KEDO Board).

“Finally, at the end of the year (1996), the North Koreans announced a sort of apology (for the submarine incident) to the South Korean people in a ten second announcement ... which we accepted. Then the service protocol was formally signed.”

Although an agreement on wages had been reached, finally allowing the ground-breaking at Kumho to take place, the North Koreans apparently felt they had been forced into a bad deal because they came back to the issue of wages only one year later. The pattern of negotiation was similar to before, but this time the North Koreans tried to exert new leverage by withdrawing most of their workers just as KEDO was building up the work force. It was an odd, perhaps unique situation: in effect, KEDO was faced with a strike brought by a government rather than by workers; and even then it was a sort of half-hearted effort since 100 North Korean workers remained at the site. KEDO was willing to work to find a compromise, but the South Koreans in particular felt it was important to counter the North’s new leverage. At the same time, KEDO could not afford a long pause during these negotiations. Reactor components were still being manufactured, and skilled South Korean workers were still being paid. Another plan for unskilled labor was needed.

Using South Korean labor for all jobs would have been a reasonable approach if it were not for the project budget. South Korean workers would have been more productive than the northerners had proven to be, and would have come with some skills. Paying the North Koreans more generously would have been cheaper than using South Koreans, but had the potential to ripple into other South Korean projects in the North, such as the Kaesong light industry park. KEDO began to look elsewhere for cheap labor, as the member governments incorporated the South Korean idea that one of KEDO’s paramount missions was to help keep wages low in the North, even as its economy was undergoing long-desired reforms.

Ambassador Cho Kyu-hyung

“Both parties signed a protocol about the price of labor and the size of labor they would provide in the process of construction, and all of a sudden the North Koreans demanded a wage increase of (about) 600 percent. At the time, they provided more or less 600 people. All of a sudden one day they withdrew all their laborers except 100 who

remained ... We could not carry out our job without local laborers, so it caused substantial delay.

“I had several meetings with them to solve this issue, in Pyongyang or at the site. We explained to the North Koreans: ‘You signed the protocol and you agreed to provide laborers at such and such a price.’ But they said they found it difficult to provide laborers at that price; it had to be renegotiated. The lesson I learned from this was that there was no legal recourse in North Korea. If North Korea failed to live up to what they agreed, there was no court for us to bring the case.

“We had very serious discussion with Executive Board members, and decided it would not be wise to give in to their unreasonable position. So then we recruited laborers from Uzbekistan, which actually cost us a lot more than the North Korean demand.”

Ambassador Chang Sun Sup

“We used South Korean workers for a few months but the cost was very high, because of their higher wages. We could not go on that way.

“In our LWR office, we had a brainstorming session. First, we turned our attention to ethnic Koreans living in former Communist countries – China and Russia. The Chinese-Koreans were eliminated because to provide a workforce for KEDO, a country should be a member. China (and Russia) refused to join KEDO ... so we next turned our eyes to ethnic Koreans in former Soviet Union countries.

“Uzbekistan was a strong candidate to provide ethnic Koreans. We sent a fact-finding mission to Tashkent and the initial finding was good. I went myself to Tashkent to negotiate details of their joining KEDO and providing a labor force. Everything went smoothly. They agreed to join KEDO, they agreed to \$110 (per month), but of course we had to add transportation, room and board, and so forth. All told, the cost reached \$600-\$700 a month, but anyhow I insisted we have to show our determination to the North Koreans. If we caved in this time, since the KEDO project would go on for ten years, they might ask for more and more; we had to teach them a lesson, show them we had ... options other than North Koreans.

“Frankly, the US side was very reluctant at the time to accept a third country labor force. The Uzbek labor force cost \$600-\$700 (per worker, per month); if KEDO has that much money, why not use the North Koreans? It made sense economically, but I insisted we had to show them our strong determination and not cave in when they have excessive demands. The US reluctantly agreed, Japan came along, and the EU. So we were able to start the Uzbek work force at the site. Then the North Koreans saw it and lowered their request from \$650 to \$390. They learned their lesson.”

Kim Hang-kyu

“I had the feeling that GBOK was thinking, ‘OK, come on and let’s see.’ But things got serious because they (the Uzbeks) were actually working and more and more came. So now, they (GBOK) worried, ‘Oh, they don’t want to use DPRK workers.’ They had huge problems: ‘There are 5,000 people including families around the site, but you come here, only hire 100 people and bring in Uzbeks instead.’ That was the informal conversation.

“KOK, and maybe HQ, considered that it’s not just (KEDO’s) DPRK laborers we were talking about because it could lead to a kind of labor standard for all DPRK workers. There was another project going on at Kaesong, and maybe South Koreans would hire a lot of North Koreans (there). They would have to pay the same amount (the DPRK was demanding of KEDO), five or six times (higher). So we couldn’t give a concession on that. I think the DPRK understood the reason behind it.”

The labor issue was only partially solved, since the Uzbeks themselves were not especially happy with their extremely low wages. It’s likely that the Uzbek workers hoped for easier entry to the South if they worked for KEDO, but that did not materialize. It was very difficult to get them to stay beyond one year, thus multiplying KEDO’s transport costs. They came to the site with a very low level of training and, while they certainly improved while there, their refusal to stay for a second year hurt overall productivity. Eventually, recruitment and retention became significant issues with the Uzbek workforce, and a senior Uzbek official had to be brought up from Seoul to keep the workers from walking off the job on at least one occasion. This might have been ameliorated if the Korean government had offered a South Korean work visa to anyone who signed up for a second year, but there were concerns about encouraging an influx of foreign workers whose language skills were poor.

The Uzbek workers had their own restaurant on the housing compound at Kumho. The food, it should be said, was a nice change from the normal fare at the main cafeteria where the Korean workers ate.

Kim Hang-kyu

“To come to the site they (the Uzbek workers) paid a lot of money to a hiring agency in Uzbekistan, like one year’s salary ... and had to work six or twelve months to compensate for that prepaid money. So a couple of Uzbek workers ran away, maybe in Sokcho (the South Korean port of

embarkation for the ferry to Kumho) to make money. If they worked in South Korea, they could make at least \$1000 (a month).”

Ambassador Chang Sun Sup

“In the summer of 2001, when the (labor) dispute had reached a deadlock, I went to North Korea and met Lee Jae Sun, chief of the project at Kumho. We shared a drink. He said to me frankly: ‘This wage issue is a (matter of) national pride to North Korea. There is no room to yield. South Koreans are making \$2000, \$3000 a month; our labor force is making \$110. We cannot be flexible on this.’ To which I didn’t know how to respond so I said I was very disappointed they had pulled their labor force without consultation, and I didn’t have any mandate to negotiate.

“(The North Korean tactic) was a kind of sabotage, like the industrial strikes we see every day in South Korea. It was a labor strike, but (one that) kept about half their labor force at the site until the end.

“Until the new nuclear issue broke out in 2002, both sides had been engaging in negotiations and almost agreed. Instead of accepting their demand for higher wages, KEDO was willing to provide some in-kind contribution ... instead of cash. The KEDO Board gave the mandate to the Secretariat to negotiate with the North Koreans with up to a maximum of \$20 million worth of in-kind contributions.

Ambassador Cho Kyu-hung

“We wanted to make the point we would not give in to their illogical demand. After Uzbek laborers began arriving at the site, the North Koreans saw them and decreased the price they had demanded. The solution we offered was that we would not increase the labor charges beyond what we had agreed, but would instead provide some medicines or building materials, including trucks, in order for them to build (workers’) housing. So we entered into discussion over what kind of materials, when, and how much. That was in August 2002. When (U.S. Assistant Secretary of State) Kelly visited Pyongyang in October we were on the verge of agreeing.

“I was in Beijing to go to Pyongyang with the last list of materials to be provided to them. All of a sudden (Executive Director) Kartman called me and asked me not to make an agreement under any conditions. I couldn’t understand why; we had spent so much time, so much energy. Kartman said: ‘I know, but please don’t do that or we will be in big trouble.’ So I had a meeting with them (in Hyangsan) and they almost agreed with the list, but I told them I could not make a final agreement because it was subject to Board approval. They couldn’t understand, since it was our own proposal. I told them I would give them the final

answer in a couple of days. When I returned to Beijing, I found out Ambassador Kelly was in Pyongyang at that time. So that was why Kartman advised me not to make any agreement.”

Chapter Twelve

Calm before the Storm

With the Uzbek workforce in place, KEDO was able to finish the site preparation and finally begin to pour the foundations of the reactors, a step that was called “first concrete.” There had been numerous obstacles to overcome. Some were of the sort any large project might encounter and others unique to North Korea, but under the able leadership of Executive Director Desaix Anderson (1998-2001), KEDO had persevered and kept its focus. Although North Korean suspicions of the United States still remained, a series of events had begun to make improvements even on there.

By its willingness to negotiate bilaterally with the DPRK, the United States had inevitably caused heartburn in Seoul. At the same time, however, leaders in Pyongyang began to lightly scratch at the possibility of a relationship with the distant superpower that could profoundly alter their strategic landscape. The proposal announced by Presidents Clinton and Kim Young Sam (Cheju, April 1996) to open four-way talks with the DPRK and China aimed at replacing the Armistice was regarded with typical suspicion by the DPRK, but patient efforts eventually coaxed the North to the table and put in place a mechanism for steady contacts between Pyongyang and Washington. When the United States took the lead in responding to the humanitarian crisis in North Korea in 1997-98, it further intrigued Pyongyang. It also helped pave the way for successful US-DPRK negotiations on a missile testing moratorium and access to an underground site (Kumchang-ri) suspected of having nuclear purposes. Seeing KEDO’s continued progress at Kumho may have contributed to Pyongyang’s willingness to consider moving to a more positive stance, albeit this one that was largely unnoticed by Washington.

The inter-Korean summit of June 2000 came after a burst of diplomatic activity by the DPRK, and provided the first signs of change that could not be ignored by the US Government. In September, Pyongyang made yet another dramatic move by offering to send Kim Jong Il’s personal envoy to deliver a major proposal on missiles. The envoy was the number two man on the National Defense Commission, Marshal Jo Myong Rok, a very senior military representative who was personally close to Kim Jong Il.

Although the Clinton administration ran out of time and the new Bush administration chose not to pick up where its predecessor had left off, KEDO’s work continued and, in fact, was enjoying its most productive period, opening a training center and new port, beginning the training of North Korean operators in South Korea, improving the sea link and agreeing on a new protocol on direct air transportation, and coming close to agreements on communications

and labor. “First concrete” was poured for the foundation of Reactor One, and work on the containment building was begun. KEDO developed an elaborate and comprehensive schedule for the first time, and informed the North Koreans of the important milestones on both sides. Delivery of Unit One was clearly scheduled for 2008 if various milestones were met. Despite the enormous obstacles that still remained – inspections, grid, and liability – there was some reason to see the glass as half-full.

Despite the fact that in January President Bush included North Korea as part of the “axis of evil” in his State of the Union address, 2002 had the markings of a curiously propitious year for KEDO. The commercial and engineering challenges had been resolved, the labor problem seemed on its way to a solution, and the project, finally, was on schedule.

From January into the summer, a number of things went right. Particularly smooth were the negotiations to open a direct air transportation route between the two halves of Korea to supplement KEDO’s existing sea route. At an experts meeting in Pyongyang in mid-January, the two sides reached agreement to open an east coast air route between Sondok Airport, in the North, and Yangyang Airport, in the South, with Air Koryo as the initial service provider. In May, a DPRK delegation visited the ROK to conduct a pre-flight inspection of Yangyang. The two sides met again in Pyongyang from June 22-25 and agreed on ground services for the North’s aircraft when they were at South Korean airports. Despite a serious North-South Korean naval clash in the West Sea in late June, preparations for the new air service went ahead, and a round-trip test flight was conducted on July 20.

Another boost came at meeting in North Korea in May, when KEDO finally was able to hand over a construction schedule. Although the DPRK side formally left the piece of paper on the table because the schedule did not conform to the “target date” of 2003 stated in the Agreed Framework, Pyongyang realized the project was seriously moving ahead. That impression was bolstered by the clear sense that activity at the site was gaining momentum. A few weeks after the schedule was handed over, KEDO heard that DPRK leader Kim Jong Il, traveling near Kumho, had praised the road building efforts at the site and expressed hope that the overall project would proceed well. This sort of comment from the top of the leadership had ramifications throughout the North Korean bureaucracy, encouraging officials to be more cooperative with KEDO.

By June the two sides were moving ahead in selecting North Korean candidates for the KEDO training program at the newly completed training facilities at the construction site. That same month, twenty-five members of the DPRK’s nuclear regulatory authority attended a multi-week orientation program in the ROK.

Ambassador Chang Sun Sup

“The peak period for KEDO was between 1998, when all financial problems had been solved, and 2001 when the actual work at the site was going on very well ... in spite of problems, the project itself was moving very smoothly.

“One factor different from Kim Young Sam’s time in Kim Dae Jung’s time was the National Security Advisor, Lim Dong Won. I had quite free access to him, either telephone or going to the Blue House ... so he was very interested in promoting the KEDO project. I benefited from his concern and interest in a multilateral approach.”

Jack Mulligan

“There was a problem of maintaining the technical integrity of the project. The North Koreans weren’t the big problem; it was the four member countries ... We had agreed that since North Korea had no regulations, what we would do was follow South Korean regulations in the design of the plant. We figured that would meet anything the North Koreans could ever come up with in the long run. We had all agreed that if the South Korean authorities came out with a new regulation and it was mandatory for all South Korean plants of this type, we would automatically implement it. If it was not mandatory, we would evaluate it on a case-by-case basis and make a recommendation.

“The American Concrete Institute (ACI) came out with a new standard for concrete anchors. The big bolts sticking out have to be firmly embedded in the concrete; otherwise when you have an earthquake, they pull out and things fall down. KEPCO said, we have to go back and reevaluate and we are going to have to replace twenty percent of the anchors, and as I recall, it was going to cost about \$1.5 million. So we went to the Executive Board saying we need to do this and asking them to approve another \$1.5 million on the (\$4.6 billion) contract. The US, South Korea, and EU came back in about two weeks (approving it), but the Japanese took a year and 18 rounds of questions. 18 rounds of questions! We found out later the reason they didn’t want to approve it was because Japan didn’t agree with the ACI standard and wasn’t going to implement it on their plants.

“One of the first steps that was required in the site protocol was that we had to do an environmental report and give it to the North Koreans before we took over the site. We did the Environmental Report and our Japanese staff member said ‘My God, (Tokyo) is never going to approve it. It says ‘East Sea.’ It’s got to say ‘Sea of Japan’ or they will never approve it.’ And he was right. We went through the whole report and where it said ‘East Sea’ we wrote ‘the Sea’. The North Koreans then came back and said it had to be the ‘East Sea’. It was just a constant

stream of silly s—t ... all the way through the whole thing.”

Ambassador Cho Kyu-hyung

“By the time I assumed my job as DED (Deputy Executive Director, in June 2000), I thought we could have in a sense genuine discussions on technical issues with the North Koreans. My impression was, even at that time, North Koreans still seemed to have some sort of political mistrust ... but as far as technical issues were concerned, when our experts explained something, they believed what KEDO experts said on safety-related issues. This was a very important development at the time. As far as the construction itself was concerned, they began to believe what KEDO experts said.

“According to the agreement between KEDO and North Korea, US citizens were supposed to head the delegations. But in practice as DED in charge of technical and political issues, I represented KEDO in the meetings with North Koreans. These were regular meetings to check developments, to check milestones accomplished in the past two months, and to discuss problems that needed to be solved for the smooth implementation of the protocols or other agreements. The meetings at which I represented KEDO were comprehensive ones; we dealt with all the issues.

“The North Koreans were more cooperative than I expected. When it came to nagging political issues like the target date for the completion of the project, they turned absolutely deaf ears to any explanation ... they said what they needed to say without having any willingness to listen to others’ arguments.”

Aloysius O’Neill

“By the time I got to KEDO a great hurdle had been passed in the way that North Koreans and KEDO dealt with each other. In the original years of KEDO at high-level experts meetings, the North Koreans insisted on speaking only to the Americans ... (later) it was clear that that had been swept away entirely, I am sure just by the fact that on both sides you had a fairly constant group of people who kept meeting each other over and over again. The North Koreans realized as well as everybody else that it was expedient to be able to talk back and forth across the table quite freely. Also, in particular it was very convenient for the North and South Koreans to be able to gather in a corner when we got to sticking points, hash things out, and in many cases overcome obstacles and move ahead ... That whole business of the loosening up of the processes by which KEDO and the North Koreans met facilitated a great deal of progress, in fact.

“The first thing that I did was take over (the ongoing negotiation

of) the Quality Assurance and Warranties Protocol ... that laid out what specific assurances KEDO would give to the DPRK for the performance of the plant. It also had protections for KEDO from excessive claims by the North Koreans in cases where there might be accidental failures of equipment. It was not a nuclear liability protocol, but it had facets of that kind of legal protection for KEDO. In July 2001 the North Koreans agreed to send a delegation to New York for what was intended to be the final negotiation of the protocol. It took about ten days, but in the end the North Koreans largely agreed to the things that we found necessary in the protocol. Ambassador Kartman signed the QA&W Protocol in Pyongyang in December.

“The one sticking point that we were absolutely insistent on was that KEDO be indemnified from incidental or consequential damages, that is, claims that could be made far downstream from an accident or incident. We were adamant that we would be very limited in what we would admit (as our liability). For example, if the roof collapsed on a generator shed knocking out power to the KEDO construction site, we would be liable for the damage to the shed. But if they said, ‘Well, two towns away all the fish in this warehouse spoiled’ -- sort of unlimited consequential damages -- we were adamant that we would not accept that.

“I also had responsibility for the Delivery Schedule and DPRK Steps to be Performed Protocol -- the DSSP -- which was a protocol essentially laying out the construction schedule for the LWR project and also what each side was supposed to do step-by-step towards completion. In the end, we were never able to get internal agreement among the four governments on a text.

“There were wide differences among the governments on how stringent the wording should be in the protocol, quite aside from the attachment which was to be the so-called delivery schedule. By this time, the word was already out in Washington that the administration was going to take a very hard line. They had begun discussion of accelerated action on the Agreed Framework, in other words, that North Korea should speed up their commitments.

“In the end, the Executive Director made a very interesting decision, which was that in his reading of the Supply Agreement between the DPRK and KEDO, there was no absolute requirement that the delivery schedule protocol and the delivery schedule be provided to the North Koreans at the same time. So he de-linked the two with the idea that we would give them the so-called delivery schedule first. Then we would be able to use that as the basis for, first of all, allowing the North Koreans to plan certain things in terms of logistical allocation of people, resources, etc., to support the project.

“In fact, we did indeed present that schedule to them at a high-level experts meeting at Hyangsan in April or May of 2002. Their reaction was

quite interesting. We knew we would be giving them a schedule whose activities and steps went far beyond the target date of 2003 ... We were expecting, frankly, quite a blowup.

“In the preliminary organizational meeting of the KEDO delegation in Beijing, before we went into North Korea, we discussed the need to brief the North Koreans on this schedule we were going to hand them. The senior South Korean to my surprise said no, he didn’t want to do that at all. We successfully argued that if we don’t explain this to them when we give it to them, they are going to take it away and make all sorts of assumptions on their own in the absence of clear information from us. Some of their assumptions might be correct, some might be quite wrong. If we failed to explain it to them, those incorrect assumptions would be our fault. That view eventually prevailed and we did indeed brief the North Koreans on the schedule when we gave it to them.

“Their immediate reaction was mild but firm, not the blowup we anticipated. (DPRK delegation head) Lee Myung Sik said, ‘We cannot deal with a schedule that goes beyond a 2003 completion date.’ Not very much later we invited him and a (North Korean) delegation to come to the opening of the training center at the construction site in June. He almost immediately accepted ... to participate in the first big milestone of that rejected schedule. So, they checked the box of not accepting the schedule and then went ahead and proceeded to accept it.

“Dr. Lee expressed an inability to explain to the North Korean people how this (delay) could happen because they were waiting for this power, but there were no rants and raves.

“During the time that I was at KEDO, the North Koreans became convinced that there was an actual nuclear reactor project; that this was not just a hole in the ground and a volleyball field at Kumho. This came about when KEDO invited Lee Myung-sik and other senior people from the General Bureau down to South Korea to see the type of reactors that were being built (in Kumho) in action in Ulchin; to go to Changwon to the Doosan factory to see Reactor Vessel #1, which was essentially completed; and to see other major reactor components, and give them additional briefings on nuclear safety and procedures -- nothing that would compromise nuclear secrets but (only) the manner in which these kinds of plants were safely operated. I believe it was during that time, late 2002, that the North Koreans really got it in their heads that this was something real, and I think that was very helpful.

“(Nevertheless,) there were certain things that the North Koreans were adamant about ... They continued to refuse to permit an independent satellite communications system between KEPCO headquarters and the site at Kumho ... They said and maintained ever since that the retraction (of their earlier agreement) was forced by the security services ... They

offered all kinds of workarounds, all of which for any number of reasons including export control and KEPCO propriety issues, were totally unacceptable.

“The other big obstacle was the refusal to raise the number of North Korean workers in accordance with the labor schedule unless KEDO hiked their salaries to unacceptable levels ... KEDO’s workaround of that was to recruit Uzbeks ... The North Koreans told us informally in meetings that they had gone through all the protocols, the Supply Agreement, everything they could read in the way of agreements, to prevent KEDO from doing this, which would of course totally remove the pressure that they were trying to put on us about the North Korean salaries. They said they couldn’t find any hook to hang that on, and therefore they had to acquiesce in our sending these Uzbek labors ... It was another example of what you get by continuing to meet with people.

“A continuing strain was the severity of customs inspections at the port. It was particularly so when they knew that individual South Koreans from KEPCO or the Integrated Construction Group were going back and making their final departure from the DPRK. In those cases, they would be particularly vigorous in searching people’s baggage and belongings, to see if there were any diaries that were critical of the DPRK system or the Dear Leader himself. When they found these they would a) confiscate the papers, which was not in accordance with the protocols, and b) would complain to us about the existence of such things, usually in diplomatic notes to KEDO headquarters. We would just as vigorously remind them that this was improper, that they were not allowed to do this. They were looking for religious tracts, too. Oddly, I don’t recall similar searches of the baggage of incoming KEDO persons.”

Yang Cheong Sok

“Particularly before the first concrete pouring ceremony in August 2002, North Korea didn’t trust the US very much. They didn’t believe the US was willing to provide the LWR units. But around that time, maybe in the second half of 2002, the North Koreans began to be confident that the LWR project was going to finally (happen).

“They had not been cooperative, particularly regarding the establishment of an independent satellite communications network (ISCN). One very old guy from the Ministry of Communications was a real hawk. He said DPRK law would not allow any country to have an independent communications network because it was strongly related to security issues. Of course, the protocol said that North Korea should allow KEDO to establish the ISCN 24 months after the groundbreaking of the LWR project. They said, ‘But when we signed, we assumed the LWR project would move much faster. All you did was grading the site -- only digging holes.’ The project didn’t make enough progress for them

to be cooperative in establishing the ISCN.

“Instead, they said the DPRK could provide a sufficient communications network. We paid a lot: KEDO persons used the North Korean telephone network from the site to Pyongyang, then paid for satellite communications to Seoul via Japan. North Korea could make money for the telephone charges whereas if we used an ISCN, we wouldn’t pay them.

“It was about to change. We had an experts meeting (note: at Kobangsan, the Foreign Ministry guest house on the outskirts of Pyongyang) October 22-26, 2002, when the US and South Korea announced that North Korea acknowledged an HEU program. The North Korean Foreign Ministry issued a statement (contradicting) that announcement on October 24. But before the statement, we had a very good discussion and expected an agreement on the ISCN could be possible.

“They actually allowed the UK Embassy to have satellite communications, and allowed UN agencies. I said, ‘You allowed them, why don’t you allow KEDO, even though you signed a protocol?’ They were somewhat surprised (we knew) ... We could not a Record of Discussion because the mood became worse after the US announcement and the following North Korean statement. But I could feel that the North Koreans (had been becoming more) cooperative regarding the ISCN.

“(We also had) the negotiation on opening a direct air route between Sonduk (North Korea) and Yangyang in Kangwon Province, in South Korea, to transport KEDO materials and persons. For the negotiation on the numbers of passengers on cargo passenger ships ... (they said) ships might carry South Korean commandos! We started with a very small number. (The General Bureau) had to discuss a lot of issues with other ministries, particularly the military or security-related ministries, which were conservative. They needed some rationale to persuade them to allow more (passengers) ... Those guys in the other ministries did not believe that the US would provide LWR units at all, waiting for North Korea to collapse. So we started with 30, then 50, then shortly before Kelly’s visit finally got North Korea to agree to 150 persons on board at one time. But it moved very slowly.

“On the other hand, the experts meeting on the air route moved very fast. We started meeting in January 2002 ... and we started test flights in July. The head of the North Korean delegation was Air Koryo’s Director of Operations, a former pilot from the DPRK air force. Air Koryo belongs to the KPA (Korean People’s Army). KPA didn’t need any discussion with other agencies ... He made quick decisions, so we moved very fast. We had the experts meeting in January and we had a technical meeting regarding some ground operations, like what kind of assistance South Korean airports or airlines would provide for North Korean flights here in

Yangyang. Also we discussed alternate airports; we decided on Kimhae. In May they sent an investigation team of ten North Korean officials for one week to South Korea.

“In June we had another technical meeting and signed. In July we conducted a test flight. We then used the direct air route for actual flights two times ... Sometimes the biggest problem in negotiating with the DPRK was that the head of delegation was a paper leader. Actually the real powerful man was sitting in the second line; the head of delegation had no authority to decide anything and negotiations dragged on. But it wasn't the case with the air negotiations.

“I think the site was most active in 2002. Everything was moving along. We opened a training center for North Korean (reactor) operators, so they had to take tests, even in English vocabulary. They had problems with multiple choice questions, which they had never had before.

“We also had a new port. The only stumbling block was whether to allow North Korean guards (at the port) on a 24-hour basis.

“The North Koreans had almost completed building the apartments for the North Korean operators. They were ready to provide more workers and also ready for training the North Korean operators. There was a change of attitude regarding indemnification of nuclear liability ... We had several seminars to explain about nuclear liability.

“KEDO and the DPRK (also) had to agree on a protocol for a delivery schedule. We were about to start that negotiation ... They had insisted the LWR units should have been delivered by 2003, but were about to accept changes in the schedule.”

Choi Han Kwon

“In my eleven years of service at KEDO, the peak time was the completion of training for the first batch of North Korean trainees. It took a long time to negotiate the Training Protocol with the DPRK, but finally we had the first group of trainees at the site. The training program started in November 2001 when I went to Europe with eleven senior DPRK officials for an orientation program.

“After that, we began the first classroom training from June 2002 at our training facility at the site. We selected 129 trainees and went through 18 weeks of training and finished in October 2002. I went to North Korea to represent KEDO for the graduation ceremony... and right after that [ceremony] the North Koreans were supposed to come down to South Korea for on-the-job training near YoungGwang (KEPCO nuclear plant).

“We required about fifty percent more candidates than the actual number of trainees in order to screen their qualifications. We even tested

their character as well -- psychological testing. So we went through that screening process and also qualified their technical background and so on. They were good trainees; they were enthusiastic and motivated. When I gave them the graduation certificates, I saw their eyes shining full of hope for their future.

“They hoped they would soon come down to South Korea. Originally, they were supposed to come to South Korea within a week or two, but at that time North Korean authorities wanted to move all the trainees to the site ... and all their families into the (newly constructed housing in the) village right next to our site. They wanted to finish the relocation first before bringing them down (to South Korea) ... They were so excited for their future, soon to happen. After the graduation ceremony, I stayed at the site for a few more days to continue discussing the on-the-job training with North Korean officials, and saw the TV news about the Ambassador Kelly’s visit to North Korea, at the KEPCO cafeteria. ... (and with) the news about North Korea’s (HEU) nuclear program ... I feared the LWR Project would go downhill from that moment on; such fear turned out to be real.”

Hahn Choong-hee

“(I began in February 2002, when KEDO was in) accelerating mode because we had worked out the so-called delivery schedule of the LWRs. We tabled that delivery schedule to North Korea in the spring. That put all major milestones when the first and second LWR would be delivered to North Korea. So we put that information in a paper and passed it to North Korea sometime in April, which meant we could visualize the end result of this project and the time frame.

“But at the same time, the political atmosphere (in Washington) was not that favorable for the KEDO project. With this delivery schedule we could assume that the substantial part of construction would be finalized at a certain point, in less than two years. But North Korea still did not start any contact with IAEA. (Some people said that) naturally we could not continue our construction if North Korea did not start their negotiation with IAEA in early 2002.

“Seoul, compared to Washington, was more eagerly trying to move ahead with the project because we were the main contractor. KEPCO would have liked to continue their job as scheduled without any interruption; I think the ROK Government was backing that effort too. So the general mood in Seoul was very positive and active, wanting to move this project in a rapid manner.”

On August 7, there was a ceremony to mark the pouring of “first concrete” for Unit One. A shipload of KEDO officials, Executive Board members, and

international press sailed into the new KEDO docking facility at Kumho. They were met by EU embassy officials from Pyongyang who had been given permission by the North Koreans to drive across the country to attend the ceremony. The US representative to the EB, Ambassador Pritchard, was only given permission by Washington to attend at the last minute, and his public remarks at the occasion were oddly out of keeping with the progress the ceremony was marking. In fact, Pritchard's remarks foreshadowed a problem that was to be unveiled during a visit to Pyongyang by Assistant Secretary Kelley two months later.

For the ceremony itself, once the speeches were over, concrete mixer trucks with sparklers attached to their rear ends lumbered down the road to the reactor's foundation, looking like dinosaurs with their backsides on fire. Huge speakers positioned around the site blasted out Richard Strauss' "Thus Spoke Zarathustra" (used as the theme music for the movie "2001".) North Korean farmers in the surrounding countryside -- no strangers to hearing loudspeakers of their own -- might have wondered what was going on.

Apart from KEDO's activities, a number of other developments on the peninsula appeared to be moving in positive direction. The DPRK rolled out a long overdue program of economic reforms in the summer of 2002, amidst wide-ranging diplomatic efforts by Pyongyang designed to improve the country's external environment. Perhaps the most surprising of these was a summit meeting with Japanese Prime Minister Koizumi in Pyongyang in September 2002, at which Kim Jong Il admitted to and apologized for the kidnapping of a number of Japanese citizens some twenty years earlier.

By October, the first group of North Korean trainees had graduated, and the project was on a schedule, as least from the standpoint of construction, for Unit One's completion by 2008. But it was not to be. Even before the HEU problem emerged, some Bush Administration officials were talking about the "requirement" for the DPRK to have started cooperation with the IAEA in verifying the history of the North's nuclear program. The argument was based on an IAEA estimate that it would take three years to complete the verification work that would allow KEDO to begin to deliver key components for the reactors. Some were even going to far as to call the delay in that cooperation a "violation" of the Agreed Framework, a rather extreme interpretation of the language of the agreement, and one that was not gaining much traction internationally. (It was true, however, that according to the terms of the Agreed Framework, key nuclear components could not be delivered until after inspections had been satisfactorily concluded. This meant that KEDO faced the likely prospect of a possibly lengthy pause while IAEA inspections and analysis took place, if North Korea chose to defer its cooperation until the last moment.)

From KEDO's perspective, its mission was to keep LWR construction on

schedule so that the DPRK could not use any delay to defer its cooperation with the IAEA. Years had passed while protocols were negotiated, political crises were outlasted, and difficulties with contractors were solved. Fabrication of key components had taken place outside the DPRK, and the work within the DPRK had had a mostly downward trajectory – leveling the mountain and digging the foundations. Finally, the foundation for Unit One was ready for concrete pouring, and the ceremony to mark the event would bring the project to the stage when the North Koreans would see the LWRs begin to take recognizable shape. Ironically, at that event the first signs of trouble emerged.

Choi Han Kwon

“We were supposed to complete the LWR project in late 2008 ... “Mechanical completion” was to be done sometime around the end of 2007 ... and major components, which are the reactor vessel and turbine generator, were supposed to be delivered by mid-2005 or early 2006. At the time the enrichment program (HEU) issue emerged, we were about to submit our draft delivery protocol to North Korea to begin negotiations (on it). We needed to make sure that before the major component delivery, North Korea had complied with the Agreed Framework; we knew that (IAEA) verification would take a long time. To make such milestones clear, we needed to begin the delivery schedule protocol negotiation as soon as possible ... At the same time, they [North Korean] were anxious to know how the project would proceed and when it would be completed. In their minds, the LWR project should have been nearly completed by the year 2003, according to the Agreed Framework. They began complaining about the delay and raising their voice for compensation. A crisis was building around the LWR completion date. To relieve their anxiety while we were putting together our position on the delivery schedule protocol, we gave them a high-level, skeleton schedule at the high-level expert meeting in Hyangsan... a one page, legal-sized paper that allocated all the technical progress versus political milestones. Although the skeleton schedule did not refer to an actual time line, it was obvious that the project completion schedule had slipped at least five years from the so-called “target date”. But as we completed the draft protocol and were expecting the EB’s approval of the draft within a matter of days, the HEU issue emerged and we never began actual protocol negotiations.”

Ambassador Jack Pritchard

“The first inklings that I got (of trouble for KEDO) were the views of

(Under Secretary of State) John Bolton and the decision not to waive the certification process (in 2001) ... Certain activities were coming to light that the Clinton Administration had chosen not to certify but to waive. The very first indication I got was from the conversations and the input from John Bolton ... that the North Koreans were not in compliance with the technical aspects of all terms of the Agreed Framework, and therefore the administration would not waive, and therefore would not seek funding for KEDO.

“I think this was early enough in the administration when there was a solid majority on this: the White House with Counter-proliferation (at NSC) under Bob Joseph and a very weak Asia (NSC office); the Vice President’s office; Doug Feith in the Pentagon – all backing this particular view. The early views of the State Department under Powell were to pick and choose your battles, and this was one that you were not going to win. Therefore, while there may have been some objections or requests for review, it was at the Korea Desk level and not much beyond that.

“Because of the (US intelligence) about the North Koreans’ highly enriched uranium program, there was a reluctance to allow me, as the US representative to KEDO, the US Board member, to attend what was being billed as a celebration: the concrete-pouring ceremony at Kumho. From the administration’s point of view, this was not going to happen. This was a program that was going to be turned off, or it was conceptually in violation, not in compliance with the Agreed Framework, and therefore we shouldn’t be involved in this concrete pouring. The reasons why we were reluctant to be involved were not (yet) publicly known. Most of the Japanese, the Koreans, and the Europeans simply believed that it was a continuation of our general reluctance to do business with the North Koreans.

“It was harder for them to accept because this was a US-dominated KEDO, with an (American) Executive Director and Board member ... If (the US) representative failed to go ... for both the Europeans and Japanese it would call into question whether their representatives should be there. There was a good deal of pressure, particularly by the South Koreans who had the chairmanship of the KEDO Board. This was a situation in which I and others tried to press -- because the actual rationale of why the administration didn’t want to do this was not public -- that this should be executed in the ‘Cuban Missile’ style in which normal interaction with the North Koreans should take place without signaling any particular or newfound intelligence concerns about North Korea.

“The draft of the remarks that I was to deliver there (in Kumho) ... had an extraordinarily difficult time in the Pentagon, which wanted to rewrite this in ‘Attila the Hun’ language ... I finally got permission from Colin Powell ... an hour before I was to leave home and go to the airport. No one really knew whether I was going to show up or not to this concrete-pouring event. Once I got to Seoul, I ended up having to do

an over-the-phone with John Rudd at the NSC ... and getting the NSC's approval, which in my mind trumped any of the objections or concerns by the Pentagon. I took that as a final OK rather than a complete interagency approval process and that's essentially what I delivered when I arrived at Kumho."

Ambassador Cho Kyu-Hyung

"It was August 2002 -- the ceremony of the first-concrete pouring was held at the site. It was a very significant milestone from the technical point of view. It was a happy moment for all of us who were involved in this project. It was worth having a rather pompous ceremony to let the international community know the project was on track. But to be honest, Jack Pritchard was a little bit reluctant to say yes to the idea of having a big ceremony. Eventually he did say yes, and after that all four members of the Board decided to attend the ceremony. But it took some time for KEDO to get a list (of attendees) from the US. Eventually Pritchard agreed to come. I think he must have had serious discussions with his colleagues and higher-ups, but he said yes eventually and he went there. All four ambassadors delivered speeches. Pritchard emphasized in strong terms the importance of North Korean compliance with its nonproliferation obligations. But I think in retrospect that at that time he already knew the project inevitably would come to an end in several months time."

Ambassador Chang Sun Sup

"Until that time (August 2002), the issue was that before key components could be delivered to the site, the North Koreans had to accept (and pass) IAEA safeguard inspections ... That not being accomplished, there was no way KEDO could deliver (key) components to the site and accordingly the project couldn't be continued as scheduled. So the US Government strongly urged on many occasions to start the inspection process now. But the North Korean response was that inspections could take less than three months ... (while) the US position was that inspections could take three years. So Pritchard had said the US might not participate in the concrete pouring ceremony. That was the first clear sign of the US' negative attitude toward the KEDO project, apart from verbal announcements (like the 'axis of evil' statement) ... But eventually Pritchard participated ... and gave the strongest speech urging North Korea to accept inspections ... That was also our government's position."

Chapter Thirteen

Slowdown and Suspension

Here, at the edge of the cliff, it might be worthwhile to examine briefly how HEU was connected to the Agreed Framework (which, in fact, includes only a glancing mention of the subject). The fissile material in nuclear weapons is either plutonium or highly enriched uranium. When Ambassador Gallucci negotiated the Agreed Framework, he chose to focus on plutonium because: a) that was the program that the North Koreans had at Yongbyon; b) he believed a prohibition against uranium enrichment would be unverifiable and thus leave the agreement open to attack; and c) he wanted to conclude the negotiation before the North Koreans started to reprocess the spent fuel they had already removed from their reactor. Gallucci was aware that every country that has pursued a nuclear weapons program has at one time or another looked at both options for fissile material. That led him to insist on including in the agreement a reference committing the DPRK to adhere to a previous agreement it had made with South Korea (the 1992 North-South Denuclearization Agreement), which Washington had urged the ROK to negotiate at a time when it was seeking any means possible to heading off the DPRK's nuclear program, and which explicitly prohibited a menu of nuclear activities including uranium enrichment. No part of this 1992 Korean agreement was ever implemented, however, making whatever HEU program the DPRK may have had more a violation of the spirit than of the letter of the Agreed Framework. And there was no doubt that by 2002, the Agreed Framework had been fulfilling its primary function by very effectively freezing the North Korean plutonium program for eight years.

Since most important agreements between adversaries need to be patched from time to time, this would appear to have been an issue that should have been discussed between the two parties. However, the Bush Administration had no plans for such discussions. Kelly and his delegation came away from their October trip convinced that the North Korean Vice Foreign Minister, Kang Sok Ju, had admitted the existence of an HEU program, but without instructions to suggest a solution. Before long, senior members of the Bush Administration (several of whom came into office having already decided to kill the Agreed Framework) were declaring the Agreed Framework to be dead -- somewhat prematurely and perhaps unwisely -- and along with it, KEDO and its mission.

In other words, the Administration pointedly decided not to pursue a resolution of its HEU concerns within the Framework, or to use KEDO's mission to support its diplomacy, a point borne out as events unfolded. Quite the opposite, Washington sought to use KEDO as a club, without much

thought given to the consequences. In November, under intense pressure from Washington, the KEDO Executive Board met and voted to “suspend” HFO shipments without indicating whether or when -- except in the vaguest terms -- shipments might resume. (Appendix 6) The cutoff may have been justifiably punitive; it was certainly politically expedient. But it was not accompanied by any diplomatic effort to persuade the North Koreans that it should not be seen also as the end of the Agreed Framework. From that point, the slope became very steep and very slippery. On the grounds that, under the terms of the Agreed Framework, the Yongbyon nuclear facility had been frozen in exchange for HFO shipments, Pyongyang announced that it was asking IAEA inspectors to leave the country, was restarting its 5 Mw reactor, and was finishing the procedures for withdrawing from the NPT (a withdrawal process Pyongyang had “frozen” in June 1993). In addition, it resumed other nuclear operations at Yongbyon, activities that had been frozen for a decade under the Agreed Framework.

Washington then proposed, after a two-month interval of mounting tensions, the creation of a new multilateral, regional forum, which eventually became the Six Party Talks. This forum, which the Chinese latched onto very quickly in hopes it would preclude further intemperate US action against the North, was to be held in Beijing and chaired by China.

At this point, KEDO entered a strange, albeit relatively brief, period during which its governments could neither continue to construct the reactors in the face of the collapse of the Agreed Framework, nor formally terminate the project, given the delicate new multilateral negotiations that were gradually picking up momentum. Moreover, there was considerable reluctance in some capitals to abandon the large investment already made. The Americans wanted the project to end immediately but were unable to bring along the other governments quite to that point, although Japan’s stance towards the DPRK was rapidly stiffening due to its preoccupation with learning the fates of those Japanese citizens who had been abducted by the DPRK in the past.

The middle course that the KEDO governments defaulted to -- less a decision than a standoff -- was an “invisible slowdown”, a freeze that was not supposed to be obvious -- to the North Koreans, who, it was feared, might otherwise choose to react in some problematic way. Work on Unit 2 was halted, and that already underway on Unit 1 proceeded at a slower pace. This slowdown, which was increasingly less and less invisible to the North Koreans, was supposed to preserve KEDO’s protected status at the site and the safety of its personnel until the diplomatic situation became clearer. The diplomatic situation did not improve, however, and the slowdown was unsustainable for so complex a project. By June 2003, the Secretariat was already preparing papers for EB consideration on what the next step -- “suspension” -- meant and how it might be implemented. This was more difficult than it might at first seem because “suspension” was not legally defined in any agreement KEDO

was party to -- neither with KEPCO nor with the two banks supplying the bulk of the funds for the project -- and it carried with it the risk of considerable financial cost. Finally, in late November, the EB was prepared to transform the slowdown into a formal and relatively well defined suspension which, depending on which EB member you asked, either preserved the option of restarting the project if that was called for by a solution reached in the Six Party Talks, or moved things closer to shutting down the reactor project and doing away with KEDO.²

A formal suspension carried the very real risk that the North Koreans might decide not to tolerate a KEDO in their country if all of those KEDO workers were no longer building reactors. The consensus within KEDO had now fractured, with the ROK on the side of working to preserve the LWR option, and the US on the side of quickly moving to terminate. Japan and the EU were caught in the middle, but the importance of following the American lead in general on North Korean matters tended to push them towards terminating the project even while understanding and sympathizing with the ROK position. Fortunately, the North Koreans chose not to make life more difficult for the KEDO personnel remaining in Kumho and, after a series of negotiations, accepted the suspension without challenging KEDO's basic rights under the protocols. This was a situation that could not last indefinitely, however, and as people and equipment were gradually withdrawn from the site, the DPRK finally tightened its policies, declaring that KEDO could not export any more of its equipment until the North received what it deemed proper compensation.

Within KEDO, finding the right course was not easy. The Secretariat had to satisfy the EB governments (which, as noted, were not in agreement among themselves), fulfill contractual requirements, and leave room for the contingency (however unlikely) that the political winds might shift and the call

² The KEDO Annual Report for 2003 described suspension in this way: After the project's suspension was announced, work on the LWR project was continued to a point that permitted proper preservation and maintenance of the LWR structure and associated components. This includes taking steps to protect, store, and/or secure the partially-built LWR units, construction facilities, and equipment against deterioration, loss or damage during the suspension period. Preservation and maintenance work have been carried out in accordance with a detailed suspension plan that calls for following all approved codes and standards, or in their absence, manufacturer's recommendations. Based on this plan, KEPCO and its subcontractors have been performing preservation and maintenance activities at all LWR-related facilities, including the power block, supporting facilities, and the community area. Examples of this work include installation of membrane covers or protective coatings over exposed items such as reinforcing steel bars, anchor bolts, and at the concrete production facilities and periodic checks and maintenance of these measures. During implementation of the suspension, KEDO had reduced its presence in Kumho to a caretaker group of about 120.

Offsite preservation and maintenance activities are focused on all manufactured components and engineering and manufacturing-related documentation. This includes Nuclear Steam Supply System (NSSS), Turbine/Generator (T/G) and major Balance of Plant components. The manufactured components of these systems have been carefully packaged and stored in approved storage facilities. The condition of the packaged components is checked periodically to ensure that each component is being maintained in accordance with the approved codes and standards and/or manufacturers' recommendations. Engineering work continued on an as-needed basis, to provide the support necessary to preserve and maintain essential structures and components.

come to restart construction. At the same time, planning for a safe evacuation of KEDO personnel from the site became an urgent priority. Well before the EB approved suspension, the Secretariat was preparing options for an orderly drawdown of personnel or, in the worst case, an emergency evacuation. At each step, considerable attention was devoted to managing the situation at the site, ensuring that the North Koreans would not overreact and precipitate a crisis, and that if and when the time came to pull out, there were some basic understandings in place between higher levels in Pyongyang and KEDO. In fact, however, the North Koreans -- despite angry rhetoric -- absorbed each of the KEDO decisions from 2003-2005 leading to termination with relative calm, frequently signaling to KEDO negotiators ways in which the two sides might find temporary accommodation.

Throughout 2003, problems at the site popped up that needed attention. For example, at one point, to protest an incident, South Korean workers on their own decided to boycott North Korean drinking establishments -- small bars the North had built near the site to earn money. While it might have been emotionally satisfying to the workers who were already under growing strain because of the uncertain status of the project, this sort of further isolation of the KEDO site, making it even more of an island than it already had become, was not a good idea.

In parallel with preparation for suspension, the Secretariat worked on ideas for a "KEDO II," that is, a revised KEDO with a new mandate for non-nuclear energy projects in North Korea. There were only two problems with that exercise: the ROK didn't want it to proceed for fear of giving the impression that Seoul had jettisoned its support for LWRs; while Washington and Tokyo were opposed to the idea of spending any more money on North Korea. Only the Europeans evinced any interest at all, and that very cautiously.

A few weeks after the December 1, 2003 suspension announcement, the North informed KEDO that its current status at the site could no longer continue under agreements concluded when the project was active. Although at first blush this message struck some in the EB governments as a serious threat, after a series of negotiations with the North Koreans in January and February, the problem was whittled down to minor adjustments in the status quo. That led, in March, to the signing of an MOU which reaffirmed KEDO's rights at the site under the new situation. The two sides also finally reached agreement on KEDO's regular use of the port (known as the New Docking Facility, or NDF) at Kumho. The last serious problem in the way -- whether or not armed North Korean guards could stand on the breakwater -- was solved with specified limitations on the number of guards, their armament, role, conduct, and route to/from their post. KEDO saw putting the NDF into operation as especially important should an evacuation become necessary, because it would significantly cut the time it would take personnel to get to a ship, obviating the

need for a long bus ride over bad roads to the nearest North Korean port of Yanghwa. (Appendix 7)

Equally serious problems developed between the EB and the Secretariat, and also between EB members into 2005. Washington halted the US share of the administrative cost of running KEDO (an American contribution of about \$3 million a year at its peak, but a bit lower by 2005), a fact that might have made the US representative's voice at EB meetings increasingly irrelevant, except for the fact that the United States controlled the larger diplomatic game that would decide KEDO's fate, something that Seoul, Tokyo, and Brussels understood perfectly. In December 2004, the EB decided to extend the suspension for another year. The South Koreans were not yet ready to give up on the LWRs, and the other members were not prepared to push through a decision to terminate the project. Instead, any final strings connecting KEDO to the diplomatic process were cut, and the organization was left to drift into the dangerous waters of 2005.

The DPRK had rolled out a long overdue program of economic reforms in the summer of 2002 and immediately began to engage not only its neighbors but also Australia and the countries of Europe in support of its new initiative. In this regard, the summit meeting with Japanese Prime Minister Koizumi in Pyongyang in September 2002, at which Kim Jong Il surprisingly admitted to and apologized for the kidnapping of a number of Japanese citizens some twenty years earlier, was an essential part of a normalization strategy that both sides expected to lead to massive Japanese economic assistance. But all these efforts would come to naught, the North Koreans believed, if they could not return to a productive dialogue with the Americans. For over a year, President Bush had refused entreaties from all quarters to engage in just such a dialogue, but seemed to have finally relented when he approved a July trip to Pyongyang by East Asia Assistant Secretary James Kelly for the purpose of outlining to the North Koreans a "Bold Approach" to resolving the outstanding issues. That trip was postponed ostensibly in response to an incident between North and South Korean naval forces. The Kelly mission was rescheduled for early October.

In the event, Kelly did not arrive in Pyongyang to hear about Kim Jong Il's economic program or to suggest a "Bold Approach", but to accuse North Korea of trying to circumvent the Agreed Framework with a secret program to produce highly enriched uranium (HEU) with help from Pakistan's A.Q. Khan. It is now known that Washington had had grave concerns about such a DPRK program at least since the mid-July postponement, and before KEDO's Executive Board members were scheduled to attend the concrete-pouring ceremony ("first concrete" for Unit One's foundation) at the Kumho site in August. Because of those concerns, which were still secret, Ambassador Pritchard was only given permission to attend the ceremony at the last minute, and his public remarks were, to the other countries' representatives, oddly out

of keeping with the progress the ceremony was marking. In fact, Pritchard's remarks foreshadowed the problem that was to be unveiled during Kelly's later trip to Pyongyang.

It should be noted here that the US Administration did not suddenly discover its distaste for the Agreed Framework only during the 2002 Kelly visit to Pyongyang. Many of its most senior members, possibly excepting Secretary of State Powell, came into office with deep reservations. Some made no secret of the fact that they were looking for the earliest opportunity to extricate the US from what they saw as a badly flawed deal.

Ambassador Jack Pritchard

“Coming out of the Jim Kelly trip to Pyongyang ... we sent a relatively detailed message through the (British Embassy in Pyongyang) back to the United States. It was supposed to go from the British Embassy to Colin Powell but it somehow went from Pyongyang to Beijing to the Department of Defense ... when it was supposed to be close hold. But as that information become known in the States, the reaction by most in the administration was that the North Koreans had violated the terms of the Agreed Framework and therefore we should suspend any provision of heavy fuel oil.

“There was a shipment en route from Singapore to Nampo, on the high seas, already purchased and paid for ... to which the Bush administration's reaction was: ‘Turn it around.’ And my argument to them was: ‘You don't own it.’ To do that would require a consensus decision by the KEDO Board ... This was not US money any longer, it had already been provided as part of our requirement to KEDO. With a great deal of difficulty, the administration backed down.

“But it became the symbol of what to do in reaction to the North Koreans, and so there was the intention and requirement to stop the flow of oil ... There was a TCOG (Trilateral Coordination and Oversight Group) meeting in Tokyo on the 7th of November and shortly thereafter, in New York, a KEDO Executive Board meeting at which I was required to convey to the others -- as the US had done at the TCOG meeting (to) build a consensus among Japan and Korea -- that we wanted the shipments of oil suspended.

“This is the strange thing. (At the TCOG) there was an acknowledgement if not an agreement that this (suspension of HFO) is what we should do ... It was, in my opinion a lesser-of-two-evils acceptance on the part of the Japanese and particularly the Koreans. Not knowing what the US would do in response, suspending oil shipments was probably the safer way to go.

“The discussion led by the United States was more in the line of a technical discussion that said the Agreed Framework had certain components to it, one of which was the North Koreans would not – if you follow the legalistic strain of the (1992) North-South Agreement – be dabbling in HEU and therefore they had broken that promise and in their words abandoned the Agreed Framework, even though the reality of it was the North Koreans had never said that. They said the agreement was effectively dead as a result of US action, not that they were declaring it dead as a result of their determination. But there was not a discussion in terms of if we do *x* then you can anticipate the following actions by the North Koreans ... Or we anticipated what the North Koreans would do but never the speed at which they would do things. We thought this would play out over a much longer period of time.

“So you had the US going into the Executive Board meeting with a relatively clear intent to ‘suspend’ oil shipments until and unless the North Koreans resolved our concerns on HEU ... This would be a phased way to go about this -- a first step and an appropriate step.

“That was a very ugly and long meeting of the Executive Board ... The concept was agreed upon; the language was very difficult, particularly from the South Korean point of view. What you had was the NSC counter-proliferation people, Bob Joseph and John Rood, demanding very specific and very provocative language on how to describe what we were doing in response to what the North Koreans had done. It was the back and forth on that with the South Koreans, forcing the South Koreans to call back in the middle of the night (in Seoul) to get approval for one-word changes; and my frustration that NSC Asia was not fully involved, was not in charge of the process of providing cleared language; and that the State Department’s East Asia Bureau led by Jim Kelly was absent, that they were not engaged with coming up with the type of guidance or counteraction to what was being proposed by the (NSC’s) Counter-proliferation folks -- they just never entered the fray.

“The frustration level was such that in the process I got ahold of Mike Green, then the Director for NSC Asia, and told him I would no longer accept information or direction from Counter-proliferation. Anything that came to me in the way of guidance had to come through NSC Asia as a cleared White House approach rather than simply the wishes of Bob Joseph or John Rood. This was later in the process; it may have been better to do that earlier on.

“I had one phone call from (DPRK Perm Rep) Pak Gil Yon during the Board meeting to ask: ‘What are you deciding? Please tell me.’ To which I said, ‘Thank you for your interest in your own security but you’ll have to wait until we make the announcement.’

“It was very unpleasant to develop a rather strong declaration spelling out what we were doing and why we were doing it. It was made even

stranger by the fact that in the following day or two there was a White House statement that was far more moderate in tone, that talked in terms of ‘Gee, we have compassion for the North Korean people,’ and it made me think if only that type of language and guidance had been available for me to use in the Executive Board meeting, the process would have been much easier. We would not have been so confrontational with the South Koreans, and made them wake up their Foreign Minister several times during the night to force agreement on certain pieces of the language that just a day or so later the White House walked back themselves.”

Ambassador Chang Sun Sup

“After Kelly’s visit ... the US (wanted) suspension of oil deliveries from November 2002 ... But the November portion was already on the high seas. The tanker carrying the oil was making its voyage to the North Korean port. The US just wanted to call the ship back to Singapore. By doing so, (the US said) we have to show KEDO’s strong position not to continue the project – a show of KEDO’s determination ... Lim Dong Won was upset at the time ... He understood the US position, but he said in any case the November delivery should be made at any cost. So I went to Washington ... (and said) At least the November delivery should be made; we can suspend from December ... Pritchard said okay but when KEDO makes the decision, KEDO must make a very strong statement about violation of the Agreed Framework.

“Delivering just that one month portion didn’t make any sense. KEDO could have called back that tanker. In hindsight, I don’t know. I am not satisfied with it ... It was trying to calm them (the North Koreans) down. But in that sense, I don’t know to what extent it made their reaction less harsh.

“It didn’t work. After that, they kicked out the IAEA inspection team and restarted the nuclear activity. The delivery of the November oil didn’t make a contribution.

“(Among) the people I met in the Korean government ... there was some serious concern about the safety of the (KEDO) people over there and, in the eventuality of suspending the project, getting these people out of North Korea.

“When I participated in the interagency consultations, it was always at the cabinet level. These people strongly hoped that even though oil delivery was stopped and the project might be suspended, it could still be restarted once we had some solution to the nuclear issue. Especially the Blue House people ... strongly hoped to restart the project sometime in the future. That is why we agreed eventually to suspend the project for one year.”

Ambassador Suzuki Katsunari

“I think it was in December 2002 that the US decided to stop the supply of HFO. Leading to that point, we were very much confused because, on the one hand, Koizumi’s historic visit to Pyongyang was still fairly fresh in the memory of the people. We wanted to proceed quickly with the normalization of our bilateral relations with the DPRK. In that sense, we had only a vague wish that it’s not good to rock the boat unnecessarily. In those days, the US position was very tough. They definitely wanted to stop the supply of HFO as soon as possible. As for the construction of the reactors themselves, I think it was already clear that the US had second thoughts.

“(The decision to suspend HFO deliveries) was very difficult (for Japan), particularly after the abduction issue became such a big issue, having almost decisive importance to the future of negotiations with the DPRK. The abduction issue had become relatively important by September 2002. As a result of Koizumi having taken up the issue with Kim Jong Il, five abductees returned to Japan on the understanding that they were visiting temporarily ... But the Koizumi government decided not to let them return to the DPRK, judging from the temperature of public opinion that it was impossible. So that was the decision of Koizumi and Deputy Chief Cabinet Secretary Abe. Since then, it has become virtually a national issue and, without resolution of that problem, we cannot discuss the future of our bilateral relations including normalization. In our view, normalization is inseparably combined with massive economic assistance to the DPRK.

“Even at that stage of the end of 2002, Japan and the ROK wanted to keep relations with the DPRK as workable as possible. But at the same time what Jim Kelly found in Pyongyang was a very serious issue, particularly for Japan, because they (the North Koreans) have no missiles to reach the US while Japan is completely covered by (North Korea’s) Taepo-dong or even No-dong missiles. If they have a lot of nuclear warheads (from) HEU, it would immediately be a threat to us.

“As far as I was concerned, my main interest was to buy time, and I think (it was) the ROK’s too. It’s impossible to accommodate two totally different things – the US and the DPRK positions. It’s impossible. But if you are successful in buying time, the overall climate may change, so that we small fries too can play some role.

“Naturally, we were afraid of very violent reactions coming from Pyongyang, but then we realized afterwards what the DPRK wanted was the continued attention of the United States. That’s why their reaction was at every stage very carefully calculated. Their strength, which we do not have, is they do not need to think about the reaction of the public. There is no public opinion. That’s why they can play the game like 17th or 18th century European monarchs.

“I think the Americans in their own way tried their best not to be too decisive on the question (of terminating the project) ... At the stage of December 2002, I don't think they had decided already that the two reactors project had no future.

“There were two different problems: how to explain the fate of the project to our own public after spending so much money ... (and) how to keep the temperature of the relations between the DPRK and the international community at a reasonable level.

“The construction work was still continuing until the last day when we decided to stop. The bills from KEPCO continued to come in, and how to deal with incoming invoices was always a very difficult question ... The US position was roughly: ‘Oh, just get rid of it.’ But we could not be so irresponsible as to give a green light (to that); we have to be able to explain to our own mass media why.

“... About the whole business of KEDO, the Japanese parliamentary questions were so scarce. I was very seldom called up to the Diet to explain what was going on. The major adversary was the Japanese media. The Japanese media was not so well researched on the question of KEDO itself. Their major attention was the possible impact (of our decisions about KEDO) on the abductions (issue).

“But the winding-down direction itself was not so well prepared from the beginning of the souring of the project. I think until that last moment Japan and the ROK were trying to salvage the project as far as possible, in spite of the sudden souring of the US position.

“The Americans were not contributing financially to the construction of the project itself. They were only supplying oil, so a change in the US position itself did not affect the financial basis of the light water reactor project. In that sense there was some breathing space.

“We always worked very closely (with the ROK) on this KEDO thing, in spite of our bilateral frictions ... We tried our best to come up with similar positions, if not the same.”

Yamada Yoichiro

“(Japan's position) was very firm. It supported the US position very, very strongly. I was in a position to read the instructions for the Japanese delegation (to the KEDO Board meeting). There was nothing that suggested that we wanted to avoid confrontation with the North Koreans out of consideration for the Pyongyang declaration (issued during the Koizumi visit). The Pyongyang declaration foresaw improved relations with the North Koreans but that did not, in my opinion, affect at all how the Japanese government formed its position at the KEDO Executive Board meeting. The position was very firm: we would support the

suspension of heavy fuel oil and – I wouldn't use the word 'punished' – our response should be firm.

“I can't say definitively but I presume it (the Japanese position) was somewhere between the South Korean and American. But I think the Japanese government was at that time quite prepared to go along with the Americans no matter the consequences.”

Ambassador Cho Kyu-Hyung

“At that time, the Korean government was in a rather difficult position. The US said in public that they had evidence that North Korea violated the agreement by having an HEU program. If that was a fact, it was quite logical that we could not continue with the KEDO project ... so the Korean government position was to have some more talks with North Korea and solve the problem rather than scale down the project ... I remember Ambassador Chang voicing his very serious concern about the consequences of KEDO's decision (to stop HFO). He mentioned that if we decide to stop delivering heavy oil, North Korea would have no choice but to expel IAEA monitors and they might withdraw from the NPT. And that is exactly what happened ... Seoul was not happy to agree to this decision.”

Bram Brands

“I think it was the 16th of October that we (European Commission in Brussels) were informed formally by the US on the results of the (Kelly) meeting in Pyongyang. On the 23rd of October, (Under Secretary John) Bolton was already in Brussels to have a private talk with Commissioner (Chris) Patton and with other people in Brussels transmitting the message: 'KEDO is dead and the people working in KEDO still don't realize that.' That was the very first message we received from Washington ... KEDO's Executive Board meeting was held on the 14th of November. The EU delegation went to this meeting with relatively flexible instructions: Join the majority.

“The main issue for that meeting for us was: Will KEDO focus only on the HEU side of the problem or will it focus on the nuclear weapons side? The American delegation clearly wanted to focus on the nuclear weapons issue and the South Koreans on the HEU issue. If KEDO had limited itself to considering the HEU issue then the accent would have been put on the US intelligence ... On that basis KEDO could have discussed the issue with Pyongyang, so it would have had some diplomatic possibilities. But by focusing on a full-fledged denuclearization of the weapons, the ambiguity which had been left by the Agreed Framework disappeared ... Thus KEDO had no room for maneuvering anymore.

Full denuclearization had become the condition to be materialized before KEDO could do something.

“The week thereafter, on the 18th of November 2002 there was a meeting of the (EU) foreign ministers in which it was decided that a comprehensive, verifiable and irreversible dismantlement of the North Korean nuclear program was also the condition for the EU -- the basis on which the whole issue was going to be discussed. As it was well realized that the EU had a limited stake and limited leverage, it was decided that the EU should not try to play the ‘first violin’ but leave the initiative to the more directly concerned states, although it was (also) well realized that the issue was not of a purely bilateral US-DPRK or regional character but was also of a global importance, because of the non-proliferation aspects ... On the specific KEDO file the Ministers agreed in that meeting to remain in close cooperation with the KEDO partners and more or less to follow the line: ‘Follow the majority; don’t try to develop a position of our own.’

“KEDO reacted on the developments with what was called ‘the invisible slowdown’ in the construction activities. This was implemented during one year. In November 2003 it decided to suspend the construction activities, which led to additional, i.e., non-budgeted costs. Suspension was the best way of giving a signal to the DPRK; suspension implies in principle that you restart when the conditions are right again. So the message KEDO gave with this decision was: ‘Please, Pyongyang, gets your things in order and then KEDO can continue

“For 2003 the EU had decided not to contribute any more to KEDO’s regular budget for the LWR project -- the *quid pro quo* element of the DPRK doing its non-proliferation activities had disappeared so it didn’t consider that there was any reason anymore to continue the payment of its full contribution to KEDO -- although we realized that an abrupt termination of KEDO could create a negative impact on the efforts to settle the question in a peaceful way.

“The question the EU had to consider was whether or not to remain a full member of KEDO. It was well understood that with termination of the membership, we would lose the Euro 120 million we had invested in the KEDO project ... Also relevant was that if we were to quit we would be showing some support to the strongest hardliners in Washington and risk providing a justification for termination of the organization ... A final element was the risk of liability. As long as the EU was a member of KEDO, it was exonerated from possible direct liability claims. So we decided to stay in and to limit our financial contribution to paying our share of the administrative costs. One of the reasons the EU also refused to make a contribution to the additional suspension costs was that the Community budget for international events had a limited reserve for unforeseen events and the biggest part of that reserve was already used for the EU contribution to what happened in Iraq. So there was little left

for any other activities. Important also, and that plagued many member states, was that the EU was not asked to participate in the Six Party Talks.

“On the administrative costs, we decided to pay our normal share.

“On the liability issue it may be useful to mention that it had indeed surfaced at the end of November 2003 when the North Korean side raised it in meetings with KEDO’s secretariat. They started to blame KEDO for the fact that they were not receiving in time the 2,000 mw electricity supply, and indicated that they considered claiming compensation from KEDO. If KEDO were to be terminated, the risk was real that the individual members could be confronted with such a claim. By the way, I think it was due to the extremely good diplomatic handling from the secretariat’s side that in the end the North Koreans didn’t push their claim. Indeed, it disappeared from the table.

“2004 was a year of keeping KEDO with as low a profile as possible. The main message was “Don’t interfere with the Six Party Talks.” Efforts to make the EU contribute to the suspension costs were continuing. For example, ROK Foreign Minister Ban Ki Moon wrote a letter: ‘EU, please contribute to these costs.’ But there was no possibility to get EU member states to move on this issue. So we (again) limited ourselves to contributing to the administrative costs.”

Roland Tricot

“We had 20 million euros in the 2003 budget but after the Kelly trip we put an asterisk on it to be discussed in July 2003. The US officially informed the Commission and the EU Presidency on the results of the Kelly trip but we were not shown any proof of an HEU program advanced enough to justify the unraveling of the Agreed Framework. Anyhow, we had to face a huge decision for a project to which we had given \$125 million.

“Remembering Secretary of State Powell’s isolation within the Bush Administration on the North Korean issue, we thought the Agreed Framework was close to unraveling. Having taken into account the political situation in Brussels, we knew there was no other choice but to put on the asterisk and then ask for a million dollars for administrative funding for 2003.

“We were informed by the South Koreans at that time that they would not agree to HFO suspension, so we didn’t think that the Board meeting was going to be such a big deal. We thought there would be a need to convene another Board if any decision were to be reached. We thought the Americans would not get what they wanted.

“The fact that South Korea changed its mind and did not resist made it a lot easier for everybody including us. The EU could not be more pro-engagement than the pro-Sunshine-Policy South Korean administration.

We had the least at stake and we joined the consensus. If the whole thing blew up, it was not going to be us who were going to foot the bill.”

Hahn Choong-hee

“Our (ROK) position at the time was to delay this decision of suspension a little bit. (We thought) we can think about what could be the best option at this moment considering all the factors and the situation. We don’t have to suspend the supply of HFO right away ... So we would like to handle the situation shrewdly, first of all, to clarify the situation ... We think that we need more discussions or consultations among our allies and concerned countries, and then take that decision in a little more modest way. But the US position was quite strong.”

Choi Han Kwon

“In early 2003, the EB decided to slow down the construction at the site, but invisibly. So we negotiated with KEPCO and quietly slowed down construction activity there. We put in fewer people and fewer materials and so on. For example, you can pour concrete in one day but we took several days to do it. The objective was to not expose that slowdown to the North Koreans while controlling the project progress ... I think it (the invisible slowdown) was successful. North Korea didn’t know what was going on at the time, until several months before the formal suspension.”

Ambassador Jack Pritchard

“The Agreed Framework finally had been hung out to dry. Certainly John Bolton was just ecstatic that they had finally found a way to kill it.

“I actually thought it (KEDO) would die faster than it did. I think most people in the US attempted to kill it faster. I think Jim Kelly and others had a notion that you turn the light switch off and walk away. They didn’t have an appreciation for the fact that we had people on the ground, that we had enormous investments from South Koreans and subcontractors, that there was equipment -- some of which could have been deemed relatively sensitive or important ... and not available elsewhere. The United States was all too willing and ready to write it off and move on; this nasty experience of the Agreed Framework was finally over with and had come to a close. In reality, the process took much longer.

“It was the South Koreans who were unwilling to let it die, (arguing) that we needed to give the North the opportunity to come back and resolve the HEU problem and that could revive KEDO and the Agreed Framework.

“The Executive Board (judged that) if we suspended operations the North Koreans would immediately know and that would be the signal that we have abandoned this (project) and there’s no hope of returning; therefore, it had to be a slow walk to the death rather than jumping off a cliff. There was a slowdown in operations, not a termination of operations there. There was a good deal of resistance in the US government to continuing to support any kind of activity in North Korea knowing that the ultimate goal was termination, but we reminded those who had that view that it (KEDO) was a consensus organization and the consensus had not yet been established for the final termination of KEDO – it was going to be a slightly slower process.

“There was an attempt in 2002 to cut off funding. And there was language put forward that really made it difficult to provide funding and I was up on the Hill talking with Chairman (Henry) Hyde and others in terms of keeping options open, that it was important to maintain KEDO as an organization and that whatever ultimate resolution there was on HEU there may very well be the recreation of a KEDO-like organization as part of the solution. I requested \$3 million just to pay our share of administrative costs, not for HFO, and got \$5 million. And that was the last money that ever went to KEDO (from the US).

“(But arguing to keep options open) ran into a great deal of difficulty (at State and NSC) ... ‘No, the Agreed Framework and KEDO are dead and should be terminated.’ It came out of both the White House and the State Department. From that point on it was very difficult to even interact with the North Koreans, to go to New York to visit KEDO or see the North Koreans and talk with them. There was a shutting down that was taking place in 2002-2003 that said: ‘The North Koreans are in violation. There’s nothing to be gained; retrench.’”

Jack Mulligan

“(Although) KEPCO was doing a really good job and keeping on schedule, I was pretty certain it could never complete (the project) on schedule because of the nuclear liability issue ... and the issue of getting the (nuclear) inspections (done) within the time frame. There was only two months between delivery of the reactor vessel and the completion of all their IAEA requirements. There was no way in hell that would ever happen ... So when we negotiated the TKC with KEPCO, we actually were trying to get 36 months of suspension, but none of the contractors would agree to that. We finally negotiated the 18/36 in aggregate which eventually ended up being in the contract. I was trying to push it as long as I could because I anticipated that was going to be a problem.”

Choi Han Kwon

“The slowdown affected the Turnkey Contract implementation to a certain degree, but the formal suspension seriously impacted it. Once KEDO officially suspended the project, KEPCO then had to suspend all their subcontractors because KEDO was not going to pay for any unauthorized activities from that point on.

“Under the contract, the initial suspension could be for one year, and then it could be extended for another six months. We specifically negotiated such suspension clauses in the TKC because we anticipated that there might possibly be a long-term suspension.

“There was a dilemma because the Executive Board did not want to continue the project and (instead wanted to) stop all the project activities immediately, while the Secretariat was concerned that suspension would cause quality (control) and maintenance problems on the components which were being manufactured at Doosan and other factories. So, we [the Secretariat and KEPCO] tried to minimize the impact of the suspension to the extent possible. We had pleaded with the Executive Board and KEDO member countries that we (should) continue manufacture and design outside of North Korea during the slowdown, so that quality and technical integrity could be maintained. We pleaded with the member countries to allow us to proceed with certain portions of the component manufacturing so that we could have good preservation (of the components). One example was the steam generator: there were so many different parts, all already manufactured and ready to be assembled. At the time of suspension, if we had just left them unprotected, exposed to the air, they would be corroded and then could not be used when the project resumed. In order to protect our investment and also to protect the quality, we had to allow KEPCO to assemble it (the steam generator) and close it up airtight.

“The member countries did not understand why we had to maintain it in such a way; they said, ‘suspension is suspension, so stop.’ It took a while to convince them, but finally they understood and some of the work was allowed to continue during suspension, Doosan continued to assemble the steam generator, and so on ... Also, to preserve large pressure vessels like steam generators, we had to come up with a special mechanism which is normally not required for a commercial project. Accordingly, we discussed with KEPCO about the best mechanism to protect the components, which cost a lot of money. For instance, you need a storage facility in which humidity and temperature can be controlled. And member countries didn’t like that since it would cost more.

“Also, at the site, in order to keep (open) the possibility of resumption, we had to maintain and preserve all the construction materials such as rebars, containment liners and things like that -- all the buildings and so on. Any technically significant part, we had to maintain it. That cost a lot

of money for the member countries ... At the time, we didn't know how long the suspension would be, but I thought probably it could be as long as three to five years although the TKC allows only one year and a half. So all the preservation measures would be good for (up to) five years ... I think they can go a little bit further ... maybe another two or three years, or even a few more."

Yeon Byung Jun

"There were some discussions about possible suspension among the four Executive Board members. So our government also asked us for a lot of scenarios for reference, if we suspended or slowed down our activities. So we developed (scenarios) for what happens if there is suspension or slowdown. What was the cost impact? Schedule? How to evacuate our people (in case of) restrictions by the DPRK?"

"We always wanted to continue without suspension because under our company (we had) a lot of subvendors, suppliers. They hadn't received full payment. They just contracted with KEPCO but hadn't made a lot of money as contracted. Everybody wanted the project to be continued to completion. So we were in the middle ... We had concluded a total of 115 subcontracts, with (companies in) ten countries.

"In South Korea we have four nuclear sites, but 20 nuclear plants in operation, with six (more) under construction. But there is a lot of anti-nuclear (sentiment) in the public and very limited in locations for sites ... Without KEDO, we may (still have to undertake ventures) just between the South and the North. (Ed. note: meaning build reactors in North Korea to meet South Korean energy needs.)

Hahn Choon-hee

"Regarding the issue of suspension of the project itself, it was quite complex and difficult to decide quickly. The HFO supply was solely up to the US ... but the (LWR) project was different. We had a lot of issues: How do we prepare the suspension? What is the level and definition of suspension; whether it would be reversible and how long will we suspend? If it is a 'resumable' suspension, then maybe there is no big problem of claims from all the subcontractors. But if it is an irreversible suspension, then maybe a lot of subcontractors will make claims. But there was no authority to say (which it would be).

"So with this difficulty, no one could decide right away (whether) we have to suspend or terminate the project. Originally, termination was floated, but nobody wanted a quick decision about the fate of the project. It was a big project and once you terminate it is really difficult to reverse. So we were talking about suspension, and then we had a lot of technical discussions to find out what the problems were, what were

the ramifications of this decision, considering all the political, technical, and legal issues ... I think everybody in each capital (then) realized the difficulty of this issue to decide one way or another. So first of all, we took the decision to slow down, and then after that suspension.

“(The South Korean government) was thinking that this was suspension, or mothballing type of concept. So, in the future after several years when North Korea dismantles all of its nuclear program, there (could be an) improved relationship between the US and North Korea. With some positive political atmosphere in the US Congress, (there could be) a chance to revisit this project again.”

Lee Yong Joon

“North Korea raised two issues (after the decision to formally suspend work): ... by suspending the LWR construction KEDO had broken the promise to North Korea, so they banned the repatriation of all the documents, construction materials and construction equipment out of North Korea. Also, they insisted on not applying privileges and immunities to KEDO people at the site. That means they insisted on applying North Korean law to the people at the site. So we had a long negotiation with them to prevent it because if they applied North Korean law, I thought we had to evacuate all the people from North Korea. They agreed not to raise that issue again and signed a paper ... but only one month later they denied their agreement.

“At the time KEDO had ordered a lot of (components), maybe more than 100 (components), from companies in the US, Korea, Europe, Japan and many other countries. The problem was that we had to ask those subcontractors to suspend their manufacturing because they were very expensive, some of them several hundreds of millions of US dollars. So we had to ask for suspension of manufacturing or, when they had already completed manufacturing, we had to ask for suspension of delivery. That cost a lot of money. They asked a huge amount for (storage and) maintenance cost. The overall cost for KEDO to be paid for such maintenance was \$100 million per year ... If they have to do the maintenance for one or two years that's no problem – only a matter of money. But if they have to keep it for several years or more than that, there could be serious safety problems (with the components).”

Kim Hyung-suk

“At that time (2003-4), contrary to our imagination, the atmosphere at the site was very amicable, very helpful. Just at the site, there was no reason to sense some kind of conflict between KEDO and the DPRK. I think every official of the DPRK was very kind to all the people of KEDO.

“Just after my arrival at KEDO headquarters, I joined the taskforce for evacuation (planning) ... Officially, we said to the DPRK that we were continuing the KEDO project, so there would be no reduction of personnel or materials. But in the end, we had to evacuate some people and equipment from the site without the notice of the DPRK, which was difficult.

“The first pretext was some kind of rotation or retraining. And for two or three times the DPRK was not aware of our real intention. But the third time, we wanted to withdraw some big vehicles and the big crane. Then the DPRK began to sense the real intention of our evacuation plan. So they blocked all further withdrawals of personnel and materials from the site, and some materials are still there.”

Chapter Fourteen

Terminating the Project

As suspension became a reality, the North Koreans at Kumho increasingly expressed fears for the future and hopes that work could soon resume. KEDO had been utilized in a fairly high-profile way to react to the HEU issue, though the results could hardly have been those desired by the capitals, so it was not unreasonable for Pyongyang to assume that the organization figured in some way in Washington's thinking about a solution. Indeed, in the aftermath of the Kelly visit, the North sent representatives from the Foreign Ministry to meet with KEDO officials, probing and listening for clues to US intentions. If they were waiting for a sign of hope, or any sign at all, they never received it. There is no evidence that officials in Washington ever regarded KEDO as a means to restore the status quo ante, or to use KEDO as an instrument in their diplomatic strategy other than as a club. As the Six Party Talks progressed – even as the North Korean negotiator, Kim Gye Gwan, was consistently underlining the importance of LWRs in any foreseeable agreement – the Bush Administration saw KEDO as a problem to be removed rather than a potential source of leverage to get at the DPRK's HEU program.

After the North formally declared itself a nuclear weapons state in February 2005, the situation for KEDO took another turn for the worse. Pyongyang seemed not to realize, or not to care, that by for once and for all removing the ambiguity about its nuclear status, it had made KEDO's existence even more problematic. A February meeting between one of KEDO's deputy directors and his North Korean counterpart, soon after Pyongyang's announcement, was contentious and unproductive. Nevertheless, the Secretariat continued its engagement with the GB over that spring, with frequent communications by fax, exchanges of notes, and face-to-face meetings. The purpose was to take the temperature and keep the situation at the site stable until the Executive Board governments decided on their next step.

In April 2005, a KEDO delegation was again at Hyangsan for talks. The North Koreans finally posed the question: As long as KEDO wasn't building reactors, how could the GB justify maintaining the agreements on KEDO's rights at the site? In the next breath, the GB supplied the answer: If KEDO would give the North some of its excess potable water and electricity, there might be less problem in that regard. More important to the North Koreans, could KEDO help in retraining the engineers and reactor operators who, the GB argued, had devoted their careers to the LWR project and now had no means of supporting themselves or their families?

Supplying a miniscule amount of electricity to the local area from KEDO's

own small power plant, and even laying pipes to share the water with the local farmers was feasible, though the EB was skittish about the notion. Retraining for the North's reactor personnel was considered beyond the pale. At one point during the April meeting, the North Korean negotiator asked: If the North lifted its ban on the export of KEDO's equipment from the site, would KEDO supply electricity to the local area in the Kumho District? Whether this was simply an idle probe or something more serious was never determined, because the EB -- badly divided among the four -- was at that point incapable of pursuing serious talks with the North Koreans.

A few months later, events took a dramatic turn, when three blows in rapid succession hit the organization. First, in late July, the ROK proposed that it would send 2000 MW of electricity to the North if the DPRK would drop its demand for LWRs. This notion had never been discussed with, or even breathed to KEDO, which was caught unprepared. It signaled to Pyongyang that the final prop supporting LWRs -- i.e., the ROKG -- was wobbly if not cracked. To the stunned KEDO Secretariat, it meant that Seoul had cut KEDO loose and was pursuing its own track toward the North, one that included progress on President Roh's single-minded efforts to engage the DPRK strictly on bilateral terms. In fact, the South's proposal was the result of talks ROK officials had had with Kim Jong Il behind the scenes some months before.

Next, in August, came decapitation, when Executive Director Charles Kartman was forced out by Washington, which doubtless and with good reason suspected him of insufficient enthusiasm for the way in which North Korea policy was being handled. That left KEDO to head into its final crisis without a leader. Washington promised to find a suitable replacement quickly, but no new Executive Director was ever proposed. Although the highly experienced Korean Deputy Executive Director was the logical interim replacement, the Japanese objected to lifting him above his Japanese counterpart, perhaps doubtful the Korean side was as committed to termination of the project as were Tokyo and Washington. The two deputies (one Korean, one Japanese) entered into an awkward rotation of agency leadership, an arrangement that did nothing to preserve the organization's morale or cohesiveness in its final days. The two deputies were left to struggle with the mounting problems in an increasingly soured atmosphere between Seoul and Tokyo. Unfortunately, this tension spilled over onto the Secretariat, as well, and all of the hard work at KEDO's beginning, to knit the nationalities into an organizational unit, began to unravel.

The final blow came on September 19, after a Six Party joint statement that said: "The DPRK committed to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the Treaty on the Non-Proliferation of Nuclear Weapons and to IAEA safeguards." The same document also noted an apparently important quid pro quo: "the other parties

agreed to discuss, at an appropriate time, the subject of the provision of light water reactor to the DPRK.”

That might have been a signal for an opening to preserve KEDO or start thinking about KEDO 2, but within twenty-four hours, Washington publicly gutted this section of the Joint Statement, with a statement read by the chief US delegate to the talks. As if that weren't enough, the statement went on to say that the US “supports a decision to terminate KEDO by the end of the year.” This was news to KEDO, a total shock, a bolt from the blue, with no preparation, prior consultation, or warning -- and no apparent thought given to how that might affect the safety of KEDO personnel still in North Korea. In fact, the surprise was so complete that at first, many at KEDO thought it must have been misreported, or misinterpreted, or both. (Appendix 8)

For the next few months, it was anybody's guess how the North Koreans would react, and what was the status was of the 114 KEDO personnel at the site. Evacuation plans were reread and revised at KEDO headquarters in New York, but everyone knew that the North Koreans had the final word in defining what would be possible. Moreover, as bleak as the situation was, there were still arguments in favor of making arrangements for a gradual, orderly handover of the site and its assets, leaving the door open for a return to the project at some point in the future (either by the ROK or another multilateral consortium) if that was what the diplomacy decided was useful. For legal purposes, it would be necessary to notify KEPCO of termination of the contract. As well, the North Koreans would need to be formally notified of termination of the Supply Agreement. For orderly evacuation, KEDO would need to retain at least minimal rights (some P&I, some transportation, some communications) at the site through new/temporary legal arrangements with DPRK. For future relations with the North, it would be best if KEDO could finish off its own obligations, i.e., restoring a portion of the railroad that had been rerouted during construction and also restoring the environment, which primarily meant planting a large number of trees.

The EB met in late November, discussed the situation, and decided there was yet too much disagreement amongst them to formally announce termination of the project. Termination would set in motion a complicated process of settling claims with KEPCO and determining the disposition of the organization's remaining assets. The project was dead, and the organization on its last legs, but most of the EB was not ready to declare as much publicly. Nevertheless, the US representative told the press waiting outside after the meeting that there had been a consensus on terminating the project. Pyongyang, of course, was paying attention. The EB did decide to send a KEDO delegation to the site to explain to the North Koreans what the present situation was -- this would be easier imagined than accomplished -- and why KEDO was prepared to stay at the site long enough to finish off its obligations on the railroad and the environment.

A KEDO delegation was dispatched at the beginning of December for a one-day meeting at the site, for logistical reasons probably the worst place to meet with the North Koreans for serious discussions. The weather was bad and the seas running too high, so the KEDO team's departure from the South Korean port of Sokcho was delayed. When the weather improved, it was only to allow a sickening, lurching journey on the boat, ending at an iced-over gangplank at the still new docking facility in Kumho.

The talks were held at the guest house, little improved over the days when the first KEDO staff stayed there in 1995. The meeting room was dark and miserably cold; by the end of the day it was almost impossible to take notes -- both because at that time of the day the only light was from the weak, setting sun coming in the window, and because frozen fingers made it hard to hold a pen. The North Koreans pressed for an answer -- was the project terminated or was it not? They cited press reports about what the US representative had reportedly said after the EB meeting in November. They called for a break, and after a long while, they returned with their position: Because KEDO had decided to terminate the project, there was no longer any reason for it to remain. As a result, the DPRK was giving KEDO 30 days to leave. KEDO's rights would remain in effect for that period with a single exception -- if any KEDO worker was found to have destroyed any property at the site, that would constitute a crime punishable by DPRK law.

Later that month, another KEDO delegation went to the site to confirm the DPRK's position and to see if there was any room for reconsideration. There was not. One half the KEDO work force left on the returning boat, leaving a group of fifty-seven to keep the lights and the heat on, and make final preparations for the departure.

On January 7th, a small contingent of KEDO officials, including Ambassador Chang Sung sup and the ROK deputy director Pak Byung Yun along with several KEPCO officials arrived at the site for the final act. That night, the cafeteria at the site was subdued as the cooks dished out the last dinner. After that, at the Ongyu Restaurant, a group of KEDO employees had drinks with a few GB members. The toasting was subdued, but there was no sense of hostility. The next morning was bitterly cold. According to plan, the evacuation took place in stages. First, KEDO guards vacated the construction site, then a convoy of buses took the remaining employees from the housing area to the New Docking Facility. On the way, the buses passed the entrance to the construction site. The gates were open, with North Koreans walking through.

The final immigration check proceeded smoothly. When the group got to the dock to board the ship, a line of DPRK officials was waiting to shake hands and say good-bye. Ambassador Chang Sun Sup, who had devoted ten years to the project, was the last to walk up the gangplank. As the ship pulled away,

the North Koreans stood waving, a few took off their hats and waved those. At the customary spot offshore, the ship stopped and the remaining North Korean customs officials disembarked onto their own small pilot boat. With a long, mournful blast of its whistle -- a salute and a final farewell -- the Hangyore turned homeward.

Tidying Up

On May 31, 2006, the KEDO Board decided formally to terminate the KEDO project. The problems of dealing with the termination were large and complicated, especially because the consensus within KEDO had broken down so badly. Discussions descended to whether KEPCO could sell the components at an exorbitant profit -- earlier concerns about safety issues notwithstanding -- and thus write down or even eliminate the costs incurred from cancelling all the contracts. Although KEPCO had offered to take on all costs associated with cancelling contracts in exchange for ownership of all components, Brussels and Tokyo in particular became fearful of a future in which their taxpayers would find that KEPCO had walked away with a windfall profit at their expense -- a future which common sense should have told them did not have the remotest chance of materializing. Far more time was spent discussing these fanciful accountancy scenarios than was ever spent discussing ways to preserve the project as an option for a Six Party deal. The grand vision of a multilateral effort to forestall nuclear proliferation and perhaps assist in the transformation of North Korea had completely disappeared, to be replaced by bickering over the scraps.

Ambassador Chang Sun Sup

“Suspension literally means suspension, it could be resumed in the future. Not termination. But the US side wanted very strongly to use the term ‘termination’. The phrase ‘KEDO does not have a future’ had been used ... and materialized in KEDO’s termination. As a compromise, considering the ROK’s position, the US agreed to okay suspension but after that (insisted on) termination. Japan followed to some extent Washington’s position on termination. The EU’s position was not that strong ... The issue of KEDO’s future was almost South Korea against the US and Japan ... Initially Japan worked with us, but as time dragged on Japan went to Washington’s side.”

Bram Brands

“It was, early in 2005, already clear to all four (Executive Board) members that continuation of the suspension after the 13th of November,

after 2 years of suspension, was not an option anymore. Some kind of termination had to be decided. That was not easy. It was, after difficult discussions that lasted almost a year, only in November that KEDO's EB could agree *de facto*, thus not even *de jure*, on termination ... The main problem was financial. It was not clear who was going to be responsible for the additional costs KEDO had incurred during the suspension ... there were considerable financial interests at stake.

“The year 2005 was for us also important as the EU's membership of KEDO was expiring at the end of that year. Was it to be continued: yes or no? For the answer on that question it was important that the Community, as a member of KEDO, would remain a co-owner of the infrastructure that KEDO had built in Kumho ... After the Six Party Talks agreement of September 2005 it had become clear to us that it was not excluded that the Kumho site infrastructure could again become an issue in a future arrangement to settle the North Korean nuclear issue. That implied that remaining a co-owner of that infrastructure would provide the EU a good foot in the door if it wanted to play a future role in the denuclearization process of the Korean Peninsula ... So therefore, and also to protect its financial and legal interests, it was agreed by the (EU) member states that the EU should remain a KEDO member, initially for one more year until January 1, 2007 ... This was later extended until possibly 2012.

“Once KEDO had begun to consider the termination of the LWR project, KEPCO had started saying that KEDO could expect liability claims from subcontractors for as much as \$1 billion ... That amount has to be compared to the amounts referred to in the Termination Agreement. KEDO and KEPCO indeed did not agree on the amount to be inserted. KEDO came to justified claims of \$26 million and KEPCO to justified claims of \$45 million. Quite a difference from the \$1 billion KEPCO started with!

“The Executive Director, Kartman, was the only person in the KEDO Secretariat with easy access to the international press. The US removing him in early 2005 was more or less the signal that Washington wanted to let KEDO disappear slowly into a dark corner of international affairs. That first signal, that KEDO's days were coming to an end, became more or less evident when the South Koreans came with their important proposal on 12 July 2005 to supply directly two million kw of electricity to the North Koreans. Then it was clear: there was no future for KEDO anymore.

“In 2006, KEDO agreed on the text of the Termination Agreement. Its drafting should have been, apart from the compensation amount, a technical issue, i.e. not too complicated. However the drafting took a long time. This was due to the fact that after the removal of the Executive Director, the KEDO Secretariat had been given a double-headed management with the Japanese and Korean Deputy Executive Directors responsible on a rotating basis. Since the relationship between

the two was rather problematic, everything became problematic and lengthy discussions were required on the simplest articles in the text. To me it evidenced the often mentioned problematic Japanese-Korean relationship.”

Choi Han Kwon

“Termination and the Turnkey Contract (TKC) ... Frankly, we did not anticipate the termination at KEDO’s fault (rather than North Korea’s) during the TKC negotiation. So, the TKC did not have sufficient details for dealing with the termination and we had to tweak it to find the proper clauses to allow KEDO to declare the termination without KEPCO’s fault. Among other things, claim compensation was a difficult issue. Although there could be a lot of potential claims for damages from suspension, if the project resumed, most of the damages could be recovered without processing the claims. But if it was terminated, those damages would never be recovered. In fact, in order to avoid the claim payments and reduce the suspension cost, KEDO expressed its hope that KEPCO could hold those claims for a while, anticipating that the project might be resumed.

“KEPCO was cooperative and agreed to hold those claims back without presenting them to KEDO. Unfortunately, the project was terminated and the claims became a problem. KEPCO wanted to be compensated in accordance with the Turnkey Contract, but the terms and conditions were not so clear. Also, because KEPCO did not present them (the claims) to KEDO within six months KEDO’s legal position was, ‘You didn’t submit the claims in time so you are not entitled to compensation’ ... It was not really KEPCO’s fault since KEPCO was trying to be cooperative with KEDO’s difficult situation. But, KEDO took a very strong legal position to reject the claims that had not been submitted in time. The invisible slowdown was one of the controversial issues that KEPCO wanted compensation for. KEDO said, ‘No, that was not allowed under the contract,’ and so on.

“KEPCO wanted to be cooperative as much as possible because they understood that they were dealing with a political project. The thing is that their subcontractors ... didn’t care about the political situation. They were dealing with a commercial contract with KEPCO, while KEPCO was interacting with KEDO as sort of a political entity as it was assigned by the Korean government to be the prime contractor.

“Because of the subcontractors’ position, KEPCO had to (handle) their claims. There were a lot of complaints (from subcontractors) as anticipated. KEPCO mobilized their own internal funds to pay some of them, but when they reached their limits, they could not pay. KEPCO obviously lacked the funds to cover (all) the sub-contractors’ claims. KEDO’s payments were delayed since the negotiation of the

termination agreement was prolonged due the differing legal positions on the termination claims. Some subcontractors were not able to get the compensation in time... Eventually that was solved by the Termination Agreement, but it took four or five months to conclude that (negotiation).

John Hoog

“The local people were making a little bit of money off the people who were there ... I think that there was still enough low-level commerce going on up there that the North Koreans in Pyongyang saw no reason to pull the plug prematurely. ‘It’s there, it’s under control.’ Air Koryo was getting a little bit of cash from the charters ... some port fees ... inertia probably as much as anything else. What would have stimulated the North Koreans to take the onus of ending the thing? I’m not sure.

“Now the only rights that we had up there were things that had in a sense been whittled down somewhat from the protocols. We had sort of accepted the limitations that we weren’t going to get this or that.

“Our guys were spending maybe \$1000 a week at the Okryugwan and the other little places that were open. That’s not big money by any means but for a provincial or a district official in South Hamhung Province, it’s not small change either. It buys a few luxuries ... The people in the area had some extra rations and things to make them look good to us, at least not look as if they were starving to death. Those people were happy. They didn’t really want to see us go.

“On evacuation, we had arrangements or at least general ideas ... if it looked like things were really deteriorating. The only thing that would trigger that though was a really extreme situation ... a sudden deterioration of relations between North and South. It was a concern, but it wasn’t something that kept us awake at night. Our idea, with the sort of general assurances of KEPCO, was that they could get a ship on short order to get most of the people back home. What we were talking about among ourselves (at KOK) -- maybe half braggadocio and half serious -- was that we would try to work out some way the workers could go home and we’d stay behind, hopefully not in custody.

“But the problem with an evacuation plan in a place like that is it’s not a physical matter, it’s a political problem. What can you do? ... I don’t think anybody thought the North Koreans would allow us to evacuate people if they didn’t want to. I don’t think any of us believed that the North Koreans would respect the protocols.”

Ambassador David Lambertson

“Our plan for an emergency was that, had anyone shown up at the gate, the gate guard would have informed (guard chief) Mr. Son, and he would initiate a telephone tree setup. There were areas where people

were to gather under those circumstances. And there was a plan to instruct all of the people -- there were only about 100 people left at the end -- to put together little contingency backpacks. But we never did that because it was thought that this could have sown panic for no reason. But that would have been part of kind of a D-Day plus one scenario, I suppose. Fundamentally, we couldn't have done anything significant to help ourselves. We would have no way of communicating to New York without North Korea acquiescence.

“I think we all felt that New York was concerned, sometimes a bit more concerned than we were about various contingencies, because things rarely felt dire in Kumho. Even the idea of soldiers coming in and taking us away, while not totally implausible, just seemed pretty farfetched.”

Lee Yong Joon

“With the official closing of KEDO, there was an agreement between KEDO and KEPCO. KEPCO was to get ownership of all the (components), while KEDO was responsible for any costs caused by the termination of the LWR construction. According to the contracts with subcontractors and (component suppliers) ... there are clauses that say in case of non-implementation of the contract, KEDO had to pay penalties. So KEPCO would be responsible for all the negotiations with those subcontractors about penalties, while having the ownership of all the equipment.

“I think KEPCO is planning to use the spare parts (if) LWR construction is resumed. Those parts cannot be used in (South) Korea because the Korean standard model has been changed from 1,000 to 1,300 megawatts. They can only be used in North Korea.

“Maintaining such equipment for several years costs a lot of money. That was one of the most important reasons why the Korean government eventually had to agree to terminate the KEDO project.

“I heard that technicians say that in world history, there were several cases of suspended and resumed construction of LWRs. The (longest suspension in a resumed project) was four years. So nobody knows what will happen after four years. That was the problem: nobody can be responsible for an uncertain future. That is the most serious issue.

“If it was a conventional power plant, that's OK. If something is out of order, they can just replace it. It's only a matter of money. But for a nuclear power plant it's different. If something goes wrong, it can be a disaster. If a certain company supplies (components), they have a responsibility for the safety and quality of the (components) they have manufactured.

“I think we (the ROKG) still have hope if the (Six Party) negotiation can be agreed. If the negotiation is concluded in one or two years (i.e., by 2010), we can still use most of those parts. But if it takes five or ten years, they will be unusable.

“When it (the negotiation) is completed then they will undertake IAEA inspections and then key nuclear components will be supplied. Some of those key nuclear components are already made.

“The IAEA says it will take two or three years (for their inspections and analysis) ... If they accelerate the process and North Korea fully cooperates, we can finish in one year.”

Yamada Yoichiro

“(Although Japan’s) political interest was declining, financial/administrative concerns were still there. Our government wanted to know what (would) happen to the money it contributed. Also there was concern over the safety of the people stationed in Kumho. The situation was developing so fast: North Korea had decided to exit the NPT and started to operate the graphite reactor. The political role KEDO could play was very limited; it was no longer a political or diplomatic tool we could use vis-à-vis the North Koreans.”

Roland Tricot

“KEDO spent a lot of money on those two years of suspension, but from the day (the North Koreans) detonated a nuclear device it was over. It was the complete unraveling of everything that had a remote connection to what was the Agreed Framework. The story goes that the decision was taken in June 2006 to terminate the project. I think the real decision was made in December 2005.

“We just wanted not to rock the boat; there were many ups and downs in the Six Party Talks and we didn’t want any failure to be KEDO’s fault. But there are limits to what you could spend to no avail. North Korea kept reprocessing spent fuel, and declared themselves a nuclear weapons state at the beginning of 2006 (sic). By then, the EU was ready to terminate the LWR project at any time.

“It is clear that many in the Japanese administration think that North Korea doesn’t deserve much if anything. The fact that the Japanese were committed for \$1 billion was an extreme burden.

“In the big picture, you could say that the South Koreans underestimated the HFO cutoff impact, that Japan changed its position on engaging North Korea, that the EU was too eager to join consensus rather than developing its own thinking. At the end of the day, KEDO was the result of a US deal: the US didn’t like it anymore and left all

its KEDO partners in the cold. On that, I remember a South Korean Executive in KEDO once told me, ‘What is bizarre with the US is that when they change administrations it looks as if they also change their national interest’.”

Chapter Fifteen

Lessons Learned

Almost all those interviewed believed that KEDO was doing important work for the future of the Korean Peninsula, and perhaps even for future efforts at nuclear non-proliferation. That is not to say, with hindsight, there were not things that should have been done differently. KEDO was saddled with various problems from its very inception, and some of these might have been avoided had the organization occupied a higher priority in the minds of its founders.

By the terms of the Agreed Framework, KEDO was an essential requirement for keeping North Korea's nuclear weapons program in check and avoiding another crisis that threatened military confrontation. The stakes could not have been higher, or so it had been suggested in 1994, and thus it would have been fair to assume that governments would have given the organization that was created for that purpose a commensurate measure of their attention. In the event, however, only Korea, despite its initial complaints about the degree to which it was or was not involved in the negotiations with the North, was genuinely enthusiastic about the potential of the new organization. The highest levels of its government were involved, at least until the September 1996 submarine incident. The United States and Japan, on the other hand, were more willing to follow through on their obligations at lower bureaucratic levels, with little involvement by policy makers, resulting in approaches that always preferred to minimize political and bureaucratic costs rather than reinforcing and building upon the impressive achievements of the Agreed Framework. Particularly among Americans outside of KEDO, recommendations seemed to imply that the difficulties and costs of KEDO itself were the problem rather than the North Korean nuclear program, a mindset reflected in Washington's later approach to the HEU problem, which was to discard the tool and then search for a solution.

Over time, there arose some confusion about exactly where KEDO fit into the policy that the three founding governments had appeared to share in 1994 with the signing of the Agreed Framework. Some in Korea hoped KEDO might evolve into a tool that could contribute to its nascent efforts to establish links with North Korea, support its nuclear industry, and perhaps have Peninsula-wide energy applications. The US and Japan, it seemed, saw KEDO (and its LWRs) more as a simple quid pro quo for gaining North Korean non-proliferation compliance, necessary medicine perhaps but nonetheless one that left a sour taste. Washington and Tokyo thought KEDO's mission should be confined to the strict language of the Agreed Framework. Yet, while the job of KEDO was defined narrowly as building LWRs and providing HFO to North Korea, paradoxically there was a vague sense that the organization might eventually play some role in implementing or even enforcing the North

Korean obligations.

After the submarine incident, all three founding governments were inclined to see the “mission” of KEDO in a minimalist fashion: KEDO was not to concern itself with the broader issues of the Peninsula, even in the energy field, but was to focus on LWR construction and heavy fuel oil deliveries. The DPRK seemed to be of similar mind, though it was always dissatisfied with the pace of LWR construction.

In contemplating what lessons might be learned from KEDO’s experience, the questions to be asked should be: If a negotiation in which the stakes may rise as high as war and peace results in the provision of a large, multi-year project, should the international community, or at least the concerned portion of it, oversee that project with an organization roughly along the lines of KEDO? What might be done differently in terms of organization and implementation?

Ambassador Chang Sun Sup

“Once you set off to have this kind of multilateral project, you must have almost watertight preparations. If you don’t have that almost perfect groundwork, then the project cannot be accomplished. When we started this project, we did not have any formula for financial contributions, any concrete program for the turbine/generator, for nuclear liability.

“I understand the project was born in 1994 to engage the North Koreans. But I still think there was enough time in 1995, even in 1996 (for better preparations). To cite one issue: the financial contribution. Korea said 70 percent, Japan and the US did not say anything. Korea’s 70 percent was the only concrete sum. The US did not provide even a penny for construction. Later, when the project started, the US position became clear: they could not provide for the construction itself. Japan first of all said a fixed figure: one billion yen. We wanted the equivalent of one billion dollars, which became a very thorny issue that dragged on for almost a year ... There were some outside elements like the submarine incursion and Taepodong missile firing that also interfered with the project, but among the three of us we could have made more thorough preparations.”

Ambassador Choi Young Jin

“In order for an organization to be successful, there is a need to find the right leaders and develop a common concept for all the staff working in it. There must be internal consensus towards the objective the organization aims to achieve -- genuine understanding and genuine consensus.”

Ambassador Cho Kyu Hyung

“I don’t believe that KEDO was totally a failure. KEDO was not the enforcer. It was a mechanism created by the three countries to implement the agreement with North Korea. But the experience is very useful. The many protocols we signed with the North Koreans concerning transportation, immigration, customs ... So if we had that kind of project not only in the energy area but (for instance) in agriculture, the protocols we have signed with North Korea will be useful as a guide. Other lessons we learned from this process, like the labor issue or lack of legal recourse, we need to take into account when we have any kind of business with North Korea.

“Among the things I used to tell South Korean businessmen, in order for us to have real business relations with North Koreans, North Korea should be prepared to break at least part of its systems. For example, for labor, under the KEDO system, we were supposed to ask North Korean authorities to provide such and such (number of) laborers, or say, ten brick makers by the end of August. We cannot go to any plaza and put up an announcement and say KEDO needs laborers. They are handled by North Korea, we had no control over them ... we could not ask them to do extra work or something like that. And all of sudden they can withdraw laborers they provided, causing delays. That is something North Korea needs to change if they want to have business with the outside world.”

Kim Hyung-suk

“Perhaps the most important thing is to get consistent political backing from each government. If we could have expedited the delivery schedule agreement and the IAEA’s full inspections, then perhaps it would not have been affected that much by other factors.”

Kim Eun Soo

“If in the future we may have another KEDO, then its structure and role would be different because at the time relations with North Korea were sometimes hostile and (there was) no confidence in each other. But these days, no, I don’t think so. So the character of a new KEDO will be more similar to a normal international organization. For example, North Korea will not demand that the head of (each) delegation should be an American.

“If the Six Party Talks decide to provide North Korea with a nuclear power plant again, we would need another KEDO. But first and foremost, who will finance that project, how much will they pay? But anyhow, a certain kind of organization is definitely necessary to build power plants.”

Park In Kook

“KEDO worked as a CBM (confidence-building measure). The KEDO project is still alive, even in the context of last September’s joint statement of the Six Party Talks. I don’t know whether KEDO will eventually be reinstated or we should develop other organizations, but the experience among the four members will serve as a good basis for further developing (an approach).

“One of the remaining lingering ‘homeworks’ off the top of my head is GE’s rejection to participate in the project (due to) nuclear liability. That kind of thing might be something we should avoid in a future project. It might jeopardize the whole project in one shot. Second, the nature of the spent fuel in terms of nonproliferation: we had long discussions ... We have to make some clearer conclusion on this issue.”

Lee Yong Joon

“If the five countries have equal shares of the construction costs, I believe such an organization may have to be established again. If, as in the case of the 1994 agreement, one country pays a privileged portion of the construction, I think establishing an independent organization like KEDO is not an efficient way. If they agree on a package, and there will be a lot of jobs such as supplying HFO or supplying LWR or other economic assistance to North Korea, then I think each country can make a division of work. (But it should be) only a supervisory group, not an implementation group. They will only supervise and adjust the timetables of various projects. If South Korea pays 70 percent, then South Korea can (form the organization). The other countries participating in the cost-sharing can send people to the organization. It should not be led by Americans like before. Like most international financing institutions, the privilege of decision making has to be given to the country which pays the greater part of the cost.”

Yeon Byung Jun

“When we negotiate and discuss with the DPRK, the representatives should not be changed. The same people should (always do it). It is very important that the representation be consistent. If we change people the (DPRK) accepts... they will not open their minds. If we have personal relationships, even if we have a hot debate, if we meet many times, they open their minds. If other DPRK people do not monitor, they open their minds; sometimes, they give secret information personally, in private. Personal relationships are very important in negotiations with the DPRK.

“They establish and prepare strategy based on Communist concepts that they learned from childhood ... We have to counter propose ... (based

on) capitalist mechanisms ... The head of delegation of the DPRK does not have any flexibility or any idea of options. They only follow the top people's instructions ... (Since) we have to give our ideas through them to the top decision makers ... we have to respect the DPRK attendees.

“In any new project or the resumption of KEDO, the North Koreans should have more responsibilities, more obligations, and more duties... Then they will be more cooperative ... Some (items) could be produced and supplied by the North Korean. There (would be) some work for us to do to improve the quality (of items) produced in North Korea, but we could do it. And it (would be) much more cost-effective. Just minor things, not safety-related items.”

Chang Ho Jun

“Now we are working on the Six Party Talks, and so far we have agreed on the main elements of what we and North Korea have to do to resolve the nuclear issue. And that is again divided into five working groups, denuclearization, energy and cooperation, normalization of relations, and so on. But (even) if each group does their best to implement what is assigned to them, it's good but I think this is not enough.

“There should be a more harmonized outcome, beyond the implementation of those main elements. That is, we can help or make North Korea feel that under the circumstances they could manage to survive, taking advantage of economic assistance and security guarantees. For that purpose, there should be some kind of chemistry among the major elements of this solution. In the case of KEDO, we thought about the physical implementation but we didn't think about the psychological reaction from North Korea. In the case of the Six Party Talks, I hope they take into consideration such psychological aspects, and try to make some chemistry; probably it could (show up) as trust and confidence on the part of North Korea.

“If the Six Party Talks succeed and they agree on doing something, then whether that is good or not, an organization such as KEDO will be inevitable. Probably they have to provide some considerable size of economic assistance. Who will arrange and coordinate it? There should be a certain organization to handle the complicated technical matters with regard to economic and energy assistance. But if that organization should be involved in policy matters, then I think it is not so good: the new organization will be different in that Russia and China are also involved. That is the main difference from KEDO. In the case of KEDO, it was homogeneous in terms of policy vis-a-vis North Korea. Politics should be handled in the framework of Six Party Talks, and the (new) organization, mainly the Secretariat, should be assigned to technical and implementation issues.”

Yang Cheong Sok

“Some South Koreans feel somewhat deceived by the change of US (North Korea policy). So some people are saying: when such things happen again, we need to be independent of the US. The US is not dependable, as well as not consulting its allies enough.

“Second, I think the more we talk with the North Koreans the more cooperation we can get. They move very slowly, particularly those guys in charge of the LWR project. (They) are not very powerful. We need to provide them with some rationale, or more ammunition, to persuade potential opponents inside North Korean politics. Sometimes we demonize North Korea when we are doing business ... (that) is the first thing we must avoid. Even though the North Koreans are very negative in the beginning, as things move on, North Koreans begin to move. So in every aspect of North Korean business, we need patience.”

Kim Jae Bum

“Now KEDO should be sold to the IAEA -- because the IAEA on one side and North Korea on the other would have better negotiations. If there is any agreement (in the Six Party Talks), North Korea will demand construction or restart of construction of the existing two (KEDO) reactors ... The IAEA should (then be given) a new role of continuing the LWR project in the DPRK.

“You must make your goal very clear ... The goal was to denuclearize the Korean Peninsula. Maybe that’s an intermediate goal, but what’s the ultimate goal ... If the goal had been clearer, (if) the joint purpose of the four Executive Board member states had been to reunify the Korean Peninsula, then the job (of KEDO) would have been easier because the ultimate goal would have been clearer. (Their objectives) diverged a lot because they gathered together as firemen to take care of the fire. After the fire is extinguished, what is the next step? Nobody knew.

“And they had the wrong hypothesis – the wrong assumption – that North Korea would sustain (itself) only five or ten years from 1994. So, the target date for the reactors could be 2003. By 2003, either the Korean Peninsula would be reunified or a peace regime would be in place ... Politically, the Clinton administration and the Kim Young Sam government didn’t have time to think about something that would happen in ten years, so they agreed on the imminent objectives but not beyond.”

Hahn Choong-hee

“One of the most important contributions of this project is ironically towards inter-Korean relations and cooperation. With this project, originally North Korea was always trying to work (only) with the US –

the heads of delegation had to be American. They wanted to show to the outside that they were working with the United States government, not South Korea. With KEPCO's work at the site, and then actual expert-level meetings in every KEDO-DPRK meeting ... KEPCO and ROK officials were always there and talked (with their DPRK counterparts) in Korean. So those discussions and actual progress on the project at the site gave North Korea a sense of the real situation, that the South Korean government is capable and has the willingness to support North Korea ... and after that I think that this experience with KEDO gave them a comfortable feeling about any other project with South Korea, like Kaesong or Kumgangsan.

“And with our outreach activities, we successfully (added) a number of countries all around the world as general – (that is) non-Executive Board -- members. So I think that more than 15 or 16 general members contributed with some amount of money – not big amounts but it increased the sense of participation of other countries in helping peace and security on the Korean Peninsula and helping North Korea.

“The US experience with the Agreed Framework was as a bilateral agreement ... very fragile. But with KEDO, even though we had very cumbersome internal procedures, we had discussion among the four (Executive Board) members to go to North Korea. North Korea was very sincere and respected the views of the four members of KEDO. Now with six parties, it is the same (merit) ... to increase the binding.

“(In the future), we can think about some kind of multilateral fund or mechanism to support North Korea ... I think that the Six Party Talks working group (on energy cooperation) can emerge as a multilateral mechanism to support North Korea because sometimes we have bilateral projects but sometimes we need a big amount of money to have certain big projects. We (can) have an international conference to support – like a pledging conference with the Six Party Talks, or other types of multilateral organizations or funds solely for supporting North Korea's energy and economy in the future. We can think about that – a multilateral regime or mechanism but it should not be exactly as a KEDO type. We can formulate the decision-making procedure differently. KEDO was quite unique because the Board members already fixed the level of contribution but were still missing 20-22 percent. It is a very unusual presetting mechanism.

“Maybe (it could be) a general international organization like the WFP (World Food Program) ... totally independent. (It would) manage the fund and gather a lot of voluntary contributions from all the countries ...”

Kim Hyung Suk

“I think that the lesson from the KEDO project is that we have to make clear agreements with the DPRK. I mean, if there is some ambiguity the DPRK, without a doubt, will use that ambiguity for the sake of (its interests). And we have to maintain good policy coordination among the related countries. The DPRK just wants to make separate battles with separate countries ... If there is some difference among related countries, it can be used by the DPRK.

“I think that the KEDO type of organization is very ideal and very meaningful to handle the DPRK issue because North Korea is some kind of international problem maker. So, the related countries can make a kind of consortium to handle the DPRK issue.

“(Regarding the addition of Russia and China) if there are lots of members, it means there are lots of opinions. It will need some time to make some kind of consensus. That is inevitable. But after making the consensus (we will have a stronger position).”

Ambassador Terada Terusuke

“I would say it was a very small Secretariat. Basically, it’s not so easy to manage even such an organization (as KEDO) because there is a constant change of staff at the level of Deputy Secretary Generals, just two-year assignments to the organization. So the problem with that organization (was that) from the start it lacked permanent officers who have a good institutional memory.”

“But the positive side of the organization (was that) it was empowered to negotiate directly with the North Koreans. We really thought KEDO could be a good model for the enhancement of multilateral cooperation with North Korea.”

Ambassador Katsunori Suzuki

“Whether you call it KEDO or not, I think multilateralism is very important, if not entirely necessary. It’s very important particularly as looked at from the Japanese side. Post-war Japan is sort of a cripple. We ourselves cannot solve the problem, particularly when your counterpart is like the DPRK, who believes only in physical power. So at least for Japan, multilateralism including Japan is essential.

“As for the provision of light-water reactors, I’m not quite sure. Perhaps there is a good ground for the provision because the whole problem that the DPRK has, has roots in the energy shortage, so one has to do something about that. But a paper agreement alone would not satisfy the problem, so we have to have all sorts of mechanisms with which we can (turn on and off) the supply of technology, money,

and so forth for the construction of the project. Otherwise, a normal country-to-country agreement won't be enough. You have to construct the mechanism on the understanding that the other chap is a criminal ... But what I'm afraid of is that if the KEDO light-water reactor project is resurrected really and the Americans repeat this same sort of campaign to let Japan and the ROK pay for the project, then it would be extremely difficult, particularly for the Japanese government ... then everyone in Japan would come up with severe criticism that the government has not learned from the past lesson ... Frankly speaking, not only Japan but I think most allies and friends of the US are really fed up with the sudden political change of the US administration of the day.

“The involvement of the EU is (also) very important ... because it's not just a regional problem of East Asia. It's a global problem, how to deal with the DPRK. And then that may have some indirect impact on Iran. Behind the EU there are now 27 countries, so I think the position of the EU, not only on KEDO but on other matters too, should be given more respect. It's a bit cumbersome because the representative of the EU has to go back to Brussels so often to get the formal blessing, but KEDO can speak in the name of the international community, thanks to the participation of the EU, and that is a far bigger merit.

“I thought that (KEDO was) a relatively efficient organization. I (also) had experience in dealing with the UN itself – too big, too cumbersome, and so inefficient, lots of red tape and so on. Compared with that, I think the KEDO Secretariat was perhaps more than acceptable.

“The KEDO people (were) a very important asset, that is, (they learned) how to deal with their counterparts on the DPRK side. There are thousands, almost millions of diplomats all over the world, but very few have direct experience in dealing with the DPRK. So I think that is a sort of software.”

Ambassador Yanai Shunji

“When people started going to North Korea to inspect the site and start the preparatory work, ground work, etc., that seemed to be a good instrument for promoting exchanges of people, for contacts between North Korea on the one hand and Japan, South Korea and the US on the other. I thought that would be perhaps conducive to the relaxation of tensions. I still think that had a certain effect in that direction, although unfortunately it ended. At least for a certain period of time, I thought there was some positive development in the sense that KEDO contributed to easing, relaxing tensions.

“Our bilateral relations with South Korea have always been difficult. But ... in my view, KEDO or in general North Korean issues worked as a positive factor, as far as Japan-South Korean relations were concerned because we were trying to resolve a very difficult issue together. We

were trying to build something new on those efforts.

“Generally speaking, the idea of making an arrangement of that kind with North Korea was not after all a bad thing, but the question is always whether we can trust the North Koreans. Unfortunately history shows that we cannot really trust them ... Although KEDO failed, I must confess that, as of now I have no better idea. We must think more seriously about why KEDO didn’t succeed. Perhaps it was because the outside world – the international community – was not able to discover what was going on in North Korea ... We (need to) find some better way of guaranteeing the implementation of a similar agreement. Perhaps we need more political and military pressure on North Korea.”

Kishi Hiroyuki

“If there is another KEDO, then my idea is it must be established mainly by the US as for personnel; as for the funds, it should be equally (shared among) the US, Japan, and Korea ... (and) from the beginning we should involve the Chinese or the EU or many (other) countries ... If there is only the Korean and Japanese governments then they cannot compromise.

“I know it was the Americans who were the driving force for accomplishment ... If there would be a next KEDO, this sort of power of the Americans should be utilized more. The Japanese and Koreans are not finally international people, they are really domestic people, even the media ... they think of the North Korean issue only tied with their own country. (In that case), they will fail. But at least (at the start) the Americans there I think (had a) global viewpoint. It’s very difficult to solve the North Korean issue from the domestic viewpoint only.”

Yamada Yoichiro

“There were positive and negative lessons. The positive lessons are for me personally, and for Japan as well I think, the flexibility in thinking of the US decision makers. I don’t think Japan would have thought of creating an international organization to deal with the North Korean situation. The decision to set up KEDO as an international organization and involve a lot of stakeholders and jointly deal with a difficult question was a good one. There is a lot to be learned about how to use an international organization to suit your foreign policy concerns. That’s something the US government alone could have done. It was probably beyond the power of the imagination of the Japanese government.

“On the other hand, the negative lesson was that some consensus points were left unresolved, like the 8 percent funding gap which constantly prevented us from more smooth operation or management of the organization. At the very beginning, I thought that the stakeholders

should really achieve agreement on funding and managerial questions if they (could) because these questions will be a constant irritant.

“Probably, we have to think about whether the four-party framework of KEDO was good or not. China was always a big player. We in the KEDO Secretariat were always thinking how China would respond and what the Chinese could do to compromise what KEDO was doing. The framework of six-party talks is probably superior to KEDO’s framework of four parties in the sense that China is a stakeholder as well. (However,) involving countries like China and Russia also (would) make the discussion more difficult and compromise the principled stance of the US, EU, and countries like that.

“If the decision was to make a LWR plant for the North Koreans, then I think it very natural for the countries concerned to create a consortium like KEDO.”

Mibae Taisuke

“At least in the future if we need to send some personnel for any purpose to North Korea – to Yongbyon, for example, for inspection verification, disablement and dismantlement – we will need some sort of protocol about their status. The most recent examples are the (KEDO) protocols, so I think we can use these.

“If we create some kind of organization to do something (involving) North Korea, maybe the members should be at least Japan, US, China, Russia, and South Korea ... But this is what North Korea and sometimes even China do not want the most ... because they say it might impress North Korea that these five parties are ganging up on North Korea.

Noda Hitoshi

“Nobody is really pushing the idea of KEDO again these days. (But) people who have some experience of KEDO and the Agreed Framework are feeling that something similar might have to be tried again. Even people who have no such direct experience are feeling that the American administration is (now) following the same course we might have seen 10 or fifteen years ago.”

Lucy Reed

“When I left I had been living with deep, deep, deep concerns about our inability to protect people at the site. We spent a lot of time talking about basically a substitute police force, code of contact, and if a KEDO employee or a laborer at the site went berserk and killed somebody, or as happened in the famous story about the ripped up picture of the Dear Leader, or if someone was abused by the North Koreans, there

was nothing we could do. We could not have weapons. We couldn't rely on the local police. That's why we need diplomatic privileges and immunities. Someone could have been picked up off our site, put in jail and never been seen again. (There was) no serious consular presence and that always worried me. (I worried) that I couldn't convince KEDO countries that we at least should have a private security force or find some way to put teeth into self-protection. There was no way out over the DMZ."

Jack Mulligan

"The one thing (contractors) worried about was the fact that KEDO had no assets so they could make no credible claim against KEDO. If there was any attempt to try to get money from any of the member countries, they would just claim sovereignty. So I think that there's going to have to be something different, money set aside in a pot that they can draw on, or something administered by an international tribunal or some other way that they've got some guarantee they are not going to get screwed like KEPCO did."

Roland Tricot

"One of the lessons is that you need a Legal Affairs Division. It's a tool that is going to remind Board members what they agreed on both internally and towards North Korea."

Ambassador Jack Pritchard

"Our funding source was too limited, in my opinion. We didn't tap into China; we didn't tap into Taiwan; we stayed away from the Middle East. The distribution of critical tasks was also very, very narrowly defined ... There was not a 'buy-in' or a 'stakeholdership' of anybody but South Korea.

"I don't know if there was a broader understanding of the importance of what was being accomplished by KEDO in terms of protocol development. That actually was an astonishing accomplishment.

"There was not a clear path in terms of legal issues that involved Congress. Even if KEDO were to be in process – the project were to be very successful – at the end of the day it required the US administration to go to Congress to get legislative or Congressional approval for some type of nuclear cooperation with North Korea. That groundwork was insufficient."

Changing the focus, another area of inquiry might be the organization's oversight of operations on the ground, at the site of the

project construction, and its interaction with the host nation. In this regard, North Korea probably cannot be used as a model for any country other than itself in a new agreement.

John Hoog

“I think there has to be a local office there. I don’t think it has to be nearly as big as it was. At one point we had four South Koreans, one Japanese, and one American. That was excessive, and part of the reason for it was inter-ministerial politics back in Seoul. If the Foreign Ministry is there, then the Unification Ministry has to be there as well. The consular kind of work we could do with one or two people at most. The technical oversight ... kept travel expenses (from headquarters) down a bit but we were mainly a conduit for passing papers back and forth, and that doesn’t take a lot of people either. For high-level relations with the North Koreans, you have to have somebody from headquarters. And you don’t want KEPCO to be the sole source of reporting to New York on what’s going on at the site. Given my experience, we would have been a lot busier and probably less bored if there were fewer of us and we were more fully occupied, but there would (still) have to be a KOK there.

“I would rather, if there were a KEDO II, do away with the idea of a liaison (officer) for the site back at headquarters. Let us (KOK) deal with the (Secretariat’s) divisions directly on issues that concerned us ... We thought the liaisons were more a captive of what New York wanted to do than an advocate for us.”

Ambassador David Lambertson

“I think KOK was a pretty good little operation. I have to give a lot of credit to the people who were there much longer at any given point than I was -- because it was not an easy place to be for long periods of time -- for staying focused on what they were supposed to be doing and for maintaining a good degree of professionalism. They did that and we had a pretty effective, relatively low-cost operation and one with good *esprit*.”

Conclusion

The three founding governments of KEDO should have had an easy time preserving a consensus on the basic deal with North Korea to provide two light water reactors in exchange for removal of the North Korean nuclear threat. The ending of the 1994 crisis and what appeared to be a victory for nuclear non-proliferation were only the start. A major energy project was to bring thousands of South Korean workers into the North, and an important beginning of a new economic relationship between the two halves of the peninsula, at least, was in prospect. In the forty years of uneasy armistice up to 1994, this represented no less than a paradigm shift in dealing with the North Korean problem.

However, the grand KEDO experiment began amidst a welter of confused aims: the Americans who had negotiated a bilateral deal with North Korea insisted on a multilateral organization and, once the threat of war had passed, allowed their attention and priorities to wander away from the new organization. The South Koreans wanted their own bilateral deal and were incensed at the Americans for leaving them out of the room, but quickly came to see the reactor project as an historic opportunity. The Japanese could not afford to be absent from such an important regional project, but what little enthusiasm they had waned with the North's 1998 missile launch and completely disappeared after the abductee issue came to the fore. The confusion was not aided by the three countries' asymmetric division of responsibilities, most especially over funding. The Europeans brought additional expertise and funding into the organization, and perhaps some needed distance from the problem, but did little to alter the drift that had set in at the policy level of at least two of the major capitals. And, in the final analysis, the North Koreans themselves were never able to fully embrace the cooperation and openness that such a project required. Security concerns were always paramount to Pyongyang, and signs of an apparently fundamental decision to reciprocally reduce tensions did not clearly emerge until the autumn of 2000.

If the KEDO experiment "failed," it was a failure of the responsible governments to seize the moment. Success required a clearer vision, persistence, and high-level attention. To have hoped for such ingredients to be sustained for over a decade was demonstrably beyond reach. But to have discarded one and a half billion dollars worth of investment, valuable equipment, years of effort to transform the Kumho site, and the expertise assembled in a single international agency – not to mention the protocols and relationships that were developed over that period – was a lamentable waste that even now is difficult to understand.

The biggest question now may well be whether or not North Korea will accept much less comply with *any* deal to fully denuclearize. Assuming, however, that governments will continue to seek such an agreement, substantial economic incentives will undoubtedly make up a large part of the deal. It is possible, perhaps even likely, that the incentives might include nuclear power plants, in which case Kumho would surely be chosen as the site. And any large project intended as the quid pro quo for non-proliferation compliance will be more attractive as a multilateral effort, both to spread the burden of funding and to create some mechanism for making responsible decisions about the completion or termination of the project.

In the case of KEDO, its origins in a bilateral agreement meant that Washington's political decision in 2003 to withdraw left its partners with no real options for resolving the problem in a way that would have allowed them to continue of the project. Could KEDO have continued, albeit with its project in costly suspension while the HEU issue was resolved, even after the US withdrew? Probably not. Tokyo and Brussels would have had a difficult time justifying such a decision to their publics, thus leaving only South Korea to manage a purely Korean effort, an outcome that would have created considerable unease among non-proliferation experts, at least. In the end, KEDO was exposed as an American organization in international clothing.

It is probably inevitable that any future organization such as KEDO, called on to fulfill diplomatic obligations using commercial tools, will face the same problems. The governments involved will want to keep a tight rein on the project, insuring it proceeds in step with political/security developments elsewhere. They will want to retain the power to slow the project -- or stop it entirely -- as events, in their view, warrant. In other words, they will want phasing. The commercial aspects of the project, however, will dictate a different schedule. Time, after all, is money. In the end, however, for any construction project that is part of the implementation of a complex diplomatic agreement seeking to address sensitive nonproliferation issues, economic planning and construction timelines must, to a large extent, be driven by diplomatic and political imperatives.

In the current cases of both North Korea and Iran, the negotiating record has left open the question of whether nuclear reactors for peaceful purposes may ultimately be a necessary part of a solution. Although it is difficult to imagine a more challenging environment than the one that confronted KEDO when it began work in Kumho, its experience proved that, even so, the physical problems of construction were surmountable.

As previously noted, however, the reactors could not be used unless certain matters were addressed. The need for the IAEA to determine through inspections the DPRK's full compliance with the Non-Proliferation Treaty was clear; indeed, it was a part of the Agreed Framework, as was expatriation of

the North's existing spent fuel and the dismantlement of its nuclear facilities at Yongbyon.

Not included in the agreement, however, were certain practical aspects of operating reactors -- regardless of location -- that had to be decided before the KEDO reactors could be operated.

First, satisfactory liability arrangements had to be in place. Many people, even some responsible officials in governments on KEDO's Executive Board, assumed that securing such arrangements was an inherent part of KEDO's mission, but in fact liability that would satisfy contractors depended on either of two approaches, neither of which could be accomplished or even touched by the KEDO Secretariat. The approach that was being pursued, albeit with little energy or conviction, was the new Convention on Supplementary Compensation for Nuclear Damage (CSC), which the United States had signed in September 1997 (but did not ratify until May 2008). As of this writing, the convention still has not entered into force, and its prospects remain unclear. However, assuming the convention was in force, it would still have been necessary to persuade the DPRK to sign and ratify it, thus accepting the principle that indemnification for damages was the sole responsibility of the plant operator (North Korea), and that to draw on the Special Drawing Rights established by the convention, the North would have to contribute to a financial pool on the basis of installed nuclear capacity. That initial "buy-in" would have been a substantial problem for cash-strapped North Korea, one that might have had to be solved with outside assistance.

The only feasible alternative to waiting for the convention to come into force would have been for a guarantee of indemnity from another party, in other words, for one or more of the KEDO countries to have assumed the national responsibility for indemnification, over and above insurance, that no one believed North Korea could provide. South Korea would have been the obvious choice for providing such indemnification, but there is no inherent reason why all KEDO member countries could not have shared that burden using roughly the same ratio as their contribution to the LWRs. Ideally, no country should be allowed to become a member, much less a board member, without contributing financially to both LWR construction and indemnification.

The second practical aspect that stood in the way of operating the KEDO reactors was the condition of North Korea's power grid. It was widely recognized that the electrical transmission lines in North Korea were in a badly decayed state, with some experts estimating the resulting power loss at around forty percent or more of generated electricity. No one would have been willing to attempt to surge 1,000 Mw of electricity through such lines for fear of catastrophic failure. A commercial approach to rehabilitating the grid was not out of the question, even for North Korea, but KEDO was never involved in any such effort, notwithstanding the promise made early on, and

had no way of knowing whether or when the grid might be ready for the first KEDO reactor. In retrospect, it seems clear that it is simply impractical to firewall such infrastructure issues from an agreement to provide LWRs and, if governments are prepared to risk non-repayment for the reactors, they should be able to take the same risk for the grid.

Reliable, backup power was a third issue that is relatively easier to address. In the years required for LWR construction, existing plants could be improved and new conventional plants could be built. These projects could be funded with international development assistance perhaps promoted by the LWR consortium.

The history of the organization suggests that, despite its warts, KEDO would probably be a good model for an international organization to manage another large project, particularly if it emerged from a truly multilateral negotiation. This is *not* to suggest that such a negotiation should produce an agreement that mirrors the Agreed Framework, only with more signatories. Other aspects of that agreement would have to be tightened to make it possible to maintain political support over the long haul of any undertaking comparable to KEDO. Although the problems internal to KEDO often seemed difficult to those involved at the time, in fact they were overcome with good judgment by serious, dedicated people. The real issue, and the one that proved fatal in the end, came when the four Executive Board capitals lost their sense of common purpose, and thus the policy foundation for KEDO disappeared. Ultimately, the organization could be no more successful than what the policies and direction of the implementing governments allowed.

Appendix 1

Agreed Framework Between The United States of America And The Democratic People's Republic of Korea

Geneva, October 21, 1994

Delegations of the governments of the United States of America (U.S.) and the Democratic People's Republic of Korea (DPRK) held talks in Geneva from September 23 to October 21, 1994, to negotiate an overall resolution of the nuclear issue on the Korean Peninsula.

Both sides reaffirmed the importance of attaining the objectives contained in the August 12, 1994 Agreed Statement between the U.S. and the DPRK and upholding the principles of the June 11, 1993 Joint Statement of the U.S. and the DPRK to achieve peace and security on a nuclear-free Korean peninsula. The U.S. and the DPRK decided to take the following actions for the resolution of the nuclear issue:

I. Both sides will cooperate to replace the DPRK's graphite-moderated reactors and related facilities with light-water reactor (LWR) power plants.

1) In accordance with the October 20, 1994 letter of assurance from the U.S. President, the U.S. will undertake to make arrangements for the provision to the DPRK of a LWR project with a total generating capacity of approximately 2,000 MW(e) by a target date of 2003.

- The U.S. will organize under its leadership an international consortium to finance and supply the LWR project to be provided to the DPRK. The U.S., representing the international consortium, will serve as the principal point of contact with the DPRK for the LWR project.
- The U.S., representing the consortium, will make best efforts to secure the conclusion of a supply contract with the DPRK within six months of the date of this Document for the provision of the LWR project. Contract talks will begin as soon as possible after the date of this Document.
- As necessary, the U.S. and the DPRK will conclude a bilateral agreement for cooperation in the field of peaceful uses of nuclear energy.

2) In accordance with the October 20, 1994 letter of assurance from the U.S. President, the U.S., representing the consortium, will make arrangements to

offset the energy foregone due to the freeze of the DPRK's graphite-moderated reactors and related facilities, pending completion of the first LWR unit.

- Alternative energy will be provided in the form of heavy oil for heating and electricity production.
- Deliveries of heavy oil will begin within three months of the date of this Document and will reach a rate of 500,000 tons annually, in accordance with an agreed schedule of deliveries.

3) Upon receipt of U.S. assurances for the provision of LWR's and for arrangements for interim energy alternatives, the DPRK will freeze its graphite-moderated reactors and related facilities and will eventually dismantle these reactors and related facilities.

- The freeze on the DPRK's graphite-moderated reactors and related facilities will be fully implemented within one month of the date of this Document. During this one-month period, and throughout the freeze, the International Atomic Energy Agency (IAEA) will be allowed to monitor this freeze, and the DPRK will provide full cooperation to the IAEA for this purpose.
- Dismantlement of the DPRK's graphite-moderated reactors and related facilities will be completed when the LWR project is completed.
- The U.S. and the DPRK will cooperate in finding a method to store safely the spent fuel from the 5 MW(e) experimental reactor during the construction of the LWR project, and to dispose of the fuel in a safe manner that does not involve reprocessing in the DPRK.

4) As soon as possible after the date of this document U.S. and DPRK experts will hold two sets of experts talks.

- At one set of talks, experts will discuss issues related to alternative energy and the replacement of the graphite-moderated reactor program with the LWR project.
- At the other set of talks, experts will discuss specific arrangements for spent fuel storage and ultimate disposition.

II. The two sides will move toward full normalization of political and economic relations.

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

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

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

III. Both sides will work together for peace and security on a nuclear-free Korean peninsula.

1) The U.S. will provide formal assurances to the DPRK, against the threat or use of nuclear weapons by the U.S.

2) The DPRK will consistently take steps to implement the North-South Joint Declaration on the Denuclearization of the Korean Peninsula.

3) The DPRK will engage in North-South dialogue, as this Agreed Framework will help create an atmosphere that promotes such dialogue.

IV. Both sides will work together to strengthen the international nuclear non proliferation regime.

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

2) Upon conclusion of the supply contract for the provision of the LWR project, ad hoc and routine inspections will resume under the DPRK's safeguards agreement with the IAEA with respect to the facilities not subject to the freeze. Pending conclusion of the supply contract, inspections required by the IAEA for the continuity of safeguards will continue at the facilities not subject to the freeze.

3) 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 (INFCIRC/403), 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.

Robert L. Gallucci
Head of Delegation of the
United States of America,
Ambassador at Large
of the United States of America

Kang Sok Ju
Head of the Delegation of the
Democratic People's Republic of
Korea, First Vice-Minister of
Foreign Affairs of the Democratic
People's Republic of Korea

Appendix 2

List of Supply Agreement Protocols

Protocol on Quality Assurance and Warranties 2001

Protocol on Training 2000

Protocol on Non-Payment 1997

Protocol on Site Take-Over, Site Access and Use of the Site 1997

Protocol on Labor, Goods, Facilities and Other Services 1997

Protocol on Juridical Status, Privileges and Immunities, and Consular Protection of KEDO in the DPRK 1996

Protocol on Communications 1996

Protocol on Transportation 1996

Appendix 3

KEDO Charter

The Korean Peninsula Energy Development Organization 600 3rd Avenue, 12th Floor New York, NY 10004

AGREEMENT ON THE ESTABLISHMENT OF THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

INTRODUCTORY NOTE

The Agreement on the Establishment of the Korean Peninsula Energy Development Organization (the Agreement) was signed on 9 March 1995, in New York.

A protocol signed by the Governments of the Republic of Korea, Japan and the United States on 19 September 1997 in Washington amended Article V(b), Article VI(b) and (e), Article VIII(d) and (f) and Article XIV(b), (c) and (d) of the Agreement.

The amendments to Article V(b), Article V(b) and Article XIV(b) make international organizations, including regional integration organizations, as well as states, eligible for membership in the Organization and representation on the Executive Board on the basis of substantial and sustained support for the Organization.

[Text]

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

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

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

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

Wishing to cooperate in taking the steps necessary to implement the Agreed

Framework, consistent with the Charter of the United Nations, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Statute of the International Atomic Energy Agency; and

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

Have agreed as follows:

ARTICLE I

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

ARTICLE II

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

ARTICLE III

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

- . (a) Evaluate and administer projects designed to further the purposes of the Organization;

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

ARTICLE IV

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

- . (b) Activities undertaken by the Organization shall be subject to the DPRK's compliance with the terms of all agreements between the DPRK and KEDO and to the DPRK acting in a manner consistent with the Agreed Framework. In the event that these conditions are not satisfied, the Organization may take appropriate steps.
- . (c) The Organization shall obtain formal assurances from the DPRK that nuclear materials, equipment, or technology transferred to the DPRK in connection with projects undertaken by the Organization shall be used exclusively for such projects, only for peaceful purposes, and in a manner that ensures the safe use of nuclear energy.

ARTICLE V

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

ARTICLE VI

- . (a) The authority to carry out the functions of the Organization shall be vested in the Executive Board.
- . (b) The Executive Board shall consist of one representative of each of the original Members and representatives of subh other Members as may be approved. Such approval shall be made by decision of the Executive Board existing at the time of such approval on the basis of substantial and sustained support to the Organization. The terms and conditions in connection with this approval shall be determined in each case by the Executive Board existing at the time of such approval.
- . (c) The Executive Board shall select a Chair from among the representatives serving on the Executive Board for a term of two years.
- . (d) The Executive Board shall meet whenever necessary at the request of the Chair of the Executive Board, the Executive Director, or any representative serving on the Executive Board, in accordance with rules of procedure it shall adopt.

- . (e) Decisions of the Executive Board shall be made by a consensus of the representatives serving on the Executive Board or, if a consensus is not achievable, by a majority vote. If voting is required, each Member that is represented on the Executive Board (hereinafter referred to as “Executive Board Member”) shall be entitled to one vote to be cast by its representative serving on the Executive Board.
- . (f) The Executive Board may approve such rules and regulations as may be necessary or appropriate to achieve the purposes of the Organization.
- . (g) The Executive Board may take any necessary action on any matter relating to the functions of the Organization.

ARTICLE VII

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

ARTICLE VIII

- . (a) The staff of the Organization shall be headed by an Executive Director. The Executive Director shall be appointed by the Executive Board as soon as possible after this Agreement enters into force.
- . (b) The Executive Director shall be the chief administrative officer of the Organization and shall be under the authority and subject to the control of the Executive Board. The Executive Director shall exercise all the powers delegated to him or her by the Executive Board and shall be responsible for conducting the ordinary business of the Organization, including the organization and direction of a headquarters and a staff, the preparation of annual budgets, the procurement of financing, and the approval, execution and administration of contracts to achieve the purposes of the Organization. The Executive Director may delegate such powers to other officers or staff members as he or she deems appropriate. The Executive Director shall perform his or her duties in accordance with all rules and regulations approved by the Executive Board.

- . (c) The Executive Director shall be assisted by two Deputy Executive Directors. The two Deputy Executive Directors shall be appointed by the Executive Board.
- . (d) The Executive Director and the Deputy Executive Directors shall be appointed for terms of two years and may be reappointed. The terms of employment, including salaries, of these officers shall be determined by the Executive Board. The Executive Director and the Deputy Executive Directors may be removed prior to the expiration of their terms by a decision of the Executive Board.
- . (e) The Executive Director shall have the authority to approve projects, execute contracts, and enter into other financial obligations on behalf of the Organization within the guidelines adopted by the Executive Board and the limits of the approved budget, provided that the Executive Director shall obtain the prior approval of the Executive Board for projects, contracts, or financial obligations that exceed a specified value, which shall be determined by the Executive Board based on the need for effective and efficient operation of the Organization.
- . (f) The Executive Director shall establish staff positions and terms of employment, including salaries, subject to the approval of the Executive Board. The Executive Director shall appoint qualified personnel to such staff positions and dismiss personnel as necessary, in accordance with rules and regulations to be approved by the Executive Board. The Executive Director shall seek to appoint a staff in which the nationals of the original Members and other Executive Board Members are fairly represented, paying due regard to the importance of securing the highest standards of integrity, efficiency, and technical competence.
- . (g) The Executive Director shall report to the Executive Board and the General Conference on the activities and finances of the Organization. The Executive Director shall promptly bring to the notice of the Executive Board any matter that may require Executive Board action.
- . (h) The Executive Director, with the advice of the Deputy Executive Directors, shall prepare rules and regulations consistent with this Agreement and the purposes of the Organization. The rules and regulations shall be submitted to the Executive Board for its approval prior to implementation.
- . (i) In the performance of their duties, the Executive Director and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action that might reflect on their position as international officials responsible only to the Organization. Each Member undertakes to respect the exclusively international character of the responsibilities of

the Executive Director and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE IX

- . (a) The Executive Board shall establish Advisory Committees to provide advice to the Executive Director and the Executive Board, as appropriate, on specific projects being carried out by the Organization or proposed to be carried out by the Organization. Advisory Committees shall be established for the light- water reactor project, the project for the provision of interim energy alternatives, and such other projects as the Executive Board may determine.
- . (b) Each Advisory Committee shall include representatives of the original Members and other Members that support the project for which the Advisory Committee was established.
- . (c) The Advisory Committees shall meet at such times as they may determine.
- . (d) The Executive Director shall keep the Advisory Committees fully informed of matters pertinent to their respective projects, and the Executive Board and Executive Director shall give due consideration to the recommendations of the Advisory Committees.

ARTICLE X

- . (a) The budget for each fiscal year shall be prepared by the Executive Director and shall be approved by the Executive Board. The Organization's fiscal year shall be from January 1 to December 31.
- . (b) Each Member may make voluntary contributions to the Organization by providing or making available such funds as it deems appropriate. Such contributions may be made directly to the Organization or by paying the Organization's contractors. Contributions shall be made by cash deposit, escrow, letter of credit, promissory note, or by such other legal means and in such currency as may be agreed between the Organization and the contributor.
- . (c) The Organization may seek contributions from such other public or private sources as it deems appropriate.
- . (d) The Organization shall establish an account or accounts to receive funds from Members or other sources, including independent accounts for those funds to be reserved for specific projects and the administration of the Organization. Interest or dividends accruing on such accounts shall be reinvested for activities of the Organization. Excess funds shall

be distributed as set forth in Article III(i).

ARTICLE XI

- . (a) Members may make available to the Organization or its contractors goods, services, equipment, and facilities that may be of assistance in achieving the purposes of the Organization.
- . (b) The Organization may accept from such other public or private sources as it deems appropriate any goods, services, equipment, and facilities that may be of assistance in achieving the purposes of the Organization.
- . (c) The Executive Director shall be responsible for valuing in-kind contributions to the Organization, whether direct or indirect. Members shall cooperate with the Executive Director in the valuation process, including by providing regular reports of in-kind contributions and access to records necessary to verify the value of such contributions.
- . (d) In the event of a dispute concerning the value of an in-kind contribution, the Executive Board shall review the matter and render a decision.

ARTICLE XII

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

ARTICLE XIII

- . (a) To carry out its purposes and functions, the Organization shall possess legal capacity and, in particular, the capacity to: (1) contract; (2) lease or rent real property; (3) acquire and dispose of personal property; and (4) institute legal proceedings. Members may accord the Organization such legal capacity in accordance with their respective laws and regulations where necessary for the Organization to carry out its purposes and functions.
- . (b) No Member shall be liable, by reason of its status or participation as a Member, for acts, omissions, or obligations of the Organization.
- . (c) Information provided to the Organization by a Member shall be used exclusively for the purposes of the Organization and shall not be

publicly disclosed without the express consent of that Member.

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

ARTICLE XIV

- . (a) This Agreement shall enter into force upon signature by the original Members.
- . (b) States approved by the Executive Board for membership in accordance with Article V(b) may become Members by submitting an instrument of acceptance of this Agreement to the Executive Director, which shall become effective on the date of receipt by the Executive Director.
- . (c) This Agreement may be amended, terminated, or suspended by written agreement of all Executive Board Members, or, if such agreement is not achievable by written agreement of a majority of the Executive Board Members.
- . (d) Amendment to this Agreement shall enter into force ninety days after the date on which the written agreement to amend is registered with the Executive Director. Any Executive Board Member that does not enter into that written agreement may withdraw from this Agreement with the Executive Director and the entry into force of the amendment by giving written notice of withdrawal to the Executive Director, with such withdrawal becoming effective upon receipt of the notice by the Executive Director notwithstanding the provisions of Article XV.

ARTICLE XV

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

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

Appendix 4

Executive Order Making KEDO an International Organization

EXECUTIVE
ORDER

EO 12997
Effective Date: April 01, 1996

Responsible Office: Office of Policy Coordination and International Relations

Subject: KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

TEXT

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), and having found that the Korean Peninsula Energy Development Organization is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act, I hereby designate the Korean Peninsula Energy Development Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreements or by congressional action.

/s/William J. Clinton

THE WHITE HOUSE,
April 1, 1996.

Appendix 5

The Supply Agreement

AGREEMENT ON SUPPLY OF A LIGHT-WATER REACTOR PROJECT TO THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA BETWEEN THE KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION AND THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Korean Peninsula Energy Development Organization (hereinafter referred to as "KEDO") and the Government of the Democratic People's Republic of Korea (the Democratic People's Republic of Korea is hereinafter referred to as the "DPRK"),

Recognizing that KEDO is an international organization to finance and supply a light-water reactor project (hereinafter referred to as the "LWR project") to the DPRK as specified in the Agreed Framework between the United States of America and the Democratic People's Republic of Korea of October 21, 1994 (hereinafter referred to as the "U.S.-DPRK Agreed Framework"),

Recognizing that the U.S.-DPRK Agreed Framework and the June 13, 1995, U.S.-DPRK Joint Press Statement specify that the U.S. will serve as the principal point of contact with the DPRK for the LWR project, and

Reaffirming that the DPRK shall perform its obligations under the relevant provisions of the U.S.-DPRK Agreed Framework and shall accept the LWR project as specified in the June 13, 1995, U.S.-DPRK Joint Press Statement,

Have agreed as follows:

ARTICLE I

SCOPE OF SUPPLY

1. KEDO shall provide the LWR project, consisting of two pressurized light-water reactor (LWR) units with two coolant loops and a generating capacity of approximately 1,000 MW(e) each, to the DPRK on a turnkey basis. The reactor model, selected by KEDO, will be the advanced version of U.S.-origin design and technology currently under production.
2. KEDO shall be responsible for the scope of supply for the LWR project, specified in Annex 1 to the Agreement. The DPRK shall be responsible for other tasks and items necessary for the LWR project, specified in Annex 2 to the Agreement.
3. The LWR project shall conform to a set of codes and standards equivalent

to those of the IAEA and the U.S. and applied to the reactor model referred to in paragraph 1 of this Article. The set of codes and standards shall apply to the design, manufacture, construction, testing, commissioning, and operation and maintenance of the LWR plants, including safety, physical protection, environmental protection, and storage and disposal of radioactive waste.

ARTICLE II

TERMS OF REPAYMENT

1. KEDO shall finance the cost of the tasks and items specified in Annex I to the Agreement to be repaid by the DPRK on a long-term, interest-free basis.
2. The amount to be repaid by the DPRK will be jointly determined by KEDO and the DPRK based on examination by each side of the technical description of the LWR project specified in the commercial supply contract for the LWR project, the fair and reasonable market value of the LWR project, and the contract price payable by KEDO to its contractors and subcontractors under the commercial supply contracts for the tasks and items specified in Annex I to the Agreement. With respect to the tasks and items specified in Annex I to the Agreement, the DPRK shall not be responsible for any additional costs, other than those that result from actions by the DPRK or from its failure to take actions for which it is responsible, in which case the repayment amount shall be increased by an amount jointly determined by KEDO and the DPRK, based on actual added cost to the LWR project payable by KEDO.
3. The DPRK shall repay KEDO for each LWR plant in equal, semiannual installments, free of interest, over a 20-year term after completion of each LWR plant, including a three-year grace period beginning upon completion of that LWR plant. The DPRK may pay KEDO in cash, cash equivalents, or through the transfer of goods. In the event that the DPRK pays in cash equivalents or goods (such payment is hereinafter referred to as “in-kind payment”), the value of such in-kind payment shall be determined jointly by KEDO and the DPRK, based on an agreed formula for determining fair and reasonable market price.
4. Details concerning the amount and terms of repayment shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE III

DELIVERY SCHEDULE

1. KEDO shall develop a delivery schedule for the LWR project aimed at achieving a completion date of 2003. The schedule of relevant steps to be performed by the DPRK under the U.S.-DPRK Agreed Framework, as specified in Annex 3 to the Agreement, shall be integrated with the delivery schedule for the LWR project with the aim of achieving the performance of such steps by 2003 and the smooth implementation of the LWR project. As specified in the U.S.-DPRK Agreed Framework, the provision of the LWR project and the

performance of the steps specified in Annex 3 to the Agreement are mutually conditional.

2. For purposes of the Agreement, “completion” of an LWR plant means completion of performance tests that is satisfactory in accordance with the set of codes and standards specified in Article I(3). Upon completion of each plant, the DPRK shall issue to KEDO a take-over certificate for each respective plant.

3. Details concerning the schedule for the delivery of the LWR project and the performance of the steps specified in Annex 3 to the Agreement, including mutually agreed procedures for any necessary changes and completion of a significant portion of the LWR project as specified in Annex 4 to the Agreement, shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE IV

IMPLEMENTING ARRANGEMENTS

1. The DPRK may designate a DPRK firm as its agent and authorize the firm to enter into implementing arrangements as necessary to facilitate the LWR project.

2. KEDO shall select a prime contractor to carry out the LWR project and shall conclude a commercial supply contract with this prime contractor. A U.S. firm will serve as program coordinator to assist KEDO in supervising overall implementation of the LWR project, and KEDO will select the program coordinator.

3. KEDO and the DPRK shall facilitate practical arrangements that both sides deem necessary, including efficient contacts and cooperation among the participants in the LWR project, to ensure the expeditious and smooth implementation of the LWR project.

4. Written communications required for the implementation of the Agreement may be executed in the English or Korean language. Existing documents and data may be used or transmitted in their original languages.

5. KEDO, its contractors and subcontractors shall be permitted to operate offices at the project site and other directly related locations such as the nearby port or airport as shall be agreed between KEDO and the DPRK, as the progress of the LWR project may require.

6. The DPRK shall recognize KEDO’s independent juridical status and shall accord KEDO and its staff such privileges and immunities in the territory of the DPRK as necessary to carry out the functions entrusted to KEDO. KEDO’s juridical status and privileges and immunities shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

7. The DPRK shall take steps to protect the safety of all personnel sent to

the DPRK by KEDO, its contractors and subcontractors, and their respective property. Appropriate consular protection in conformity with established international practice shall be allowed for all such personnel. Necessary consular arrangements shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

8. KEDO shall take steps to ensure that all personnel sent to the DPRK by KEDO, its contractors and subcontractors shall undertake to respect the relevant laws of the DPRK, as shall be agreed between KEDO and the DPRK, and to conduct themselves at all times in a decent and professional manner.

9. The DPRK shall not interfere with the repatriation, in accordance with customs clearance procedures, by KEDO, its contractors and subcontractors of construction equipment and remaining materials from the LWR project.

10. The DPRK shall seek recovery solely from the property and assets of KEDO for the satisfaction of any claims arising under the Agreement or from any of the acts and omissions, liabilities, or obligations of KEDO, its contractors and subcontractors in direct connection with the Agreement, protocols and contracts pursuant to the Agreement.

ARTICLE V

SITE SELECTION AND STUDY

1. KEDO shall conduct a study of the preferred Kumho area near Sinpo City, South Hamgyong Province to ensure that the site satisfies appropriate site selection criteria as shall be agreed between KEDO and the DPRK and to identify the requirements for construction and operation of the LWR plants, including infrastructure improvements.

2. To facilitate this study, the DPRK shall cooperate and provide KEDO with access to the relevant available information, including the results of the studies that were performed previously at this site. In the event that such data is not sufficient, KEDO shall make arrangements to obtain additional information or to conduct the necessary site studies.

3. Details concerning site access and the use of the site shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE VI

QUALITY ASSURANCE AND WARRANTIES

1. KEDO shall be responsible for design and implementation of a quality assurance program in accordance with the set of codes and standards specified in Article I(3). The quality assurance program shall include appropriate procedures for design, materials, manufacture and assembly of equipment and components, and quality of construction.

2. KEDO shall provide the DPRK with appropriate documentation on the quality assurance program, and the DPRK shall have the right to participate in the implementation of the quality assurance program, which will include appropriate inspections, tests, commissioning, and review by the DPRK of the results thereof.

3. KEDO shall guarantee that the generating capacity of each LWR plant at the time of completion, as defined in Article III(2), will be approximately 1,000 MW(e). KEDO shall guarantee that the major components provided by relevant contractors and subcontractors will be new and free from defects in design, workmanship, and material for a period of two years after completion, but in no event longer than five years after the date of shipment of such major components. The LWR fuel for the initial loading for each LWR plant shall be guaranteed in accordance with standard nuclear industry practice. KEDO shall guarantee that the civil construction work for the LWR project will be free of defects in design, workmanship, and material for a period of two years after completion.

4. Details concerning the provisions of this Article and the content and procedures for issuance and receipt of warranties shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE VII

TRAINING

1. KEDO shall design and implement a comprehensive training program in accordance with standard nuclear industry practice for the DPRK's operation and maintenance of the LWR plants. Such training shall be held at mutually agreeable locations as soon as practicable. The DPRK shall be responsible for providing a sufficient number of qualified candidates for this program.

2. Details concerning the training program shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE VIII

OPERATION AND MAINTENANCE

1. KEDO shall assist the DPRK to obtain LWR fuel, other than that provided pursuant to Annex 1 to the Agreement, through commercial contracts with a DPRK-preferred supplier for the useful life of the LWR plants.

2. KEDO shall assist the DPRK to obtain spare and wear parts, consumables, special tools, and technical services for the operation and maintenance of the LWR plants, other than those provided pursuant to Annex 1 to the Agreement, through commercial contracts with a DPRK-preferred supplier for the useful life of the LWR plants.

3. KEDO and the DPRK shall cooperate to ensure the safe storage and disposition of the spent fuel from the LWR plants. If requested by KEDO, the DPRK shall relinquish any ownership rights over the LWR spent fuel and agree to the transfer of the spent fuel out of its territory as soon as technically possible after the fuel is discharged, through appropriate commercial contracts.

4. Necessary arrangements for the transfer of LWR spent fuel out of the DPRK shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE IX

SERVICES

1. The DPRK shall process for approval all applications necessary for completion of the LWR project expeditiously and free of charge. These approvals shall include all permits issued by the DPRK nuclear regulatory authority, customs clearance, entry and other permits, licenses, site access rights, and site take-over agreements. In the event that any such approval is delayed beyond the normally required time or denied, the DPRK shall notify KEDO promptly of the reasons therefor, and the schedule and cost for the LWR project may be adjusted as appropriate.

2. KEDO, its contractors and subcontractors, and their respective personnel shall be exempt from DPRK taxes, duties, charges and fees as shall be agreed between KEDO and the DPRK, and expropriation in connection with the LWR project.

3. All personnel sent to the DPRK by KEDO, its contractors and subcontractors shall be allowed unimpeded access to the project site and to appropriate and efficient transportation routes, including air and sea links, to and from the project site as designated by the DPRK and agreed between KEDO and the DPRK. Additional routes will be considered as the progress of the LWR project may require.

4. The DPRK shall, to 'the extent possible, make available at a fair price port services, transportation, labor, potable water, food, off-site lodging and offices, communications, fuel, electrical power, materials, medical services, currency exchanges and other financial services, and other amenities necessary for living and working by personnel sent to the DPRK by KEDO, its contractors and subcontractors.

5. KEDO, its contractors and subcontractors, and their respective personnel shall be allowed unimpeded use of available means of communications in the DPRK. In addition, KEDO, its contractors and subcontractors shall be permitted by the DPRK to establish secure and independent means of communications for their offices, based on a timely and case-by-case review of equipment requests and in accordance with relevant telecommunications regulations of the DPRK.

6. Details concerning the above-referenced services shall be specified, as appropriate, in one or more separate protocols between KEDO and the DPRK pursuant to the Agreement.

ARTICLE X

NUCLEAR SAFETY AND REGULATION

1. KEDO shall be responsible for assuring that design, manufacture, construction, testing, and commissioning of the LWR plants are in compliance with nuclear safety and regulatory codes and standards specified in Article I(3).
2. The DPRK shall issue a site take-over certificate to KEDO upon completion of the site survey. A construction permit shall be issued by the DPRK nuclear regulatory authority to KEDO, prior to the power block excavation, based on its review of the preliminary safety analysis report and the site studies and on its determination of whether the LWR project complies with the nuclear safety and regulatory codes and standards specified in Article I(3). A commissioning permit shall be issued by the DPRK nuclear regulatory authority to KEDO prior to initial fuel loading, based on its review of the final safety analysis report, which includes the as-built design of the LWR plant, and results of non-nuclear commissioning tests. KEDO shall provide the results of nuclear commissioning tests and operator training records to the DPRK in support of its issuance of an operating permit to the operator. KEDO shall provide the DPRK, in a timely manner, with the safety analysis reports, necessary information including that on the codes and standards, and such other documents as KEDO deems necessary in order to make the required determination. The DPRK shall ensure that these permits will be issued in a timely manner not to impede the project schedule.
3. The DPRK shall be responsible for the safe operation and maintenance of the LWR plants, appropriate physical protection, environmental protection, and, consistent with Article VIII(3), the safe storage and disposal of radioactive waste, including spent fuel, in conformity with the set of codes and standards specified in Article I(3). In this regard, the DPRK shall assure that appropriate nuclear regulatory standards and procedures are in place to ensure the safe operation and maintenance of the LWR plants.
4. Prior to the shipment of any fuel assemblies to the DPRK, the DPRK shall observe the provisions set forth in the Convention on Nuclear Safety (done at Vienna, September 20, 1994), the Convention on Early Notification of a Nuclear Accident (adopted at Vienna, September 26, 1986), the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (adopted at Vienna, September 26, 1986), and the Convention on the Physical Protection of Nuclear Material (opened for signature at Vienna and New York, March 3, 1980).
5. After the completion of the LWR plants, KEDO and the DPRK shall conduct safety reviews to ensure the safe operation and maintenance of the LWR

plants. In this regard, the DPRK shall provide necessary assistance to enable such reviews to be conducted as expeditiously as possible and shall give due consideration to the results of such reviews. Details concerning the schedule and procedures for conducting the safety reviews shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

6. In the event of a nuclear emergency or accident, the DPRK shall permit immediate access to the site and information by personnel sent by KEDO, its contractors and subcontractors to determine the extent of safety concerns and to provide safety assistance.

ARTICLE XI

NUCLEAR LIABILITY

1. The DPRK shall ensure that a legal and financial mechanism is available for meeting claims brought within the DPRK for damages in the event of a nuclear incident (as defined in the Vienna Convention on Civil Liability for Nuclear Damage, done at Vienna, May 21, 1963) in connection with the LWR plants. The legal mechanism shall include the channeling of liability in the event of a nuclear incident to the operator on the basis of absolute liability. The DPRK shall ensure that the operator is able to satisfy such liabilities.

2. Prior to the shipment of any fuel assemblies to the DPRK, the DPRK shall enter into an indemnity agreement with KEDO, and shall secure nuclear liability insurance or other financial security to protect KEDO, its contractors and subcontractors, and their respective personnel in connection with any third party claims in any court or forum arising from activities undertaken pursuant to the Agreement in the event of nuclear damage or loss occurring inside or outside the territory of the DPRK as a result of a nuclear incident in connection with the LWR plants. Details concerning the indemnity agreement and insurance or other financial security shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

3. The DPRK shall bring no claims against KEDO, its contractors and subcontractors, and their respective personnel arising out of any nuclear damage or loss.

4. This Article shall not be construed as acknowledging the jurisdiction of any court or forum or as waiving any immunity of either side.

5. The domestic legal system of the DPRK may provide that, if the operator proves that the nuclear damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the operator may be relieved wholly or partly from his obligation to pay compensation in respect of the damage suffered by such person. The operator shall have a right of recourse only if the damage caused by a nuclear incident results from an act or omission done

with intent to cause damage, against the individual acting or omitting to act with such intent. For purposes of this paragraph, the terms “person” and “individual” shall have the same meaning as in the Vienna Convention on Civil Liability for Nuclear Damage (done at Vienna, May 21, 1963).

ARTICLE XII

INTELLECTUAL PROPERTY

1. In the course of performing its obligations under the Agreement, each side may receive, directly or indirectly, information relating to the intellectual property of the other side. All such information and any materials or documents containing such information (collectively, the “Intellectual Property”) are proprietary and confidential to such other side, whether or not protected by patent or copyright law. Each side agrees to protect the confidentiality of the other side’s Intellectual Property and to use it only for the purposes of the LWR project as provided for in the Agreement and in accordance with international norms, including practices established by the Paris Convention on the Protection of Industrial Property Rights.
2. Except as otherwise agreed between the two sides, neither side shall replicate, copy, or otherwise reproduce any of the equipment or technology of the other side provided in connection with the LWR project.

ARTICLE XIII

ASSURANCES

1. The DPRK shall use the reactors, technology, and nuclear material (as defined in accordance with international practice) transferred pursuant to the Agreement, as well as any nuclear material used therein or produced through the use of such items, exclusively for peaceful, non-explosive purposes.
2. The DPRK shall ensure that the reactors, technology, and nuclear material transferred pursuant to the Agreement, as well as any nuclear material used therein or produced through the use of such items, are used properly and exclusively for the purposes of the LWR project.
3. The DPRK shall provide effective physical protection in accordance with international standards with respect to the reactors and nuclear material transferred pursuant to the Agreement, as well as any nuclear material used therein or produced through the use of such items for the useful life of such reactors and nuclear material.
4. The DPRK shall apply IAEA safeguards to the reactors and nuclear material transferred pursuant to the Agreement, as well as any nuclear material used therein or produced through the use of such items, for the useful life of such reactors and nuclear material.

5. The DPRK shall at no time reprocess or increase the enrichment level of any nuclear material transferred pursuant to the Agreement, or any nuclear material used in or produced through the use of any reactor or nuclear material transferred in the LWR project.

6. The DPRK shall not transfer any nuclear equipment or technology or nuclear material transferred pursuant to the Agreement, or any nuclear material used therein or produced through the use of such items, outside the territory of the DPRK unless otherwise agreed between KEDO and the DPRK, except as provided for in Article VIII(3).

7. The above-referenced assurances may be supplemented by DPRK assurances, through appropriate arrangements, to KEDO members that provide to the DPRK any components controlled under the Export Trigger List of the Nuclear Suppliers Group for the LWR project, if and when such KEDO member or members and the DPRK deem it necessary.

ARTICLE XIV

FORCE MAJEURE

Either side's performance shall be considered excusably delayed if such delay is due to one or more events that are internationally accepted to constitute force majeure. Each such event is herein referred to as an event of "Force Majeure". The side whose performance is delayed by an event of Force Majeure shall provide notice of such delay to the other side promptly after such event has occurred and shall use such efforts as are reasonable in the circumstances to mitigate such delay and the effect thereof on such side's performance. The two sides shall then consult with each other promptly and in good faith to determine whether alternative performance and the adjustment of the schedule and cost of the LWR project are necessary.

ARTICLE XV

DISPUTE RESOLUTION

1. Any disputes arising out of the interpretation or implementation of the Agreement shall be settled through consultations between KEDO and the DPRK, in conformity with the principles of international law. KEDO and the DPRK shall organize a coordinating committee composed of three people from each side to help settle disputes that may arise in the process of implementing the Agreement.

2. Any dispute that cannot be resolved in this manner shall, at the request of either side and with the consent of the other side, be submitted to an arbitral tribunal composed as follows: KEDO and the DPRK shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If, within thirty days of the mutual agreement for arbitration, either KEDO or the DPRK has not designated an arbitrator, either KEDO or

the DPRK may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall require the concurrence of two arbitrators. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal shall be binding on KEDO and the DPRK. Each side shall bear the cost of its own arbitrator and its representation in the arbitral proceedings. The cost of the Chairman in discharging his duties and the remaining costs of the arbitral tribunal shall be borne equally by both sides.

ARTICLE XVI

ACTIONS IN THE EVENT OF NONCOMPLIANCE

1. KEDO and the DPRK shall perform their respective obligations in good faith to achieve the basic objectives of the Agreement.
2. In the event that either side fails to take its respective steps specified in the Agreement, the other side shall have the right to require the immediate payment of any amounts due and financial losses in connection with the LWR project.
3. In the event of late payment or nonpayment by either side with respect to financial obligations to the other side incurred in implementing the Agreement, the other side shall have the right to assess and apply penalties against that side. Details concerning the assessment and application of such penalties shall be specified in a separate protocol between KEDO and the DPRK pursuant to the Agreement.

ARTICLE XVII

AMENDMENTS

1. The Agreement may be amended by written agreement between the two sides.
2. Any amendment shall enter into force on the date of its signature.

ARTICLE XVIII

ENTRY INTO FORCE

1. The Agreement shall constitute an international agreement between KEDO and the DPRK, and shall be binding on both sides under international law.
2. The Agreement shall enter into force on the date of its signature.
3. The Annexes to the Agreement shall be an integral part of the Agreement.
4. The protocols pursuant to the Agreement shall enter into force on the date of their respective signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed the Agreement.

DONE at New York City on this 15th day of December, 1995, in duplicate in the English language.

For the Korean Peninsula Energy
Development Organization

For the Government of the Democratic
People's Republic of Korea

Stephen W. Bosworth

Ho Jong

Executive Director
Korean Peninsula Energy
Development Organization

Ambassador-at-Large
Ministry of Foreign Affairs
Democratic People's Republic of Korea

ANNEX 1

The scope of supply of the LWR plants referenced in Article I of the Agreement for which KEDO shall be responsible shall consist of the following tasks and items:

1. Site survey.
2. Site preparation, which shall consist of clearing and leveling of the site and provision of electricity necessary for construction at the site and water services at the site necessary for completion of the LWR plants.
3. Preconstruction infrastructure that KEDO deems is integral to and exclusively for use in the construction of the LWR plants, which shall consist of roads within the site boundary, access roads from the site to off-site roads, barge docking facilities and a road from there to the site, a waterway and water catchment facilities including weir, and housing and related facilities for KEDO, its contractors and subcontractors.
4. Technical documents necessary for the operation and maintenance of the LWR plants, including the construction schedule.
5. Power plant systems, facilities, buildings, structures, equipment, and auxiliary facilities, including laboratory and measurement equipment and cold machine shop, that KEDO deems necessary for the two LWR plants.

6. A low and medium radioactive waste storage building with a ten-year storage capacity for the two LWR plants.
7. All tests required up to take-over.
8. The inventory of spare parts, wear parts, consumables, and special tools as KEDO deems necessary for a two-year period of plant operation, in accordance with standard nuclear industry practice.
9. Nuclear fuel for the initial loading of each LWR, including such fuel rods as may be necessary to preserve safety for initial operation.
10. A comprehensive training program for the operation and maintenance of the LWR plants implemented by KEDO and its contractors in accordance with standard nuclear industry practice, including provision of a full-scope simulator.
11. Technical support services as KEDO deems necessary for operation and maintenance of the first LWR plant for one year after completion of that LWR plant, in accordance with standard nuclear industry practice.
12. Overall project management.

ANNEX 2

The tasks and items referenced in Article I(2) of the Agreement for which the DPRK shall be responsible shall consist of the following:

1. Securing the site (land and marine) for the LWR project, including relocation of population, existing structures and facilities.
2. Provision of/access to information and documents necessary for implementation of the LWR project available in the DPRK.
3. Stable supply of electricity for commissioning of the two LWR plants as available in the DPRK.
4. Access to existing harbor, rail, and airport facilities designated by the DPRK and agreed between KEDO and the DPRK in the vicinity of the site for the transportation of materials and equipment necessary for the LWR project.
5. Securing aggregate and quarry site.
6. Communication lines to the LWR project site, to the extent possible, pursuant to Article IX of the Agreement.
7. Qualified operators trained by KEDO to participate in the commissioning.

ANNEX 3

The relevant steps to be performed by the DPRK in connection with the supply of the LWR project under the U.S.-DPRK Agreed Framework, as referenced in Article III(1) of the Agreement, consist of the following:

1. The DPRK will remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons and will allow implementation of its safeguards agreement under the Treaty, as specified in the U.S. -DPRK Agreed Framework.
2. The DPRK will continue the freeze on its graphite-moderated reactors and related facilities and provide full cooperation to the IAEA in its monitoring of the freeze.
3. The DPRK will refrain from the construction of new graphite-moderated reactors and related facilities.
4. In the event that U.S. firms will be providing any key nuclear components, the U.S. and the DPRK will conclude a bilateral agreement for peaceful nuclear cooperation prior to the delivery of such components. Such agreement will not be implemented until a significant portion of the LWR project is completed, as specified in Annex 4 to the Agreement. For purposes of the Agreement, “key nuclear components” are the components controlled under the Export Trigger List of the Nuclear Suppliers Group.
5. The DPRK will continue cooperation on safe storage and ultimate disposition of spent fuel from the 5MW(e) experimental reactor.
6. Upon the signing of the Agreement, the DPRK will permit resumption of ad hoc and routine inspections under the DPRK’s safeguards agreement with the IAEA with respect to facilities not subject to the freeze.
7. 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 IAEA safeguards agreement, including taking all steps that may be deemed necessary by the IAEA.
8. When the first LWR plant is completed, the DPRK will begin dismantlement of its frozen graphite-moderated reactors and related facilities, and will complete such dismantlement when the second LWR plant is completed.
9. When delivery of the key nuclear components for the first LWR plant begins, the transfer from the DPRK of spent fuel from the 5 MW(e) experimental reactor for ultimate disposition will begin and will be completed when the first LWR plant is completed.

ANNEX 4

A significant portion of the LWR project, referenced in Article III(3) of the Agreement, means the following. A further elaboration of the definition will be specified in the separate protocol referenced in Article III(3).

1. Conclusion of the contract for the LWR project.
2. Completion of site preparation, excavation, and completion of facilities necessary to support construction of the LWR project.
3. Completion of initial plant design for the selected site.
4. Specification and fabrication of major reactor components for the first LWR unit as provided for in project plans and schedules.
5. Delivery of essential non-nuclear components for the first LWR unit, including turbines and generators, according to project plans and schedules.
6. Construction of the turbine buildings and other auxiliary buildings for the first LWR unit, to the stage provided for in project plans and schedules.
7. Construction of the reactor building and containment structure for the first LWR unit to the point suitable for the introduction of components of the Nuclear Steam Supply System.
8. Civil construction and fabrication and delivery of components for the second LWR unit according to project plans and schedules.

Appendix 6

Statement by KEDO Executive Board

(November 14, 2002)

The Executive Board of the Korean Peninsula Energy Development Organization (KEDO) met today in New York to discuss the implications of North Korea's acknowledgement that it is pursuing a program to produce highly-enriched uranium for nuclear weapons. The Executive Board, consisting of the United States, the Republic of Korea, Japan, and the European Union, agreed on the following:

To condemn North Korea's pursuit of a nuclear weapons program, which is a clear and serious violation of its obligations under the Agreed Framework, the Nonproliferation Treaty (NPT), its IAEA Safeguards Agreement, and the Joint South-North Declaration on the Denuclearization of the Korean Peninsula.

North Korea's nuclear weapons program is a shared challenge to all responsible states.

This program threatens regional and international security and undermines the international nonproliferation regime based on the NPT.

North Korea must promptly eliminate its nuclear weapons program in a visible and verifiable manner.

South-North Korea, Japan-North Korea, and EU-North Korea dialogues serve as important channels to resolve bilateral and international concerns and to call upon North Korea to visibly and quickly honor its commitment to give up its nuclear weapons program. North Korea's future relations and interaction with KEDO and the members of its Executive Board hinge on the complete and permanent elimination of its nuclear weapons program.

Heavy fuel oil deliveries will be suspended beginning with the December shipment. Future shipments will depend on North Korea's concrete and credible actions to dismantle completely its highly-enriched uranium program. In this light, other KEDO activities with North Korea will be reviewed.

The Executive Board will continue to consult on next steps with regard to future activities of KEDO.

Appendix 7

Internal KEDO Assessment of High Level Meeting at Hyangsan

March 26, 2004

New York

On March 12, KEDO and the DPRK GB initialed a Memorandum of Understanding that comprehensively and explicitly ended the issue of the North's "temporary measures." Every one of the twelve measures that the North raised in December has been dealt with in a way that protects the protocols and agreements KEDO has signed with the DPRK. The safety of all KEDO personnel is guaranteed. Moreover, the GB has assured KEDO that it has dropped the idea of imposing fines on KEDO personnel.

In addition, the two delegations signed an ROD on the New Docking Facility (NDF), which opens the way for KEDO to use the facility on a regular basis. The NDF is more convenient, more efficient, and cheaper to use than Yanghwa Port.

The previous two sessions, in January and February, had narrowed the two sides' differences to four key issues—DPRK access to the site, destruction of equipment and documents, application of DPRK law, and the NDF. Each of these was resolved consistent with the EB's instructions.

- Access--There has been no change in the status of the site or its inviolability. The MOU lays out procedures for approving North Korean visits to the site which are consistent with existing arrangements.
- Destruction--KEDO retains complete control over its property at the site. Most important, the North has dropped its earlier position that KEDO would be "responsible" for any destruction of equipment or documents.
- Laws/fines--The DPRK has explicitly reaffirmed its commitment to Article 21 of the P&I Protocol. It has agreed to "separate discussions—apart from the temporary measures issue" on issues concerning

DPRK laws and regulations “with regard to the entry, exit and stay procedures,” language which considerably narrows the scope of the talks. And, it has agreed that these discussions will be based on a “new and practical approach departing from the present position,” language which DPRK GB Deputy Director General An Yong Hwan explicitly said means that the North has dropped the idea of fines.

- NDF—The two issues that had blocked agreement on use of the NDF for well over a year (posting a DPRK guard and use of the CIQ area) have been resolved in a way that protects KEDO’s interests. In a separate ROD, apart from the MOU, the DPRK abandoned its previous insistence on unimpeded access to the CIQ area (i.e., the passenger terminal building). KEDO has agreed to establishment of a DPRK guard post on the outer intake breakwater, with specified limitations on the number of guards, their armament, their role, their conduct, and their route to/from their post. The two sides agreed orally that there will be a two week period while they work out final details and brief personnel on the relevant procedures, before the ROD comes into full effect.

- Procedural matters—The DPRK dropped its earlier threats on unilateral implementation. During the March session, the North never challenged the understanding that the temporary adjustments to procedures laid out in the MOU would not be implemented until the MOU came into force.

The initialed MOU entered into force on March 23, 2004 when KEDO Executive Director Kartman and DPRK GB Director General Choi exchanged the letters to confirm the effectuation of the MOU.

Appendix 8

US Press Statement, September 2005

Press Statement

Sean McCormack, Spokesman

New York City, NY

September 19, 2005

North Korea -- U.S. Statement

The following statement by the head of the U.S. delegation to the Six-Party Talks, Christopher R. Hill, was released in Beijing on September 19, 2005

Assistant Secretary of State Christopher R. Hill's Statement at the Closing Plenary of the Fourth Round of the Six-Party Talks September 19, 2005

I would like to join with my colleagues from the ROK and Russian delegations in expressing my deep appreciation for China's leadership in chairing and hosting this fourth round of the Six-Party Talks. The United States is able to join in supporting the Joint Statement on the basis of the following understandings: Let me start by noting that the goal of the Six-Party Talks is the prompt and verifiable denuclearization of the Korean Peninsula. When this goal is achieved, it will open up a new chapter for all Korean people. We know that the document includes undertakings for all the parties; my government is prepared to fulfill all our undertakings.

All elements of the DPRK's past and present nuclear programs – plutonium and uranium – and all nuclear weapons will be comprehensively declared and completely, verifiably and irreversibly eliminated, and will not be reconstituted in the future. According to these principles, the DPRK will return, at an early date, to the NPT and come into full compliance with IAEA safeguards, including by taking all steps that may be deemed necessary to verify the correctness and completeness of the DPRK's declarations of nuclear materials and activities.

But in addition to these obligations, there are also benefits that the DPRK will accrue. But these benefits will only accrue in the context of the denuclearization of the Korean Peninsula. In the statement of principles, there is a reference to the "appropriate time" to discuss the subject of the DPRK's use of nuclear energy for peaceful purposes, such as the subject of the provision of a light water reactor, but that "appropriate time" will only come when the DPRK has:

Promptly eliminated all nuclear weapons and all nuclear programs, and this has been verified to the satisfaction of all parties by credible international means, including the IAEA; and,

When the DPRK has come into full compliance with the NPT and IAEA safeguards, and has demonstrated a sustained commitment to cooperation and transparency and has ceased proliferating nuclear technology.

When these conditions have been met, I want to be very clear – we will support such a discussion.

The United States notes that the NPT recognizes the right of parties to the Treaty to pursue peaceful uses of nuclear energy in the context of compliance with Articles I and II of the Treaty. Foremost among the Treaty’s obligations is the commitment not to possess or pursue nuclear weapons. The Treaty also calls for its parties to adhere to safeguards agreements with the IAEA. Thus, the DPRK’s statement concerning its “right” to the peaceful uses of nuclear energy should be premised upon the completion of verification of the DPRK’s elimination of all nuclear weapons and existing nuclear programs and full compliance with the NPT and IAEA safeguards.

I would like to note also that the United States supports a decision to terminate KEDO by the end of the year. (emphasis added)

We should also note for the record that the United States will take concrete actions necessary to protect ourselves and our allies against any illicit and proliferation activities on the part of the DPRK.

The United States desires to completely normalize relations with the DPRK, but as a necessary part of discussions, we look forward to sitting down with the DPRK to address other important issues. These outstanding issues include human rights abuses, biological and chemical weapons programs, ballistic missile programs and proliferation, terrorism, and illicit activities.

The Joint Statement accurately notes the willingness of the United States to respect the DPRK’s sovereignty and to exist with the DPRK peacefully together. Of course, in that context the United States continues to have serious concerns about the treatment of people and behavior in areas such as human rights in the DPRK. The U.S. acceptance of the Joint Statement should in no way be interpreted as meaning we accept all aspects of the DPRK’s system, human rights situation or treatment of its people. We intend to sit down and make sure that our concerns in these areas are addressed.

The Joint Statement sets out a visionary view of the end-point of the process of the denuclearization of the Korean Peninsula. It is a very important first step to get us to the critical and urgent next phase – implementation of DPRK commitments outlined above and the measures the United States and other

parties would provide in return, including security assurances, economic and energy cooperation, and taking steps toward normalized relations.

The United States believes that it is imperative to move rapidly on an agreement to implement the goals outlined in the Joint Statement. We look forward to working with all the other parties, including the DPRK, to do so.

Released on September 19, 2005

List of Interviewees

U.S.

Desaix Anderson

Ambassador Stephen Bosworth

Robert Gallucci

John Hoog

Ambassador Thomas Hubbard

Ambassador David Lambertson

Jack Mulligan

Gary Samore

Aloysius O'Neill

Ambassador Charles Pritchard

Lucy Reed

ROK

Ambassador Chang Sun Sup

Chang Ho Jun

Ambassador Cho Kyu-hyung

Ambassador Kim Young-mok

Ambassador Choi Young Jin

Hahn Choong-hee

Kim Eun Soo

Kim Jae Bum

Kim Hyung-suk

Ambassador Lee Young Joon

Ambassador Pak In Kook

Yang Cheong Sok

Yeon Byung Jun

Japan

Kishi Hiroyuki

Mibae Taisuke

Nakano Kenji

Noda Hitoshi

Ambassador Suzuki Katsunari

Ambassador Terada Terusuke

Yamada Yoichiro

Yamamoto Eiji

Ambassador Yanai Shunji

EU

Bram Brands

Roland Tricot

