

# The Amateur Computerist

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Ten Years: Ban Ki-moon, UN, Tension in Korea

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## Table of Contents

Introduction . . . . .	<a href="#">Page 1</a>
Security Council Problem Facing the UN . . . . .	<a href="#">Page 3</a>
UN Reform: What Role Will Ban Play? . . . . .	<a href="#">Page 6</a>
Does Ban Ki-moon Have a UN Vision? . . . . .	<a href="#">Page 8</a>
North Korea and Banco Delta Asia . . . . .	<a href="#">Page 14</a>
Behind the Blacklisting of Banco Delta Asia . . . . .	<a href="#">Page 16</a>
Status of the Six-Party Talks . . . . .	<a href="#">Page 19</a>
UN Resolution Supporting Inter-Korean Summit . . . . .	<a href="#">Page 21</a>
UN SC Controversy: North Korea Satellite . . . . .	<a href="#">Page 24</a>
UN SC Increases Tension in Korea . . . . .	<a href="#">Page 26</a>
U.S. Policy Toward N. K. Fails to Engage . . . . .	<a href="#">Page 27</a>
U.S. Misrepresents Role as 'UN Command' . . . . .	<a href="#">Page 30</a>
United Nations Command As Camouflage . . . . .	<a href="#">Page 32</a>
Review: <i>The Hidden History of the Korean War</i> . . . . .	<a href="#">Page 38</a>

## Introduction

This is the first part of two related issues of the *Amateur Computerist*, Vol. 28 No. 1 and No. 2. The two are our effort to look back over the 10 years that Ban Ki-moon was UN Secretary-General so as to be able to view with some perspective the achievements and failures of his time in this high office at the United Nations.

The two issues will explore how the UN has acted to determine an appropriate response to the tensions on the Korean Peninsula and the result of such actions.

### Presenting the Problem

Vol. 28 No. 1 of the *Amateur Computerist* will look at a set of articles, many of which were written for and published by the English language edition, *OhmyNews International* (OMNI) of the Korean online newspaper known as OhmyNews. These articles basically cover the period fall 2006 to summer 2010. OhmyNews ended its English edition in

2010. Articles written after 2010 appeared on the blog known as *netizenblog* at the taz.de website, which is the website of the German newspaper *Tageszeitung*. Though the newspaper is published in German, the articles on the *netizenblog* covering the UN appeared in English.

The articles in this issue cover a significant set of developments that it is important to review and examine.

The articles document that when Ban Ki-moon became the new Secretary-General in January 2007, he had substantial background and experience from the South Korean perspective to understand and to be able to make some contribution to the problem of extreme tension on the Korean Peninsula. The 6-party talks had recently broken down. The U.S. had immediately sabotaged the September 19, 2005 agreement. Instead of supporting the agreement that it signed along with the Republic of Korea (ROK), the Democratic People's Republic of Korea (DPRK), the People's Republic of China, the Russian Federation, and Japan, the U.S. put sanctions on a bank that held DPRK funds and made it impossible for the DPRK to use the international banking system. The DPRK left the 6-party talks and took other measures in response to this U.S. action.

On October 13, 2006 the UN General Assembly approved the Security Council recommendation to appoint Ban Ki-moon to the position of the next Secretary-General. At that time, South African Ambassador Dumisani Kumalo advised the incoming Secretary-General about the need to "listen to the views of each and every member state if he is to be able to act in the interest of the entire membership."

At the time, Ban pledged to consult widely in his preparations for his new position. "I will listen to your concerns, expectations and admonitions," he promised UN member states. The very next day, October 14, 2006, an event took place which demon-

strated that for Ban to successfully carry out his promise, he would have to undertake another difficult task. On October 14, the Security Council held a meeting to approve a resolution that would impose harsh sanctions on the DPRK to punish it for the nuclear test it had carried out just a few days earlier, on October 9, 2006.

In response to the Security Council sanctions, the UN Ambassador for the DPRK stated his objection. He was only called on to speak after the Security Council members had voted to approve Security Council Resolution 1718 mandating that all members of the UN implement the sanctions.

His statement indicated that there was a deep problem in the functioning of the Security Council. He indicated that the Security Council members had not done any investigation about the problem that had led the DPRK to carry out its nuclear test. The DPRK explained that it needed a nuclear defense against what it explained were hostile acts by the U.S. against it. The DPRK maintained that it had a sovereign right to seek such a means of defense.

What this situation demonstrated was that there was a serious problem at the UN with the workings of the Security Council. If Ban Ki-moon was to live up to the commitment he made to listen to the views of each and every member, he would need to find a way to support Security Council reform that ensured that each member state was invited to make its position known as part of the consultations and discussion before the Security Council voted on any action that would affect that member state. Given that this problem was identified, the question was raised as to what would happen in the 10 years that Ban Ki moon would preside at the helm of the UN. Would he make any progress on supporting the expression of views of all members and of helping to support the needed reform of the Security Council? If he did that it might have made it possible for the Security Council to hear such views as required by Chapter V, Article 32 of the UN Charter.<sup>1</sup>

The articles in this issue document the challenges Ban Ki-moon faced as he served his two 5 year terms as Secretary-General. There are examples of the contending pressures he was faced with as well as the advice or criticism he received that could have been helpful in his efforts to negotiate a path through these challenges.

The articles demonstrate that the Secretary-General can be a focal point of communication among

the United Nations' various and contending interests and that his ability to fulfill on this role can be of critical importance to the organization.

Throughout many of the events documented on the following pages, however, there was a failure to do the necessary diplomatic negotiation to support the needed work despite various promises made by the Secretary-General to help.

For example in 2007 when there was the Roh Moo-hyun and Kim Jung-il Korean North South summit, Ban Ki moon welcomed the event:

Today, as Secretary-General, I feel a much more personal obligation to do all I can to encourage and facilitate the continuing work for peace, security and reunification on the Korean peninsula. I am convinced that the historic inter-Korean summit will pave the way for a permanent peace regime and eventual reunification. It will lead to increased inter-Korean reconciliation, cooperation, and shared prosperity. I also believe it will act as a catalyst for continued progress in the six-party talks on the denuclearization of the Korean peninsula.<sup>2</sup>

He concluded his statement: "As Secretary-General, I stand ready to provide every assistance required, in close cooperation with the international community."

This promise, however, failed to be fulfilled as had many other such promises that Ban Ki-moon made as Secretary-General. The articles in this issue document that failure.

The next issue of the *Amateur Computerist* will shed further light on this problem by looking at when such efforts were made by forces other than the UN Secretary-General. Lessons from such efforts are sorely needed in the future functioning of the UN Security Council.

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#### Notes

1. Article 32 Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

2. <http://www.un.org/press/en/2007/sgsm11250.doc.htm>

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[Editor's note: The following article appeared in *Ohmynews International* on October 17, 2006]

## **The Problem Facing the UN Can Ban Ki-moon Help Solve the Problem With the Security Council?**

by Ronda Hauben  
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The official selection on Oct. 13, 2006 of Ban Ki-moon of South Korea as the new Secretary-General of the United Nations could not come at a more propitious time. Why, one may ask? Hailing from the Republic of Korea (South Korea), Ban will have before him the daunting task of bringing the best possible contributions from the international community to bear on many of the difficult problems that erupt in the world. Along with his appointment to the post at the UN this past week, and the congratulations from diplomats from many regions of the world at a ceremony held at the General Assembly, was the event that took place the following day: the imposition of Article 41, Chapter 7 sanctions on North Korea by the Security Council as punishment for the test of a nuclear device several days earlier.

Though Ban does not take office for his new position until Jan. 1, 2007, a crisis has already developed that will require the best efforts and resources he can muster. In congratulating him on his selection, several of the diplomats noted the great achievements of South Korea in having transformed itself from "the status of least developed country, to an industrialized highly developed nation" and "as the 11<sup>th</sup> largest economy in the world" (in the words of Gambian Ambassador to the UN Crispin Grey-Johnson). Speaking about Ban, Grey-Johnson, who is chairman of the African regional group at the UN, "the developments in his own region of the world call for wisdom and cautious diplomacy" in order to be able to "mediate this very complex security situation that is now unfolding in the Korean Peninsula."

In his acceptance speech to the General Assembly upon his appointment as the eighth Secretary-General of the UN, Ban acknowledged that he was following "in a line of remarkable leaders." That "each of the men in his own way, came on board at

the UN at a critical juncture in the organization's history." That "each wondered what the coming years would require as they took over the leadership role of the preeminent international organization."

The Secretary-General elect expressed his respect for the role played by the current Secretary-General, Kofi Annan, and promised to build on his legacy. Explaining the need to hear the views and concerns of all the member nations of the UN, Ban pledged to consult widely in his preparations for assuming his new position. "I will listen attentively to your concerns, expectations and admonitions," he promised the 192 member states.

Congratulating Ban, South African Ambassador to the UN Dumisani Kumalo proposed that in order for the Secretary-General elect to be able to act in the interest of the entire membership, he will need to "listen to the views of each and every member state."

How the future Secretary-General can help to solve the problems that come before the UN is not only a critical question for the international community, but also a critical task in the face of the increased tension being experienced on the Korean Peninsula.

While several of the speeches at the General Assembly ceremony spoke to the need for wide-ranging consultations and discussions in order to diffuse tensions and determine how to solve difficult problems, recent actions at the Security Council the day after the appointment of Ban demonstrate that a very different process is practiced by that body.

Only after an agreement was achieved among the five permanent members of the Security Council and supported by the 10 temporary members, and voted on, did the Council agree to hear the party to the problem that was before them. And only after hearing the views of all the permanent members of the Security Council – the U.S., France, Britain, China and Russia – and some of the temporary members about why they voted for the sanctions on North Korea did the council allow the representative from the Democratic People's Republic of Korea (North Korea), Pak Gil Yon, to have a few minutes to speak. His talk was followed by a brief statement from the South Korean ambassador to the UN, who spoke in support of the sanctions.

In the brief opportunity he had to speak, Pak indicated that his country felt it was the victim of hostile acts by the U.S. and that it had a sovereign right to defend itself from such hostile acts. Also, he

indicated that the process of the Security Council in mandating sanctions on his country was more like the activity of gangsters than an activity representing a legitimate means of investigating a dispute and determining how to diffuse a tense situation.

Thus, the speeches supporting discussion and investigation in the General Assembly on Friday, Oct. 13, and the closed decision-making process that culminated the following day in the issuing of sanctions against North Korea, are in stark contrast to each other.

The statements by several of the five permanent members of the Security Council, the members who have the power to veto Security Council decisions, emphasized that their resolution imposing sanctions against North Korea reflected the condemnation by the “international community” and that all the nations of the UN now had a legal obligation to carry out the provisions of the sanctions.

While the Security Council does indeed have the power to impose such sanctions on a country in the name of the UN, the process by which the sanctions were decided, is a sorry demonstration of power politics that involves very few of the 192 member countries that make up the UN.

The chairman of the Latin American and Caribbean regional group, in his comments to the future Secretary-General, explained that there are important challenges for the UN in the role it plays in “today’s world.”

“International public opinion demands that the Security Council and other bodies of the organization should perform a much better job. There is a trend at this time for great and infinite opportunities as well as unprecedented risks,” explained Ecuadorian Ambassador to the UN Diego Cordovez.

“The United Nations, it is said, should be a base, a forum, a mode that would enable the international community to take advantage of those transcendental opportunities and foresee and neutralize potential risks,” Cordovez added. “For those reasons, it is important to insist on the need to reform thoroughly and deeply the organization and undoubtedly, that would be the main task and responsibility of our new Secretary-General.” (He was referring to the failure of the member countries to reform the Security Council.)

“It is inconceivable,” he said, “that we are discussing the reform of the Security Council for decades, preparing infinite numbers of formulas, doing report after report on that item, and yet it

remains – immutable and impossible to the critics for its lack of representation and its parsimonious conduct to confront [the] world’s crises.”

The act of bringing sanctions against a member state by the Security Council, with no investigation into the grievances that motivated North Korea’s actions, stands as an egregious example of the failure of the obligation of the UN to hear from each member state and to provide a place where problems can be heard and discussed to find a solution.

North Korea says its problems are with the U.S. and that it has developed nuclear devices because of its need to defend itself from the U.S. That is a serious statement requiring investigation to see who has caused the problem and who merits the imposition of sanctions.

Another aspect of the current process that ended in sanctions is that the five permanent members of the Security Council are powerful countries that possess nuclear weapons. These very countries have failed to meet their obligations under the Nuclear Nonproliferation Treaty to carry out disarmament.<sup>1</sup>

Some scholars and diplomats explain that they are not surprised that North Korea believes it needs to develop a nuclear capacity in order to protect itself from danger. Given the actions of the U.S. government in branding North Korea as part of the “axis of evil” and attacking another, Iraq, which it had similarly branded, is but one of the reasons some scholars believe the U.S. government provided North Korea with a legitimate justification to develop nuclear weapons.<sup>2</sup> In its brief talk at the Security Council meeting, North Korea expressed one of its disappointments:

It was gangster-like for the Security Council to adopt such a coercive resolution against the Democratic People’s Republic of Korea while neglecting the nuclear threat posed by the United States against his country.... The council was incapable of offering a single word of concern when the United States threatened to launch nuclear pre-emptive attacks, reinforced its armed forces and conducted large-scale military exercises near the Korean Peninsula.

It must be remembered that the five permanent members of the Security Council possess thousands of nuclear weapons.

Although commentators and scholars who feel

there is justification for North Korea's actions want to discourage the proliferation of nuclear weapons, they explain that punishing North Korea, while ignoring those countries who are in the club of nations possessing nuclear weapons, can only breed cynicism and hostility to nonproliferation and enforcement efforts.

That North Korea can claim that it felt compelled to develop a nuclear device, is a signal that the current regime of power politics is not working in a way that provides alternatives for a small nation that feels threatened by the nations that are nuclear powers. North Korea's situation is a demonstration that there is need for serious discussion by the 192 member states of the UN to understand the problems that North Korea claims compel it to develop nuclear weapons as a means of securing its borders and protecting its sovereignty.

There is indeed an international community, and there is indeed a serious challenge facing it. The five big nuclear powers who wield veto power on the Security Council can bring to bear punishment upon a small nation that endeavors to develop nuclear capability. This, however, will only compound the problem as it will only increase the hostility and resentment that the small nation feels from such unequal treatment at the hands of those who themselves possess nuclear weapons and who use the power this capability bestows on them in such a self-serving manner.

The two Koreas have brought to the world stage the need for a truly international organization, one that will consider all its members' concerns and needs, and find ways to support serious consideration of the problems such nations have but are unable to solve themselves.

The urgent problem facing the UN at this juncture in its history is not whether North Korea has developed and tested a nuclear device. It is the breakdown reflected by the lack of participation and investigation by the international community into how a crisis will be handled once it develops, and whether the concerns and problems of those who are involved in the crisis will be considered as part of the process of seeking a solution. It is how the UN functions when tensions reach a point where serious attention is needed to help to understand and solve a problem.

Unfortunately for the world, and for North Korea, there was no such process in the decision to impose sanctions on North Korea. The decision to impose sanctions on North Korea was not made by

the international community. It was the decision of a small set of nuclear countries. Who was responsible for the crisis was not explored before determining blame, and thus the proclaimed solution is likely only to worsen the problem rather than solve it. Yet the actual problem exists and the fact that people of the world recognize it is highlighted by a recent poll taken in South Korea, which showed that 43 percent of the population blames the U.S. government for North Korea's test of a nuclear device, while only 37.2 percent blame the North Koreans.<sup>3</sup>

The actions in the Security Council to punish North Korea occurred without the needed exploration of what had motivated North Korea to turn to nuclear weapons as a means of self-defense. Can the UN be changed in the needed ways so that it will be able to handle such problems? This is the urgent issue facing the UN as the future Secretary-General takes over the post in January. This is one of the challenges facing Ban Ki-moon, member nations and people who are part of the UN organization as it embarks on a new chapter in the history of this needed global organization.

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#### Notes

1. See "Pyongyang's Nuke Test Sparks Fission Over Response." <http://us.oneworld.net/article/view/140740/1>
2. See "What About North Korea's sovereignty?" <http://www.jsonline.com/story/index.aspx?id=518268>
3. See "U.S. Most Responsible for Nuclear Test: Poll." <http://times.hankooki.com/lpage/nation/200610/kt2006101517230011990.htm>

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The above article can be seen at: [http://english.ohmynews.com/articleview/article\\_view.asp?no=323351&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=323351&rel_no=1)

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## What Role Will Ban Ki-moon Play?

### The Struggle Over Reform at the UN

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As soon as Ban Ki-moon took office as the 8<sup>th</sup> Secretary-General of the United Nations, his comments sparked controversy. A statement about Saddam Hussein's execution, namely that capital punishment was a decision to be made by each nation, drew condemnation from those who compared it with previous UN statements opposing capital punishment as a cruel and inhuman practice. Meanwhile it was supported by John Bolton, the former U.S. ambassador to the UN, who praised Ban's statement about capital punishment as the "right instinct."

Kofi Annan, Ban's predecessor, had been willing at times to condemn what he deemed violations of the UN charter. For example, before the U.S. invasion of Iraq, Annan warned that such "a military action would violate the UN charter."<sup>1</sup> Similarly, during the 2006 Israeli invasion of Lebanon, Annan stated that Israel's "'disproportionate' use of force and collective punishment of the Lebanese people must stop."<sup>2</sup> This was a means of condemning Israeli actions as illegal.

Such actions earned Annan praise for being willing to tell "the truth to the powerful," from Dumisani Kumalo, the South African Ambassador to the UN, speaking on behalf of the Group of 77 (G-77). These actions, on the other hand, were condemned by Bolton who criticized Annan as the UN's "chief moralizer," whose activities "were not ultimately helpful to the world body."<sup>3</sup>

Even before he took office, Ban had said he would be open with the press, promising that he could be "a pretty straight shooter when I need to." Coming to the UN from his former position as the foreign minister of South Korea, Ban brought with him a reputation for dodging questions from the press when he deemed that beneficial. This trait led South Korean journalists to nickname him "slippery eel."<sup>4</sup> Already during his short term in office, there have been several instances when Ban praised the powerful and dodged questions from reporters when asked to

explain the basis for his praise.

One example occurred after Ban met with the U.S. President George Bush in Washington on January 16, 2007. At the press conference following the meeting, Ban referred to Bush as "a great leader." When Ban returned to the UN, a reporter asked him why he had used these words to describe Bush. Ban responded:

In diplomacy, it is appropriate to address any Head of State or Government with due respect and courtesy. I hope you will understand what this diplomatic practice is.<sup>5</sup>

Such comments have earned Ban a reputation as someone who "is an enigma to media and diplomats alike"<sup>6</sup> and whose "statements" are as hard to follow as "a Delphic Oracle." Bolton, on the other hand, has expressed his approval for what Ban has done or has freely offered his advice on what to do differently. For example, Bolton characterized as a "courageous decision"<sup>7</sup> Ban's call for the resignations of 60 senior-level officials in the secretariat. Since the contracts of these officials were to expire anyway at the end of February, several reporters wondered why Ban asked for their resignation. When Ban was asked for his response to Bolton's comments, Ban responded that he agreed with some of them. He did not elaborate.

One of the first promises of the new Secretary-General was that he would carry out reform at the UN. There are different views among the member nations of the UN on what reform is needed.

For the U.S. government, as Bolton explains, the purpose of reform is to make the UN a better tool among others "to implement American foreign policy."<sup>8</sup>

For a number of other nations, the purpose of reform is to foster a multilateral process<sup>9</sup> to prevent war and hostilities among nations. Nations which are part of the group known as the G-77 define a reform agenda quite differently from the agenda promoted by the U.S. and what the G-77 describe as "other developed nations from the North."

The G-77, originally formed in 1964 when 77 developing nations signed a Joint Declaration at the end of the UN Conference on Trade and Development (UNCTAD), has a reform agenda that focuses<sup>10</sup> on development issues and on promoting the importance of the UN as the preeminent international institution. There are now 130 nations that are part of the G-77.

Many of these nations are also part of the Non-Aligned Movement.

During Ban's first few weeks in his new position, he has appeared to vacillate between the reform agenda of the G-77 and the reform agenda supported by the U.S. and other powerful developed nations. The U.S. wants the UN to be run more like a business, with business processes and management goals, Bolton said in a talk<sup>11</sup> he gave at Columbia University in April 2006. Other nations differ.

Describing how the UN differs from a business organization, in a talk also given at Columbia University, Choi Young-jin, the Ambassador to the UN from South Korea, explained that there are 192 nations belonging to the UN and "everyone is on the board of governors."<sup>12</sup>

Choi maintained that you can't run an organization with 192 members on the board the same way you can run a business. While a business has a goal of generating profit, "the strongest point of the UN," Choi said, "is its moral authority. The focus of any reform has to be on that moral authority, not on 'efficiencies.'"

Another characteristic of the differences in the reform agenda of the different nations is the importance with which many nations view the need for a reform of the Security Council. In December 2006 there was a debate in the General Assembly about reform of the Security Council that drew 70 speakers and substantial proposals for changing its composition and working methods.

Subsequently at the first meeting<sup>13</sup> of the new year of the Security Council on Jan. 8, 2007, several of the nonpermanent members raised<sup>14</sup> the need for Security Council reform. One nation's representative explained that the issues taken up by the Security Council should be more carefully chosen so they do not to encroach on the mandate of other UN organs. Similarly, he proposed that the Security Council should not fail to act in situations consistent with its mandate, situations that pose a threat to international peace and security, such as in the "Palestine-Israeli issue." Other issues raised during the Jan. 8 meeting included the desirability of involving regional and subregional groups in solving problems when feasible that diplomatic solutions should be utilized before resorting to sanctions, and that nations like Iran and North Korea should not be denied the right to undertake research and development for the peaceful uses of nuclear energy.

This meeting was also Ban's first official meeting with the Security Council. He gave a brief presentation.<sup>15</sup> Though he spoke about UN reform, he didn't mention Security Council reform. Later at a press conference<sup>16</sup> with Ban's spokesperson, a reporter asked if Ban deliberately choose not to mention Security Council reform. The spokesperson responded:

I don't think it was deliberate. I think he is certainly interested in the issue – definitely concerned about the issue. He has talked about it before, but as you know with Security Council reforms there was a proposal made, and now, it is in the hands of the Member States.

In general, the mainstream U.S. media provides little coverage of the controversy over reform at the UN. Allegations of UN mismanagement, however, are pursued with a vengeance, just as they had been in the "Oil for Food" scandal.

More recently articles by *Fox News*<sup>17</sup> and in *The Wall Street Journal*<sup>18</sup> alleged that tens of millions of dollars of hard currency had been subverted by the government of North Korea from the United Nations Development Program (UNDP) and used to fund North Korea's nuclear program. Also the press reports charged that the UNDP had kept the scam secret. *Fox News* asked if Kim Jung II "subverted the UNDP program" and possibly stole "tens of millions of dollars of hard currency in the process." In their article "United Nations Dictators Program," the *WSJ* alleged that "the hard currency supplied by the UNDP almost certainly goes into one big pot marked 'Dear Leader' which Kim can use for whatever he wants."

These allegations were made without any actual evidence to back them up, but just in time to coincide with the UNDP Executive Board meeting that was to approve the programs for 2007 and on. The result of the articles was to block the approval of the 2007-8 UNDP program in North Korea, and to exert pressure so that the Secretary-General recommended an external audit of all UN programs, beginning with the North Korean UNDP program. Headlines alleging North Korean abuse of UN programs quickly spread in the U.S. and international media.

Subsequently, the UN announced that their audit plans were focused on North Korea. There is to be an external audit of all UN programs in North Korea. The audit is "to be completed by the Board of Auditors within a three-month time frame, as per the

Secretary-General's proposal of 22 January 2007."

Both the U.S. and the Group of 77 supported Ban's candidacy for the position of Secretary-General. Now that he is in the position, he is faced with the ongoing struggle of contending forces over the UN's reform agenda. How he will handle the different pressures is one of the important challenges he and the UN face in the coming months and years of his term.

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#### Notes

1. "Iraq war was illegal and breached UN charter, says Annan," *The Guardian*, Sept. 16, 2004. <http://www.guardian.co.uk/Iraq/Story/0,2763,1305709,00.html>
2. "Kofi Annan Addresses Middle East Violence" (Transcript), *The Washington Post*, July 20, 2006. <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/20/AR2006072000912.html>
3. "Don't Ban Your Instincts, Ban Ki-moon," *The Washington Post*, Jan. 14, 2007. <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/12/AR2007011202061.html>
4. "Press Conference by Secretary-General-designate," Dec. 14, 2006. [http://www.un.org/News/dh/infocus/sg\\_elect/press\\_conf\\_14dec06.htm](http://www.un.org/News/dh/infocus/sg_elect/press_conf_14dec06.htm)
5. "Secretary-General's press encounter upon entering UN Headquarters following visit to Washington, D.C." (an unofficial transcript, New York, Jan. 17, 2007). <https://www.un.org/sg/en/content/sg/press-encounter/2007-01-17/secretary-generals-press-encounter-upon-entering-un>
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12. "Conceptual Framework for International Relations," *OhmyNews International*, April 24, 2006. [http://english.ohmynews.com/articleview/article\\_view.asp?menu=&no=287732&rel\\_no=1&back\\_url=](http://english.ohmynews.com/articleview/article_view.asp?menu=&no=287732&rel_no=1&back_url=)
13. UN Security Council document, Jan. 8, 2007. <http://www.un.org/News/Press/docs/2007/sc8933.doc.htm>
14. "States Call for Security Council Reform," *OhmyNews International*, Jan. 10, 2007. [http://english.ohmynews.com/articleview/article\\_view.asp?article\\_class=7&no=339250&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?article_class=7&no=339250&rel_no=1)

15. "Secretary-General's remarks at the Security Council meeting on Threats to International Peace and Security," Jan. 8, 2007.

<https://www.un.org/sg/en/content/sg/statement/2007-01-08/secretary-generals-remarks-security-council-meeting-threats>

16. UN Spokesperson's news briefing, Jan. 8, 2007.

<http://www.un.org/News/briefings/docs/2007/db070108.doc.htm>

17. *Fox News*. <http://www.foxnews.com/story/2007/01/19/us-state-department-reveals-north-koreas-quos-misuse-un-development-program.html>

18. "United Nations Dictator's Program," *WSJ on Real Clear Politics*, Jan. 19, 2007. [http://www.realclearpolitics.com/articles/2007/01/give\\_top\\_teachers\\_a\\_bonus.html](http://www.realclearpolitics.com/articles/2007/01/give_top_teachers_a_bonus.html)

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The above article can be seen at:

<http://www.heise.de/tp/artikel/24/24577/1.html>

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[Editor's note: June 30, 2007 marked the first six months that Ban Ki-moon had held the position as Secretary-General of the United Nations. The following article was an effort to look at the role of the Secretary-General and some of the challenges he faced. The article appeared in two parts on *OhmyNews International*, June 30, 2007 and July 4, 2007]

## Ban Ki-moon's Role of UN Secretary-General Is There a Guiding Vision in the Organization?

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### Part One Introduction

Ban Ki-moon's nomination by the Security Council to be the 8<sup>th</sup> Secretary-General of the United Nations was sent to the General Assembly on Oct. 13, 2006. Ban succeeded in winning the nomination after a difficult and contested campaign.<sup>1</sup> But his trial by fire was only just beginning. Ban had succeeded in winning the votes of China and of the U.S. Winning the votes of these two nations, who are permanent members of the Security Council, was seen by a number of commentators as the critical step needed to win the nomination for Secretary-General.<sup>2</sup>

Would this very achievement, especially the achievement of winning the vote of the U.S. govern-

ment in the Security Council, become a handicap that would negatively affect Ban's ability to succeed in the position as the 8<sup>th</sup> Secretary-General of the United Nations?

### Goals Expressed in *Hankyoreh* Interview

An interview with Ban Ki-moon on Oct. 30, 2006, shortly after Ban won appointment by the General Assembly as the new Secretary-General, and in the interval before he would assume the office in January 2007, offers a rare glimpse of how the soon-to-be-appointed Secretary-General viewed his hopes and goals for his new position.

The interview was conducted in the offices of the Korean newspaper *Hankyoreh*, by Moon Chung-in, a Professor at Yonsei University and an Envoy for International Stability.<sup>3</sup> The interview was done in Korean, and translated and published in the English edition of *Hankyoreh*. The goals Ban outlined in this interview provide a yardstick to measure how successfully he is in fulfilling the obligations of his new position.

In the interview, Ban describes a recent visit to the White House shortly after he won the appointment as Secretary-General. President Bush greeted him as "Mr. Landslide" congratulating him on his victory. The plan had been for Ban to see Steve Hadley, the U.S. National Security Advisor and if time permitted, to briefly meet Bush. Instead he spoke with Bush for more than 20 minutes.

Ban recounts how he and Bush spoke about UN reform and the North Korean nuclear program. "Bush," Ban says, "requested that I drive forth with UN reforms, assuring me that the U.S. would actively lend its support." In the interview, Bush promised to work with the South Korean President Roh Moo-hyun to peacefully resolve the North Korean nuclear problem.

Ban also visited China. He describes his meeting with the Chinese President Hu Jintao on this visit. Hu told Ban that "the role of a newly appointed Secretary-General is very important and that China would be of active assistance." Ban revealed that during his campaign for the nomination, China "could not make public its support," but that it had "actively helped out behind the scenes." Though it is not yet apparent how China's support for Ban's nomination affects Ban's actions as Secretary-General, U.S. support for Ban's nomination appears to have a significant effect on his activity as Secretary-General.

During the *Hankyoreh* interview Ban expressed a belief he has reiterated many times since, that the U.S. is "the UN's most important member." Ban proposed that the UN needed the "proactive participation" of the U.S. in order to function properly, just as he believed the U.S. needed the UN for its interests.

Also during the interview, Ban expressed his commitment as Secretary-General to work to help resolve the problems with North Korea. "I will appoint a politician or diplomat," he asserted, "with the confidence of the international community, someone who has the trust of both North and South Korea to actively push the issue forward. This envoy," he explained, "must be one to impel the Six-Party Talks to action when they stagnate, and must be prepared to play a direct role when necessary. I am ever ready to intervene directly when intervention is called for." Ban also proposed that the UN had to find a means to help with transforming the cease-fire that was signed by the U.S. and North Korea at the end of the Korean War into a more permanent peace agreement.

Ban promised to present a blueprint for what he hoped to accomplish in his first 100 days, in his first year, and in his five year term. His priority, he explained, would be in the appointments he would make for UN personnel and that these would "raise morale and cultivate professionalism."

Ban's goal at the end of his five year term or ten years if he were to win reappointment for a second term, would be "to create a UN reborn as an organization that enjoys much greater international confidence. I will make the UN into a body fit for the challenges and themes of the 21<sup>st</sup> century," he promised. To obtain this objective, he proposed to support "development," especially, "development in Africa and the Millennium Development Plan." His aim would be to "make certain that the UN has a role at the center of multilateral diplomacy."

In the interview, Ban also describes how Roh Moo-hyun and the South Korean press helped his candidacy to succeed by "campaigning for me at every opportunity while meeting with foreign heads of state." The South Korean media "also helped a great deal," Ban notes. Ban was aware, too, that it was a particular source of pride for Korea that the 8<sup>th</sup> Secretary-General would be from Korea.

### Comments on Ban's 100-day Anniversary

By Ban's 100 day anniversary, April 10, media

commentary on his accomplishments documented the frustration he had experienced. Comments from several diplomats were testimony to the mistakes made as he and his advisors rushed to put their reform agenda into effect.

The Chinese Ambassador to the UN, Wong Guangya commented on how Ban tried to impose changes in the structure of the UN Secretariat, only to meet opposition from a number of countries. Ambassador Wong observes, “His intentions are good. He is trying to make the Secretariat work more effectively. But personally I feel he’s a new comer and he does not understand the culture and the environment in this house. You have to identify who are the stakeholders and how to test the temperature before jumping in. He hasn’t done that and he has felt the heat.”<sup>4</sup>

Similarly, South African Ambassador Dumisani Kumalo is quoted as being frustrated by Ban’s “‘decide first, consult afterward’ behavior.”<sup>5</sup>

Even the American Ambassador, Alejandro D. Wolff, who originally replaced John Bolton, said that there were those “convinced that Ban was ‘essentially responding to American demands.’”<sup>6</sup> This impression, Wolff explained, helped to generate distrust in the reforms Ban is trying to implement.

## Role of Secretary-General

The role of Secretary-General has a number of constraints. It also is a role that carries certain obligations. During his inauguration, Ban took an oath that he would uphold the interests of the United Nations above any national interests and “not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the Organization.”<sup>7</sup>

In a “Report to the Preparatory Commission of the UN 23 Dec. 1945,” a set of duties and responsibilities are elaborated as a means of stating what is explicit and implicit in the Secretary-General’s role as provided for by the UN charter.

While the Report specifies administrative and executive functions for the Secretary-General, it also states that “He is the channel of all communication with the United Nations in any of its organs. He must endeavor, within the scope of his functions, to integrate the activity of the whole complex of United Nations organs and see that the machine runs smoothly and effectively.”<sup>8</sup>

Along with the obligation for internal smooth functioning of the UN, the report proposes an external

function. It says, “the Secretary-General, more than anyone else, will stand for the United Nations as a whole. In the eyes of the world, no less than the eyes of his own staff, he must embody the principles and ideals of the charter to which the organization seeks to give effect.”<sup>9</sup>

## Elements for Creating a Vision

Shashi Tharoor, one of the other candidates for the nomination by the Security Council for the position of Secretary-General maintained that emanating from the job description for the Secretary-General that each Secretary-General wrote for himself, “must shine the vision of the incumbent of the office,” a vision which transcends the more practical aspects of the job.<sup>10</sup>

Describing the nature of the job, Tharoor proposed that what was needed was a person with the ability and talent to respond to a wide range of issues “and to know where to go for expert judgment when he or she feels unqualified or uninformed on specific issues. Somebody who recognizes he does not have all the answers but trusts himself to ask the right questions.”<sup>11</sup>

Tharoor, who had worked at the UN for almost 28 years, said that for him the UN was more than a job. “It has always been a cause.... For me the UN is far more than an institution.... It represents the vision and foresight of the leaders of the world who wanted to make the second half of the twentieth century better than the first.”<sup>12</sup> He described how the UN was formed in response to a world that had experienced two world wars, a number of civil wars, several instances of mass population displacements, genocide, the holocaust, and Hiroshima. “The UN was part of an attempt to genuinely make a better world and I believe for all its limitations and failures, it did succeed in doing so,” he noted.<sup>13</sup>

When Ban outlined the beginning elements for the new role he was to assume in the *Hankyoreh* interview, he planned for the UN to play a constructive role in helping to facilitate the Six-Party Talks between North Korea, South Korea, China, the U.S., Japan, and Russia. He had expressed his determination to appoint an envoy to help overcome obstacles that might impede the Six-Party process. This provided an example of a goal he was bringing to his new role at the UN. How he would carry out this goal would be a concrete sign of whether he could be guided by a vision for his role as Secretary-General.

## Part Two

### Impact of the Press

How has the role of the press affected the actions of the new Secretary-General? There is an important example that has developed which helps to demonstrate the impact that the press has had on Ban Ki-moon.

In the interview with *Hankyoreh* before he took office,<sup>14</sup> Ban described how he would act to support a solution to the problem of relations between North Korea and the Northeast Asia region, and the disarmament of the Korean peninsula.

On January 19, 2007, just a few weeks after Ban became Secretary-General, there were news reports of a breakthrough in negotiations between the Christopher Hill for the U.S. and Kim Kye-gwan for North Korea.<sup>15</sup> The *International Herald Tribune* reported:<sup>16</sup>

The movement toward a possible breakthrough came during the talks in Berlin between Hill and Kim, Chosun Ilbo reported, citing unidentified officials in Seoul and Beijing.

Timed, it appeared, to coincide with the breakthrough, however, was the publication in the *Wall Street Journal (WSJ)* of an article “United Nations Dictator’s Program” by Melanie Kirkpatrick. A similar article was published by *Fox News*. These articles alleged that North Korea was manipulating funds from the United Nations Development Program (UNDP) in North Korea. These press accounts reported that UNDP funds were being used by Kim Jong-il, for whatever he wanted, including “his weapons program.”<sup>17</sup> No proof was provided for this accusation. The articles included other unsupported allegations.

While most of the press reports in the U.S. just repeated or exaggerated the original allegations, a few Korean publications provided a different perspective. The Korean newspaper *Voice of the People* pointed out that the allegations of UNDP mismanagement appeared just as the North Korean and U.S. representatives had productive negotiations in Berlin.<sup>18</sup> The *Voice of the People* asked why the U.S. Mission to the UN was raising these issues “at this time.”

“Despite the totally unfounded allegation by the hawks,” the editors write, “it has a political effect for freezing (the) bilateral relationship between Washington and Pyongyang.”<sup>19</sup>

Ban Ki-moon’s response to the *WSJ* and *Fox*

*News* articles was to call immediately for an audit of all UN programs. The audit was to start with an audit of all programs in North Korea. A few days later the call for an audit of all UN programs was dropped. The audit was to be only of North Korea’s UNDP program.<sup>20</sup>

### Some Background

A difficult period for Ban’s predecessor, Secretary-General Kofi Annan was caused by the “Oil for Food Scandal.” Annan had refused to support a U.S. backed Security Council resolution authorizing an invasion of Iraq. Annan held that such an invasion would be a violation of the UN’s charter. Reports say that in response, right wing neo-conservatives in the U.S. government brought forward accusations that there had been corruption in the UN’s administration of the “Oil for Food” program.<sup>21</sup> This program had been created by the Security Council supposedly to alleviate some of the harmful effects on civilians of the Security Council sanctions against Iraq.

While the “Oil for Food Scandal” investigation recommended systemic reforms, there was little evidence of corrupt activity by members of the UN Secretariat. The investigation created, however, a difficult environment for Annan and other UN officials.

When the *WSJ* articles appeared in January 2007 alleging corruption in the UNDP program, they brought up memories of the difficult situation created for the UN during the “Oil for Food Scandal.”

### South Korean Press Responses to Allegations

Several articles appeared in the South Korean press which analyzed rather than just repeating the allegations of mismanagement in the UNDP program in North Korea. One article in *JoongAng Ilbo* on January 22, for example, described what happened after the news reports appeared on January 19. Ban met with the Associate Administrator of the UNDP, Ad Melkert, and “vowed a thorough investigation.”<sup>22</sup> The *JoongAng Ilbo* article, in addition, however, noted that this accusation came at a “sensitive time in negotiations” between the U.S. and North Korea.

The article also noted that this action by the UNDP “might be considered another financial sanction by Washington against North Korea just as the six party anti nuclear talks were expected to resume.”

The reporters reminded readers that the “financial sanctions brought by the U.S. treasury office on Banco Delta Asia which led to freezing \$24 million of North Korean funds” had become a “major sticking point” causing a deadlock in the Six-Party Talks.

Similarly, the article in *Voice of the People* on January 30, 2007, asked, “Now we have to see who’s intriguing against whom because somebody is suffering from pain for it. We should not listen to the shameless and unscrupulous who are trying to curtail humanitarian aid for those who are in need of food.”<sup>23</sup>

An article in *OhmyNews International (OMNI)* and a report by the Civil Network for a Peaceful Korea (Peacekorea) explain that UNDP administrators had denied that there were violations of UNDP policy in the North Korean program.<sup>24</sup> Both articles referred to the fact that the Resident Coordinator of the UNDP Program in North Korea had the authority to decide the financial practices to follow. Another report by Peacekorea noted many people think that Ban is “kind of pro American.”<sup>25</sup>

Peacekorea advocated support for restarting the Six-Party Talks and not letting the U.S. accusations against North Korea divert from support for the unification of the Korean peninsula. Such a policy is presented as a long term vision. Also the report explains that development aid to North Korea is preferable to humanitarian aid, as development aid sets a basis for self sufficiency, while humanitarian aid is expended after it is given.<sup>26</sup>

The Six-Party Talks did resume and came to an agreement on February 13, 2007. Peacekorea offered a critique of the conservative South Korean newspapers which “made comments devaluing the agreement.”<sup>27</sup> The report explained, “Korea’s major newspapers spread a hostile perspective of North Korea on the Korean peninsula. This is not helpful toward gaining denuclearization of the Korean peninsula.” The report proposes that “Under Kim Jong Il’s dictatorship, North Korea, a weak nation, has developed nuclear weapons as a deterrent against the threat of an American attack, as exemplified by the Iraq war, and as a diplomatic tool for bilateral contact with the U.S.”<sup>28</sup>

## Alternative Approach to Ban’s Policy on Korea

Such accounts in the South Korean press demonstrate an alternative approach to the policy that the

Secretary-General is implementing regarding the North Korean situation. For now Ban is not carrying out the policy he had proposed in the *Hankyoreh* interview with regard to the Korean peninsula. To the contrary, coinciding with pressure from the U.S. press and the U.S. government, he has adopted a policy which has allowed the politicization of the UNDP program that was in North Korea. This has resulted in an audit of previous UNDP programs in North Korea and the ending of the current UNDP program in North Korea.

Similarly, for more than four months, from February through the end of June, the Six-Party Talks hit a deadlock over the decision by the U.S. government to find a small bank in Macau in violation of provisions in the U.S. Patriot Act. The bank complained that it never saw the evidence against it nor did it have a chance to refute the evidence.<sup>29</sup> Yet by using Section 311 of the Patriot Act against this bank, the U.S. Treasury Department was able to freeze \$25 million of North Korean funds and impede North Korea’s access to the international banking system.

Much of the U.S. press has been promoting a hostile policy toward North Korea.<sup>30</sup> Some of the South Korean press echo what appears in the U.S. press, or reprint articles from the conservative interests who are trying to impede further negotiations. Other South Korean publications, however, provide a critique of the hostile attitude of the U.S. press toward North Korea. For example, an article by Tim Savage in *OMNI* documents the internal struggle within the U.S. government between the interests which are hostile to negotiations with North Korea in contrast to the efforts at negotiations by Christopher Hill.<sup>31</sup>

Though he has occupied the office of Secretary-General for more than six months, Ban has yet to implement the program he proposed before taking office, the program of active UN support for a negotiated agreement in the Six-Party Talks. Ban’s original plan was to appoint a diplomat or politician who would be available to intervene when needed to keep the negotiation process on track. Instead the UN’s Secretariat has become embroiled in the controversy generated by unsubstantiated charges from the U.S. mission to the UN about the funding of North Korea’s UNDP program.

## ‘We Can’t Prove a Negative’

The U.S. press continues to echo the U.S. government’s unsubstantiated charges against North Korea

and the UNDP, in a way reminiscent of how the same press supported the unsubstantiated and inaccurate U.S. government claims that Iraq possessed “Weapons of Mass Destruction.” The unsubstantiated allegations being spread by the U.S. press about the UNDP, have the effect of politicizing the UNDP program rather than providing the public with the accurate information that is needed to understand the problems and challenges faced by such a program.

David Morrison, the press spokesman for the UNDP, explained that “the point I’m trying to make is we can’t prove a negative,”<sup>32</sup> at a press conference held to answer the June 2007 set of unsubstantiated allegations made by the U.S. mission against the UNDP program in North Korea. This set of allegations appeared in the U.S. press just before the beginning of the June UNDP Executive Board meeting in a way reminiscent of how the previous set of allegations first appeared in the U.S. press just before the January UNDP Executive Board meeting.

Just as the impossibility of proving a negative created a media environment in which the U.S. government could falsely claim they had a justification for a war against Iraq, so a hostile environment is being created to impede the Six-Party Talks by the unsubstantiated allegations against North Korea and the UNDP.<sup>33</sup>

Ban’s original plan for the region provided a means to counter those interests which might impede a negotiated solution to the North Korean conflict. Much of the U.S. press has maintained a hostile attitude toward North Korea, even though there are signs that within the U.S. government there are forces interested in pursuing a negotiated settlement. The South Korean media landscape, however, presents a broader spectrum of opinion on what should be done with regard to North Korea, a spectrum of views which includes support for the policy that Ban originally proposed to implement for the region when he became Secretary-General.

## Conclusion

There are many people in Korea and elsewhere, who are watching Ban Ki-moon and are hopeful that he will do well as Secretary-General. As the experience of former Secretaries General demonstrates, however, there is a need for a vision to guide him if he is to be able to fulfill on these expectations.

## Notes

1. See for example: Ayca Ariyörük, “Korean Minister Likely Candidate” *Global Policy Forum*, <https://www.globalpolicy.org/component/content/article/228/32548.html>

Ban was chosen as Secretary-General in a process that is basically secret with voting by the members of the Security Council that is not public. The five Permanent members hold the ability to veto a candidate at a certain stage in the process. Questions have been raised about what criteria are used. What is traded with whom is left as an open question.

Also there were allegations that the South Korean government used grants and various financial rewards to gain support for its candidate from several of the nonpermanent nations that were on the Security Council at the time of the voting for the next Secretary-General. See for example:

Richard Beeston, Richard Lloyd Parry, and James Bone, “Millions of dollars and a piano may put Korean in UN’s top job,” *Times Online*, September 29, 2006.

<http://www.timesonline.co.uk/tol/news/world/asia/article654479.ece>

Tran Van Loi, “ROK Buying UN Post: Times, Millions of dollars have been spent in lobbying for Ban Ki-moon, says British newspaper,” *OhmyNews International*. October 1, 2006. [http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=320700&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=320700&rel_no=1)

2. See for example, “Restoring the Vitality of the United Nations”

[http://www.cfr.org/publication/10833/restoring\\_the\\_vitality\\_of\\_the\\_united\\_nations\\_rush\\_transcript\\_federal\\_news\\_service\\_in\\_c.html](http://www.cfr.org/publication/10833/restoring_the_vitality_of_the_united_nations_rush_transcript_federal_news_service_in_c.html)

3. [Interview] Next UN Secretary-General Ban Ki-moon. in conversation with Moon Chung-in, translated by Daniel Rakove, *The Hankyoreh*. November 3, 2006.

<http://www.hani.co.kr/popups/print.hani?ksn=169339>

4. Maggie Farley, “New Secretary-General Is Still Finding His Footing at the UN,” *LA Times*, April 9, 2007.

<http://www.globalpolicy.org/secgen/ban/2007/0409footing.htm>

5. Ibid.

6. Ibid.

7. Ronda Hauben, “Ban Ki-moon Inaugurated, Pledges to uphold the interests of the United Nations above all else,” *OhmyNews International*, December 15, 2006. [http://english.ohmynews.com/articleview/article\\_view.asp?no=334916&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=334916&rel_no=1)

8. “Report to the Preparatory Commission of the UN 23 Dec. 1945,” in *Secretary or General: The UN Secretary-General in World Politics?*, Edited by Simon Chesterman, Cambridge University Press, Cambridge, 2007, p. 243-244.

9. Ibid., p. 245.

10. Shashi Tharoor, in *Secretary or General: The UN Secretary-General in World Politics?*, Edited by Simon Chesterman, Cambridge University Press, Cambridge, 2007, p. 46.

11. Lydia Swart, “Shashi Tharoor Sees his 28 Years at the United Nations as an Asset,” Center for UN Reform Education, interview done 12 July 2006.

<http://www.centerforunreform.org/node/61/print>

12. Ibid.

13. Ibid.

14. [Interview] Next UN Secretary-General Ban Ki-moon. in conversation with Moon Chung-in, translated by Daniel Rakove,

*The Hankyoreh*. November 3, 2006.

<http://www.hani.co.kr/popups/print.hani?ksn=169339>

15. "U.S.-DPRK talks end, no comments on resuming 6-party talks," CCTV.com Jan. 19, 2007.

<http://www.cctv.com/english/20070119/101358.shtml>

16. "U.S. envoy confident in North Korea nuclear talks," *International Herald Tribune*, January 22, 2007.

<http://www.cctv.com/english/20070119/101358.shtml>

17. Melanie Kirkpatrick, "United Nations Dictator's Program," *WSJ*, January 19, 2007.

18. "The U.S. Stands in the Way of Pyongyang," *Voice of the People*, January 30, 2007.

19. Ibid.

20. Ronda Hauben, "Hardliners Attack UNDP Aid to North Korea: Allegations of corruption seen as attempt to undermine engagement," *OhmyNews International*, February 7, 2007.

[http://english.ohmynews.com/articleview/article\\_view.asp?no=344001&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=344001&rel_no=1)

21. Thalif Deen, "Will the New UN Chief Stand Up to Big Powers," *Inter Press News Agency*, December 12, 2006.

<http://www.ipsnews.net/news.asp?idnews=35814>

22. Nam Jeong-ho and Lee Sang-eon, "Report Says Kim Jong-il Cashed in on UN Office," *JoongAng Ilbo*, January 22, 2007.

23. Ibid., note 18, *Voice of the People*.

24. Ronda Hauben, "Hardliners Attack UNDP Aid to North Korea Allegations of corruption seen as attempt to undermine engagement," *OhmyNews International*, February 7, 2007. See also: Soohyun Lee, "UNDP's aid toward North Korea," *peacekorea*, January 23, 2007. [http://english.ohmynews.com/articleview/article\\_view.asp?article\\_class=2&no=344001&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?article_class=2&no=344001&rel_no=1)

25. Soohyun Lee, UNDP's aid toward North Korea, *peacekorea*, February 13, 2007.

26. Ibid.

27. Ji-Hyun Lee, "The Ghost of Anti-communism Reflected in South Korean Media," *peacekorea*, May 7, 2007.

28. Ibid.

29. Ronda Hauben, "North Korea's \$25 Million and Banco Delta Asia: Another abuse under the U.S. Patriot Act (2001)," *OhmyNews International*, March 21, 2007.

[http://english.ohmynews.com/articleview/article\\_view.asp?article\\_class=3&no=351525&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?article_class=3&no=351525&rel_no=1)

30. The McClatchy Newspapers have been an exception. See for example articles like "Bank owner disputes money-laundering allegations" Kevin G. Hall about the BDA affair.

31. Tim Savage, "Six-Party Talks Resume: Expectations high for progress in Beijing," *OhmyNews International*, February 8, 2007.

[http://english.ohmynews.com/articleview/article\\_view.asp?no=c10400&no=344245&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=c10400&no=344245&rel_no=1)

32. David Morrison, Press Conference, June 11, 2007, See Minutes: 38:46.

<http://webcast.un.org/ramgen/pressbriefing/brief070611.rm>

33. Ronda Hauben, "Weapons of Mass Destruction Syndrome and the Press [Analysis] How does one prove a negative?," *OhmyNews International*, June 24, 2007. [http://english.ohmynews.com/articleview/article\\_view.asp?no=368433&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=368433&rel_no=1)

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## **North Korea's \$25 Million and Banco Delta Asia [Opinion] Another Abuse Under the U.S. Patriot Act (2001)**

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A little known provision in the U.S. Patriot Act (2001) has been used by the Bush administration against North Korea to freeze \$25 million of its funds and to deny it access to the international banking system and to hard currency. Actions under this provision of the Patriot Act effectively stymied progress in disarmament talks between the U.S., North Korea, South Korea, China, Russia and Japan for over 18 months. North Korea says that only when the seized \$25 million and access to the international banking system are restored is it willing to continue negotiations under the Six-Party agreement concerning security and denuclearization of the Korean peninsula.

The little known provision of the Patriot Act is Section 311. It is also known as the "International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001."<sup>1</sup>

The original purpose was allegedly related to the prevention, detection and prosecution of money laundering connected to the financing of terrorism. The law has rarely been used for its original purpose. Instead it has been used by the Bush administration as a means of unchecked political power against financial institutions like the Banco Delta Asia. This case has an impact on those nations or institutions who used the bank, like North Korea.

Two other sections of the Patriot Act currently under scrutiny, the use of the Patriot Act to illegally obtain personal information on U.S. citizens, and the use of a provision in the Patriot Act to replace U.S. Attorneys, have been identified as being used by the

Bush administration for expanding and abusing executive power. Section 311 provides another means for sidestepping international and national legal practices and substituting an ad hoc set of processes that leave the victims with no means of due process or defense.

Section 311 has been called by its supporters “a diplomatic sledgehammer that gets results” and by its critics a provision that denies the accused “due process and presumes guilt.”

Critics say that this provision of the Patriot Act applies U.S. law to the financial institutions of other countries. In a proceeding under Section 311 of the Patriot Act (2001) the U.S. Treasury Department acts as accuser and judge, in international jurisdictions. Also, often the evidence used by the Treasury Department is classified and thus not available for examination by the accused so that it can't be refuted.

This provision gives the U.S. Treasury the ability to use an Executive Branch administrative procedure rather than a legal proceeding as a way to accuse a financial institution that is part of another nation's regulatory system of wrong doing, and then to find it guilty. Under this provision of the Patriot Act, the accused is denied knowledge of the evidence against it and is denied the right to speak in its own defense. Section 311 of the Patriot Act (2001) was used against the BDA, a small bank in Macau, to freeze substantial financial assets of North Korea and also to deny North Korea access to the international banking system.<sup>2</sup> The case against the BDA was instituted in September 2005 just after the U.S. had signed the Six-Party agreement.

The accused under Section 311 is presumed to be guilty and the burden falls on it to prove its innocence without being able to know the evidence or charges.<sup>3</sup>

Invoking Section 311 against the BDA effectively sabotaged the implementation of the Six-Party agreement of September 2005 for 18 months as BDA did not have a process to challenge the Treasury Department action, nor did those whose accounts at the bank had been frozen, like North Korea. It was only after North Korea conducted a missile test in July 2006 and the test of a nuclear device in October 2006, that the Bush administration was willing to agree to negotiations over the Treasury action.

Negotiations in Berlin between the U.S. government and North Korea in January 2007 and then in Beijing in February 2007 with the U.S., South Korea,

China, Russia and Japan, resulted in the Six-Party agreement announced on Feb. 13, 2007.

The difference that most analysts point to in comparing the Feb. 13, 2007 Six-Party agreement with the Six-Party agreement of September 2005 is that the more recent agreement includes a series of processes and a time table. The critical difference that has been overlooked, however, is that a requirement of the Feb. 13 agreement was that the U.S. restore the funds that were frozen by the actions of the U.S. Treasury Department. Also North Korea's access to the international financial system was to be restored.

These requirements caused “intense friction” in Washington between officials in the State Department and “officials in the Treasury Department and in the Office of Vice President Dick Cheney who were said to favor maintaining maximum pressure” on North Korea.<sup>4</sup> There were reports of urgent telephone calls between officials in the State Department and the Treasury. Assistant Secretary of State John Negroponte finally got a decision from the Treasury Department by Friday, March 16. The Treasury Department had ruled against the BDA. U.S. banks would not be allowed to do business with it. The U.S. government announcement said that it would be up to the Macau authorities to decide if they would unfreeze and restore some or all of North Korea's funds.

By the weekend of March 17, a behind the scenes drama continued to unfold. China announced that it regretted the U.S. action. The owner of the Macao bank said he would go to court to attempt to challenge the decision. Getting off the plane in Beijing on Saturday to attend the next stage of Six-Party Talks, Kim Kye-gwan, North Korea's lead negotiator for the Six-Party Talks, told reporters that all of the \$25 million had to be returned if North Korea was to go to the next step of the Six-Party Talks.

Hill announced that he would explain the settlement to the Chinese and North Korean negotiators. China announced that a settlement had been reached but that the details of it couldn't yet be revealed. Subsequently, there was an announcement that all of the \$25 million in funds would be returned to North Korea and deposited in China in an account held by the North Korea's Foreign Trade Bank at the Bank of China in Beijing. U.S. Treasury Secretary Daniel Glaser, in a press conference held with Hill, confirmed the U.S. government decision. It was unknown he said, when the funds would actually be

put in the North Korean bank account.

Subsequently, diplomats who were in Beijing to continue the Six-Party Talks told reporters that North Korean diplomats said the funds had to be in the bank account for them to continue with negotiations.

Though there have been many newspaper articles reporting the standoff in the Six-Party Talks caused by the dispute over the use of Section 311 against North Korea, few of the articles provide an understanding of the underlying issues involved. A commentator on BBC, for example, demonstrating a serious lack of understanding of the use of Section 311 and the abuse of power it represents said this is an example of the high price that North Korea will extract for its cooperation in the talks.

It is not without cause then, that in describing the process of the Six-Party Talks, Hill compared the process to a video game. He warned:

This process, not unlike a video game gets more and more difficult as you get to different levels.<sup>5</sup>

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#### Notes

1. <http://www.ratical.org/ratville/CAH/Section301.html>

2. "Treasury Casts a Wide Net Under Patriot Act."

<http://truth-out.org/archive/component/k2/item/69267:treasury-casts-a-wide-net-under-patriot-act>

3. "The U.S. government has never publicly detailed evidence behind its charges. Nor has it sought to initiate legal action, relying instead on Section 311 of the Patriot Act, which critics say extends U.S. laws to cover other countries." "Bush Administration Plan May Unfreeze North Korean Funds."

<http://www.mcclatchydc.com/latest-news/article24461644.html>

4. "Administration Reconsiders Some North Korea Restrictions."

5. "U.S., North Korea Move to Open Ties."

[http://english.ohmynews.com/articleview/article\\_view.asp?no=348974&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=348974&rel_no=1)

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[Editor's note: The following article appeared in *Ohmynews International* on May 19, 2007]

## Behind the Blacklisting of Banco Delta Asia Is the Policy Aimed at Targeting China as Well as North Korea?

by Ronda Hauben  
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U.S. Assistant Secretary of State Christopher Hill, speaking at the Korea Society's 50<sup>th</sup> Anniversary dinner in New York City on May 15, 2007, said that he was determined not to "allow \$26 million or \$25 million get between us and a deal that will finally do something about nuclear weapons on the Korean peninsula." He promised that Kathleen Stephens at the Korea desk at the State Department was working on the problem and that "we are going to keep after this problem till we solve it." His statement didn't give further details about how this problem was to be solved, a problem that had interrupted the progress that seemed at last possible in the Feb. 13 Six-Party agreement.<sup>1</sup>

Just two days later, on May 17, the U.S. Wachovia Bank announced that it is exploring a request from the State Department to transfer the funds from the BDA (Banco Delta Asia) to North Korea. Wachovia Bank reported that it would require the necessary approvals from bank regulators to do the transfer.

Until this latest announcement, banks have been unwilling to do the transfer because of the legal action that the U.S. government took against the BDA, by ruling that it was involved in criminal activity under Section 311 of the U.S. Patriot Act. Banks which deal with a bank that has been found guilty of such illegal acts risk losing their access to the international financial system. North Korea has said that the denuclearization and other aspects of the Six-Party agreement that it has been part of can only go forward when the BDA situation is resolved. "To make the money transfer possible freely just like before has been our demand...from the beginning," a spokesperson from North Korea said.<sup>2</sup>

In his daily press briefing on May 17, Scott McCormack at the U.S. State Department said, "We all want to see the BDA issue resolved, obviously

resolved within the laws and regulations of the United States as well as the international financial system, and we'd like to move on and get back to the business of the Six-Party Talks, which is really focused on the issue of denuclearizing the Korean Peninsula."<sup>3</sup>

Whether this latest development with Wachovia Bank will provide the needed breakthrough, it is too soon to tell. But there are other developments which may provide the needed pressures on the U.S. government to decriminalize the \$25 million it has frozen of North Korean funds and restore North Korea's access to the international banking system. Their access was severely impeded by the action that the U.S. Treasury Department took against the BDA.

The developments I am referring to are the release in the public domain of several documents related to the U. S. Treasury Department's actions against BDA. One of the documents is a sworn statement by the owner of the BDA, Mr. Stanley Au, in support of his petition to revoke the rule imposing the special measures taken by the U.S. Treasury Department against his bank. Another document is the petition in support of his case. Also the Treasury Department finding against the bank has been put online. These documents have been made available on the blog "China Matters."<sup>4</sup>

In his statement, Au explains the history of his bank's relations with North Korea and how there was only one experience, which occurred in June 1994, when there was a problem with counterfeit U.S. dollars. At the time, the bank reported this incident to the U.S. government. Agents from the U.S. government came to the bank and questioned Au. He answered their questions and asked if the agents recommended that the bank "desist from doing business with North Korean entities." The agents said "they would like us to continue to deal with them as it was better that we conducted this business than another financial entity that may not be so cooperative with the United States government."

Au explains that there was no further experience with counterfeit money showing up in the transactions of the bank. All "large value deposits of U.S. dollar bills from North Korean sources" were sent to the Hong Kong branch of the Republic National Bank of New York (which became HSBC) to be certified that they were authentic via advanced technology possessed by that bank. Smaller quantities of bills were examined in accord with common banking practices by the bank itself.

Au also explains that he had not been approached by U.S. government agents alerting him to any problem or illegal activity. The first he learned that his bank was being charged as a bank engaged in "illicit activities" came when he saw a report in the Asian Wall Street Journal in September 2005 that his bank was a candidate for a U.S. money laundering blacklist. He tells how "this news came as a bolt out of the blue – the Bank had never been informed by the United States that its practices were a cause of any money laundering concern, and the counterfeiting event that the media reported as the basis for the designation had occurred more than ten years earlier and had been promptly reported to the authorities by Banco Delta Asia."<sup>5</sup>

Stanley Au's statement is in sharp contrast with the account in the U.S. government's Federal Register of the finding against the bank by the U.S. Treasury Department.<sup>6</sup>

The Federal Register finding states that the bank had provided financial services for more than 20 years to multiple North Korean-related individuals and entities that were engaged in illicit activities. It provides no specific details of what such illicit activities were. It claims that the entities paid a fee to Banco Delta Asia for their access to the bank. The finding claims that the bank facilitated wire transfers and helped a front company.

In his statement, Stanley Au maintained that the BDA did not charge a fee for its services nor did it conduct illicit services for North Korea or any other customer. The bank was only one of the banks in Macau that did business with North Korea. The business his bank had with North Korea began in the mid 1970s and was to assist North Korea with its foreign trade transactions. Also Au described North Korea as a gold producing country and that in the late 1990s the bank had acted as a "gold bullion trader on behalf of the North Koreans." Also the BDA bought or sold foreign currency notes for North Korea, including U.S. dollars, because North Korea had a limited banking system and so it couldn't do such transactions itself (see Statement, pp. 3-4).

The petition submitted to the U.S. Dept. of the Treasury to challenge the finding against BDA proposes that BDA was targeted not because of any "voluminous" evidence of money laundering but "because it was an easy target in the sense that it was not so large that its failure would bring down the financial system."<sup>7</sup>

In the substantial and prolific analysis of the BDA problem that has been developed on the blog “China Matters,” there is the assessment that North Korea has legitimate financial activity and that the BDA was legitimately serving as one of the banks for that activity. Even with the UN’s sanctions, it was not appropriate to target for blacklisting the legitimate financial activities of North Korea. The sanctions that the UN-imposed against North Korea were to be aimed at its activity that was related to nuclear weapon development, not to normal financial transactions.

The author of China Matters blog writes:<sup>8</sup> The alternative view...is that legitimate North Korean financial activity does exist, BDA had a right to solicit North Korean accounts and handle North Korean transactions, and Stanley Au should be allowed to run his bank as long as he conforms to the laws of his jurisdiction--and (the bank) not be used as a political football in Washington’s dealings with Pyongyang.

To put it more succinctly, the blog China Matters quotes David Ascher, who had been the coordinator for the Bush Administration working group on North Korea and a senior adviser in East Asian affairs in the State Department, in testimony to the U.S. House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade on April 18, 2007, explaining why Banco Delta was chosen to be blacklisted from the international banking system:<sup>9</sup>

Banco Delta was a symbolic target. We were trying to kill the chicken to scare the monkeys. And the monkeys were big Chinese banks doing business in North Korea...and we’re not talking about tens of millions, we’re talking hundreds of millions.

The purpose of the action against the BDA appears not only to have been to target North Korea and its access to the international banking system, but also to send a message to China.

Therefore it would appear that the action against BDA is a carefully crafted political action and that it will be necessary that there be public understanding, discussion and debate about what is behind this action in order to find a way to have the policy that gave rise to the BDA action changed.

Instead of the U.S. mainstream press carrying out the needed investigation about why BDA has been

targeted and what is behind this action, there have been continual condemnations of North Korea. Fortunately there are journalists like those who work with the McClatchy News Service who have made an effort to probe what is happening behind-the-scenes in the BDA affair and blogs like China Matters which have taken the time and care to begin uncovering what the BDA affair is really all about. This is but one of the stories of what is really going on behind the scenes within the U.S. government that has been hidden from the public. This is one of the stories yet to be unraveled by bloggers, and citizen journalists.<sup>10</sup>

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#### Notes

1. See an earlier article “North Korea’s \$25 Million and Banco Delta Asia.” [http://english.ohmynews.com/ArticleView/article\\_view.asp?menu=A11100&no=351525&rel\\_no=1&back\\_url=%3Cbr%3E](http://english.ohmynews.com/ArticleView/article_view.asp?menu=A11100&no=351525&rel_no=1&back_url=%3Cbr%3E)
  2. “North Korea says work to transfer bank funds under way,” *AFP*, May 15, 2007. [http://www.channelnewsasia.com/stories/afp\\_asiapacific/view/276391/1/.html](http://www.channelnewsasia.com/stories/afp_asiapacific/view/276391/1/.html)
  3. Scott McCormack, Daily Press Briefing, Washington, D.C., May 17, 2007.
  4. “Bank owner disputes money-laundering allegations.” <http://chinamatters.blogspot.com/2007/05/stanley-au-makes-his-case-for-banco.html>
  5. Statement of Mr. Stanley Au in Support of Petition to Revoke Rule Imposing Special Measures Against Banco Delta Asia, p. 7. [http://www.ncnk.org/resources/publications/Jones\\_Day\\_Petition\\_Rescind\\_BDA\\_Rule.pdf](http://www.ncnk.org/resources/publications/Jones_Day_Petition_Rescind_BDA_Rule.pdf)
  6. See also Kevin G. Hall, “Bank owner disputes money-laundering allegations,” *McClatchy Newspapers*, May 16, 2007. <http://www.mcclatchydc.com/news/nation-world/world/article/24463246.html>
  7. Department of the Treasury, 31 CFR Part 103/ RIN 1506-AA83, Federal Register/ Vol. 72, No. 52/ Monday, March 19, 2007/ Rules and Regulations. [https://www.fincen.gov/sites/default/files/shared/bda\\_final\\_rule.pdf](https://www.fincen.gov/sites/default/files/shared/bda_final_rule.pdf)
  8. Petition of Mr. Stanley Au and Delta Asia Group (Holdings) Ltd. to Rescind Final Rule, p. 12. [http://www.ncnk.org/resources/publications/Jones\\_Day\\_Petition\\_Rescind\\_BDA\\_Rule.pdf](http://www.ncnk.org/resources/publications/Jones_Day_Petition_Rescind_BDA_Rule.pdf)
  9. “Stanley Au Makes His Case for Banco Delta Asia,” Tuesday, May 15, 2007. <http://chinamatters.blogspot.com/2007/05/stanley-au-makes-his-case-for-banco.html>
  10. “David Asher’s Dead End,” Saturday, April 28, 2007. <http://chinamatters.blogspot.com/2007/04/david-ashers-dead-end.html>
- See also “China’s Proliferation to North Korea and Iran, and its role in addressing the nuclear and missile situations in both nations,” Hearing, Sept. 14, 2006, Nov. 2006, p. 115-116. [http://www.uscc.gov/hearings/2006hearings/transcripts/sept\\_14/06\\_09\\_14\\_trans.pdf](http://www.uscc.gov/hearings/2006hearings/transcripts/sept_14/06_09_14_trans.pdf)
10. Ronda Hauben, “Bill Moyers and the Emergence of U.S. Citizen Journalism: Power of government creates need for

investigative news.”

[http://english.ohmynews.com/articleview/article\\_view.asp?no=360069&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?no=360069&rel_no=1)

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## **On the Status of the Six-Party Talks 'It's Never Been an Easy Sell in Washington,' Says Chris Hill**

by Ronda Hauben  
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At a press conference held in New York City on Tuesday, Oct. 2, 2007, U.S. Assistant Secretary of State Christopher Hill answered questions and outlined some of his concerns regarding the recent session of the Six-Party Talks<sup>1</sup> held in Beijing, Sept. 27-30.

Hill said that originally there was not to be a formal statement of agreement, but that on Sunday morning before the session was to end, the Chinese hosts distributed a draft of a short statement for the six parties to consider [See page 18 below "Full Text of the Joint Document"]. Hill said that each of the parties took the statement back to their capitol to seek approval. For Hill, this meant flying to New York City to meet with Secretary of State Rice who had been attending UN related events. Then the proposal was brought to President Bush for his approval.

When Hill was asked how difficult was the process of getting an agreement from Washington, he said "It's never been an easy sell in Washington." Hill explained the agreement in general terms, as the press conference was held before the statement was officially released.

By Dec. 31, 2007, Hill said North Korea agreed to disable its Yongbyon nuclear facilities. Also by that date, there was an agreement to provide an accurate accounting for how much fissile material was produced by North Korea. In 2008, the Six-Party Talks will move toward the issue of dismantling the

plutonium producing facility. As an outcome of the talks, Hill hoped for the creation of a North East Asian Peace structure, but he felt there was still a long way to go to get to that goal.

When asked about whether the U.S. had agreed to remove North Korea from the U.S. government's State Sponsors of Terrorists list, Hill said that was something "we are working on with the DPRK." He said that "from our point of view any time we can work with a country to get them off the list, that's what we want to do." Hill also said that North Korea was being encouraged to improve DPRK-Japan relations. He did not say whether efforts were being made to encourage Japan to improve Japan-DPRK relations.

In response to another question about removing the designation of North Korea as a state sponsor of terrorism, Hill said that the U.S. wanted to "work through the past history that had led to the DPRK being put on that list."

A reporter asked what it would take to move from the armistice of the Korean war to a peace agreement ending the war.

"From the U.S. point of view if the DPRK is prepared to denuclearize, we are prepared to reach a peace agreement," replied Hill. There would need to be a number of issues considered, he explained, to reach a peace settlement. When questioned about North Korea's concern that there be an end of hostility by the U.S. toward it, Hill said that the U.S. was hostile to proliferation and that there was no hostile policy of the U.S. to North Korea.

When asked about the problems that had existed regarding the U.S. Treasury Department's action freezing North Korean assets in the Banco Delta Asia,<sup>2</sup> Hill said that that situation related to the need of the U.S. to protect its financial system and its currencies. "We would like them (North Korea-ed) to have access to the international financial system," he explained, "but they have to play by the rules everyone else plays by."

He didn't elaborate further on this issue or on whether North Korea's regaining access to the international banking system was a matter being considered in the negotiations between the U.S. and North Korea.

In response to a question about why it seemed negotiations were entering a sensitive stage, he explained that what was happening was to have the U.S. on the ground involved in disabling the nuclear

facility. It was “not just paper anymore,” he observed.

Another reporter asked Hill what problems he saw in the future that he was concerned about. Hill responded that what keeps him awake is that they are focusing on the step to be taken but that “the process won’t be successful unless we reach the goal.” The DPRK will need to give up its fissile material and weapons, explained Hill, so he was concerned that there were those in the army in North Korea who might not want to get to the last step.

“When we finish this job,” Hill said, the parties will have come to understand what it means to come together and solve the problems. In this process, Hill felt that North Korea would get the sense of “what it means to be part of a community.”

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#### Notes

1. For an earlier press conference by Hill about the talks, see “U.S., North Korea Move to Open Ties Christopher Hill and Kim Kye-gwan hold meeting in New York on first steps.”

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=348974&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=348974&rel_no=1)

2. While the \$25 million of North Korean funds have now been returned to North Korea, the problem of North Korea being denied access to the international banking system has not yet been resolved. Describing some of the problems that the U.S. Treasury Department action against the Banco Delta Asia posed as an obstacle to the progress of the Six-Party Talks, see for example: North Korea’s \$25 Million and Banco Delta Asia, Behind the Blacklisting of Banco Delta Asia, Weapons of Mass Destruction Syndrome and the Press?

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=362192&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=362192&rel_no=1)

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#### Full Text of the Joint Document

*The Second Session of the Sixth Round of the Six-Party Talks was held in Beijing among the People’s Republic of China, the Democratic People’s Republic of Korea, Japan, the Republic of Korea, the Russian Federation and the United States of America from 27 to 30 September, 2007.*

*Mr. Wu Dawei, Vice Minister of Foreign Affairs of the PRC, Mr. Kim Gye Gwan, Vice Minister of Foreign Affairs of the DPRK, Mr. Kenichiro Sasae, Director-General for Asian and Oceanian Affairs, Ministry of Foreign Affairs of Japan, Mr. Chun Yung-woo, Special Representative for Korean Peninsula Peace and Security Affairs of the ROK Ministry of Foreign Affairs and Trade, Mr. Alexander Losyukov, Deputy Minister of Foreign Affairs of the Russian Federation, and Mr. Christopher Hill, Assistant Secretary for East Asian and Pacific Affairs of the Department of State of the United States, attended the talks as heads of their respective delegations.*

*Vice Foreign Minister Wu Dawei chaired the talks.*

*The Parties listened to and endorsed the reports of the five Working Groups, confirmed the implementation of the initial*

*actions provided for in the February 13 agreement, agreed to push forward the Six-Party Talks process in accordance with the consensus reached at the meetings of the Working Groups and reached agreement on second-phase actions for the implementation of the Joint Statement of September 19, 2005, the goal of which is the verifiable denuclearization of the Korean Peninsula in a peaceful manner.*

#### *I. On Denuclearization of the Korean Peninsula*

*1. The DPRK agreed to disable all existing nuclear facilities subject to abandonment under the September 2005 Joint Statement and the February 13 agreement.*

*The disablement of the 5-megawatt Experimental Reactor at Yongbyon, the Reprocessing Plant (Radiochemical Laboratory) at Yongbyon and the Nuclear Fuel Rod Fabrication Facility at Yongbyon will be completed by December 31, 2007. Specific measures recommended by the expert group will be adopted by heads of delegation in line with the principles of being acceptable to all Parties, scientific, safe, verifiable, and consistent with international standards. At the request of the other Parties, the United States will lead disablement activities and provide the initial funding for those activities. As a first step, the U.S. side will lead the expert group to the DPRK within the next two weeks to prepare for disablement.*

*2. The DPRK agreed to provide a complete and correct declaration of all its nuclear programs in accordance with the February 13 agreement by December 31, 2007.*

*3. The DPRK reaffirmed its commitment not to transfer nuclear materials, technology, or know-how.*

#### *II. On Normalization of Relations between Relevant Countries*

*1. The DPRK and the United States remain committed to improving their bilateral relations and moving towards a full diplomatic relationship. The two sides will increase bilateral exchanges and enhance mutual trust. Recalling the commitments to begin the process of removing the designation of the DPRK as a state sponsor of terrorism and advance the process of terminating the application of the Trading with the Enemy Act with respect to the DPRK, the United States will fulfill its commitments to the DPRK in parallel with the DPRK’s actions based on consensus reached at the meetings of the Working Group on Normalization of DPRK-U.S. Relations.*

*2. The DPRK and Japan will make sincere efforts to normalize their relations expeditiously in accordance with the Pyongyang Declaration, on the basis of the settlement of the unfortunate past and the outstanding issues of concern. The DPRK and Japan committed themselves to taking specific actions toward this end through intensive consultations between them.*

#### *III. On Economic and Energy Assistance to the DPRK*

*In accordance with the February 13 agreement, economic, energy and humanitarian assistance up to the equivalent of one million tons of HFO (inclusive of the 100,000 tons of HFO already delivered) will be provided to the DPRK. Specific modalities will be finalized through discussion by the Working Group on Economy and Energy Cooperation.*

#### IV. On the Six-Party Ministerial Meeting

*The Parties reiterated that the Six-Party Ministerial Meeting will be held in Beijing at an appropriate time.*

*The Parties agreed to hold a heads of delegation meeting prior to the Ministerial Meeting to discuss the agenda for the Meeting.*

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## **UN Passes Resolution Supporting Inter-Korean Summit**

### **Document A/62/L4 Entitled 'Peace, Security and Reunification on the Korean Peninsula'**

by Ronda Hauben  
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Just a little over a year ago I began covering the United Nations as a featured writer for *OhmyNews International*. My first day was when Ban Ki-moon's nomination for Secretary-General of the UN was approved by the General Assembly. For South Korea this was an exciting event.

The next day, however, the Security Council imposed sanctions against North Korea.<sup>1</sup> The dilemma of a Korea divided North and South was a glaring contradiction facing the international community with the appointment of a Secretary-General from the Korean peninsula. Similarly, however, this was a challenge to the international community to support unification on the Korean peninsula.

A little more than one year later, the General Assembly held an event to provide needed support for Korean reunification. In the General Assembly on Wednesday, Oct. 31, the international community approved a resolution supporting the motion toward reunification of the two Koreas and applauding the 2<sup>nd</sup> Inter-Korean Summit held October 2-4, 2007, and the joint Declaration issued by the presidents of the two Koreas.<sup>2</sup>

The event was held during the afternoon session of the UN's General Assembly. The UN delegate from North Korea, Pak Gil Yon introduced the

resolution, saying "Mr. President, I have the honor to introduce a draft resolution contained in document A/62/L4 entitled 'Peace, security and reunification on the Korean peninsula.'"

He described the Oct. 2-4 summit and the declaration that resulted, explaining that the UN resolution being proposed "welcomes and supports the inter-Korean summit including the Declaration and encourages both sides to implement it faithfully and in good faith, inviting member States to support and assist the current positive process."

The UN delegate from South Korea, Kim Hyun Chong was the next speaker. As joint sponsor of the resolution with the delegate from North Korea, Kim described several aspects of the peace accord that the two parties agreed to in their declaration ending the Inter-Korean Summit. "Through its various provisions," he explained, "the Declaration points the way forward for common prosperity, eventual peaceful reunification on the Korean peninsula, and the resolution of longstanding regional concerns."

Among those speaking in support of the resolution were Portugal on behalf of the European Union, China, Vietnam, Japan, the U.S., New Zealand, Yemen, Germany, Indonesia, Thailand, Canada, Guatemala, Belarus, Russia, Chile, Poland, Mongolia, Myanmar, Benin, Brazil, Italy, Bangladesh, Egypt, and Cuba.

Yemen and Germany spoke about the difficulties they had experienced as divided nations, and offered whatever support they could provide to the Korean reunification efforts. The German ambassador said that "what we have learned from our own experience is: the separation of a nation is not irreversible. The two Koreas will have to find their own way of tackling these issues, but Germany stands ready, upon request, to share its own experience from the years of German-German relations."

The ambassador of Yemen said that they had had a long history of division, which was changed with the unification in May 1990. He explained that the unification was difficult and not without defects. He understood the suffering of the divided families and duplication of resources that the division represented and said that his country would do what it could to support the efforts of the two Koreas to implement fully the declaration they had issued.

The ambassador from Vietnam noted that the Summit and the resulting Declaration were of "great historic significance." He said that Vietnam "wel-

comes and highly appreciates the encouraging outcomes of these developments.” He noted that the events of Oct. 2-4 represented an important milestone in the process of the improvement and development of relations between the two Koreans which would bring them “closer to their long-held dreams of national reunification and prosperity.” The ambassador from Vietnam noted that his country had good relations with the two Koreas.

The ambassador from Thailand also noted the historic nature of the recent Summit and concluded that “this historic resolution has called for many countries to readjust the attitude and the policy toward the situation in the Korean peninsula.”

Indonesia’s UN ambassador similarly noted that his country has had close ties with both North and South Korea. He, too, saw the Summit of October 2007 as a “major milestone in inter-Korean relations.” He called for support from member nations to the process of “inter-Korean dialogue, reconciliation and reunification.”

The UN ambassador from Portugal said that the EU stands ready to contribute to the efforts.

Several nations spoke about having been part of KEDO, the Korean Peninsula Energy Development Organization in 1996 and wanting to continue to help in the ways they could. The ambassador from Italy said that his country had worked to support Inter-Korean dialogue. Also Italy was offering to provide the help it could, and had established a way to provide aid to North Korea shortly before the Summit. Italy had been a supporter of KEDO, as had Chile.

Benin’s UN ambassador explained that his country, too, had friendly relations with the two sister republics on the Korean Peninsula. He described how Benin had been working to promote peaceful reunification of the Koreas for a number of decades. He endorsed the current developments and said that reunification would “put an end to one of the most painful relics of the Second World War.”

Brazil expressed his support for the resolution and reminded those in the General Assembly that Brazil had been a co-sponsor for the General Assembly Resolution 55/11 seven years earlier supporting the first Inter-Korean Summit of June 15, 2000.

The U.S. ambassador to the UN said that the U.S. was pleased with the draft resolution being discussed by the General Assembly. He stressed that dialogue between the two Koreas was essential for better relations. He explained that this dialogue

process was supportive to and complementary to the six-party talks going on.

The Japanese ambassador also expressed his nation’s strong support for the draft resolution. In his talk he referred to some of the specifics of the six-party talks.

The ambassador to the UN from Chile expressed his sentiments that Korea had one past and one destiny. The declaration from the Inter-Korean Summit was the outcome of a difficult and sensitive process. He explained that no state should fail to join the noble effort to support the Korean people’s desire to become one nation.

The ambassador from Cuba to the UN was the final speaker in the discussion before action was to be taken on the resolution. He explained that “Cuba has always supported and will continue to support the peaceful reunification of the Korean peninsula.” Also he explained that the Summit Conference of the Non-Aligned Movement (NAM) held last year in Havana stressed the importance of peace on the Korean peninsula. Similarly the NAM Summit “expressed its support toward efforts to reunify the Korean peninsula through the genuine aspirations and concerted efforts of the Korean peoples themselves.”

The resolution was approved by acclamation. Ban Ki-moon was present in the General Assembly during the discussion of the resolution. After it was approved, he made a statement congratulating the representatives of the two Koreas.<sup>3</sup>

“Today’s date,” he explained, “coincides exactly with the date seven years ago when the General Assembly adopted resolution 55/11, following the June 2000 summit of the DPRK and the ROK. I welcome this coincidence. In my homeland of Korea, it is an ancient custom to choose an auspicious day for any celebration or new endeavor.”

“Today,” he continued, “I feel a personal obligation to do all I can to encourage and facilitate the continuing work for peace, security and reunification on the Korean peninsula. I am convinced that the historic inter-Korean summit will pave the way for a permanent peace regime and eventual reunification.”

“As Secretary-General, I stand ready to provide every assistance required, in close cooperation with the international community,” he said, concluding his statement.

During the press encounter he had outside of the General Assembly, Ban was asked, “[Y]ou just said that you would like to do everything to support peace

on the Korean peninsula. Do you have any special plan in mind, as head of the United Nations, and if so, can you please give me the details?"

In response, Ban said, "At this time I do not have any detailed or specific plans, but in principle, as Secretary-General, I have a broad mandate and duty to assist any parties to the problems for smooth and harmonious resolution. For that matter, since I served as Foreign Minister of the Republic of Korea in the past, and I have expertise and knowledge and experience, whenever I am needed, I will do whatever I can."

The UN resolution supporting the movement toward reunification of the two Koreas, passed on the last day of October 2007 by the General Assembly, may not seem particularly significant, but it is actually an important event. It reflects the support of the international community for the peaceful reunification of the Korean peninsula, which is one of the important outstanding problems of our times. As the ambassador from Benin profoundly noted, the reunification of the two Koreas would "put an end to one of the most painful relics of the Second World War."

The UN was created to facilitate such events. Passing this resolution supporting the recent Inter-Korean Summit is a fitting way for the UN to mark the one year anniversary since the General Assembly appointed a new Secretary-General. The challenge is now for the people of the two Koreas, the Secretary-General and the member nations to do what is needed to support the continuing motion toward peaceful reconciliation and Korean reunification.

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#### Notes

1. Ronda Hauben, "The Problem Facing the U.N. Can Ban Ki-moon help solve the problem with the Security Council?," *OhmyNews International*, October 17, 2006.

[http://english.ohmynews.com/articleview/article\\_view.asp?article\\_class=3&no=323351&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?article_class=3&no=323351&rel_no=1)

2. The Resolution reads:

United Nations A/62/L.4

General Assembly

Sixty-second session

Agenda item 167

Peace, security and reunification on the Korean peninsula

Democratic People's Republic of Korea and Republic of Korea: draft resolution

Peace, security and reunification on the Korean peninsula

The General Assembly, Recalling its resolution 55/11 of 31 October 2000, in which it welcomed and supported the inter-Korean summit and the joint declaration adopted on 15 June 2000 by the two leaders of the Democratic People's Republic of Korea and the Republic of Korea,

Reaffirming the purposes and principles of the Charter of the United Nations regarding the maintenance of international peace and security, Convinced that inter-Korean dialogue and cooperation are essential for consolidating peace and security on the Korean peninsula and also contribute to peace and stability in the region and beyond, in conformity with the purposes and principles of the Charter,

Recognizing that the summit meeting held in Pyongyang from 2 to 4 October 2007 between the two leaders of the Democratic People's Republic of Korea and the Republic of Korea and their Declaration on the Advancement of North-South Korean Relations, Peace and Prosperity represent a major milestone in improving inter-Korean relations and in advancing peace and common prosperity on the Korean peninsula and in the wider region as well,

Recalling the statements welcoming the inter-Korean summit made on 1 October 2007 by the Secretary-General and the President of the General Assembly, and recalling also the statement welcoming the adoption of the Declaration made on 4 October 2007 by the Secretary-General,

1. Welcomes and supports the inter-Korean summit held from 2 to 4 October 2007 and the Declaration on the Advancement of North-South Korean Relations, Peace and Prosperity adopted on 4 October 2007 by the two leaders of the Democratic People's Republic of Korea and the Republic of Korea;

A/62/L.4

2 07-55752

2. Encourages the Democratic People's Republic of Korea and the Republic of Korea to implement the Declaration fully and in good faith, thereby consolidating peace on the Korean peninsula and laying a solid foundation for peaceful reunification;

3. Invites Member States to continue to support and assist, as appropriate, the process of inter-Korean dialogue, reconciliation and reunification so that it may contribute to peace and security not only on the Korean peninsula but also in northeast Asia and the world as a whole.

A/62/L.4

3. Ban's statement: <http://www.un.org/press/en/2007/sgsm1120.doc.htm>

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## **UN Security Council Controversy over North Korean Satellite Launch Reconvening Six-party Talks or Penalizing Pyongyang?**

by Ronda Hauben  
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There has been a controversy among the members of the UN Security Council (UNSC) over how to react to the April 5 launch of a satellite by North Korea. The Security Council met for emergency consultations on Sunday, April 5, while the P-5 and Japan have met in other consultations after the Sunday meeting.

Japan and the U.S. have encouraged the UNSC to take strong measures against North Korea to punish it for launching the satellite. The Russian Ambassador to the UN, Vitaly I. Churkin warned against a "knee jerk" reaction and proposed that the crucial goal was to ensure the continuation of the six-party talks toward the denuclearization of the Korean Peninsula. These talks broke down during the Bush administration and have not yet been resumed.

The Chinese Ambassador to the UN, Zhang Yesui said that the reaction of the Security Council had to be "cautious and proportionate." He said that his delegation would be most willing to consider constructive responses.

U.S. Ambassador Susan Rice, called the launch by North Korea, "a clear-cut violation of UN Security Council Resolution 1718."

She said that it is the view of the U.S. government "that this action merits a clear and strong response from the United Nations Security Council."

Her position was that S.C. Resolution 1718 "prohibited missile related activity and called on the DPRK to halt further missile related activity."

Vietnam, one of the elected members of the Security Council, called for a "prudent reaction." A spokesperson for the Foreign Ministry said that Vietnam "hopes the relevant parties have a prudent reaction, find a reasonable solution and do not complicate the situation and affect peace and stability in the Northeast Asia region."<sup>1</sup>

While Vietnam said that it was opposed to the proliferation of nuclear weapons, an earlier statement indicated that Vietnam supports "the rights of countries to use science and technology for peaceful purposes."

The Japanese Ambassador to the UN, Yukio Takasu requested an emergency consultative session of the Security Council on Sunday, April 5. His position was that North Korea's launch of a satellite was banned by S.C. Resolution 1718 which demands that North Korea suspend all activities "related to its ballistic missile program."

While S.C. Resolution 1718 explicitly demands that North Korea not conduct any "launch of a ballistic missile," the members of the Security Council disagree about whether S.C. Resolution 1718 forbids the launch of a communication satellite.

Countries advocating the position that North Korea violated S.C. Resolution 1718, point to parts five and 8(a)ii of the resolution as the parts violated.

Part 5 reads that the Security Council:

Decides that the DPRK shall suspend all activities related to its ballistic missile program and in this context reestablish its pre-existing commitments to a moratorium on missile launch. (S.C. Resolution 1718, p.2)

Section 8(a)ii is about member states preventing the sale or transfer to North Korea of "materials, equipment, goods and technology as set out in the lists...which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass-destruction related programs." (S.C. Resolution 1718, p. 2-3)

North Korea was not invited to participate in the emergency consultations of the Security Council, despite the fact that Article 32 of the UN charter requires that a "party to a dispute under consideration by the Security Council shall be invited to participate, without vote, in the discussion relating to the dispute...."

Speaking to reporters at the UN on Tuesday, April 7, the Deputy Ambassador to the UN from the Democratic People's Republic of Korea (North Korea), Pak Tok Hun said:<sup>2</sup>

Every country has the right, the inalienable right to use the outer space peacefully. Not a few countries, many countries, they have already launched satellites several hundred times.

Does it mean it would be OK for them to launch satellites but we are not allowed to do that? It's not fair. It's not fair.

This is a satellite. Everyone can distinguish (a) satellite with a missile. It's not a missile. I know most of the countries now recognize it's not a missile.

A reporter asked, "But you use ballistic technology. You need ballistic technologies."

Pak responded:

Those countries who launch satellites use similar technology and if the Security Council, they take any kind of step whatever, this is infringement on the sovereignty of our country and the next option will be ours and necessary and strong steps will follow that.

Along with the dispute in the Security Council over whether or not the North Korea's action is an actual violation of S.C. Resolution 1718, there is a controversy over whether the thrust of the Security Council action should be toward getting the six-party talks reconvened, or toward penalizing North Korea in some way.

The resolution of this controversy depends predominantly upon the U.S. because it can be argued that the U.S. was responsible for the current breakdown of the six-party talks.

In a talk at the Korea Society in NYC last Fall, Leon Sigal of the Social Science Research Council (SSRC) explained how the six-party talks broke down over the issue of verification. The U.S. government had changed the terms of the agreement unilaterally, imposing a condition on North Korea that was not part of the original agreement.<sup>3</sup>

The second phase of the six-party February 2007 agreement required disabling the reactor, and other processes at Yongbyon and declaring the nuclear material and equipment which were to be eliminated in Phase 3 of the agreed actions.

The Bush administration was obligated to provide 'action for action' in response to North Korea's disabling the reactor and other steps.

The verification was to occur only later in the six-party talk process, in Phase 3 "when the dismantling of the North's nuclear facilities and elimination of any plutonium or weapons it has would be taken up." Instead the U.S. continued to press for a verification agreement during Phase 2 of the agreement.

Most of the mainstream U.S. media, with the

exception of an important article in the *Washington Post*, failed to explain the reason for the breakdown in the talks.<sup>4</sup> The *Washington Post* article which documented how the hostile U.S. State Department environment eroded the process of negotiation between the U.S. government and North Korea, was only carried on page 20 of the newspaper. It described how U.S. government hardliners fashioned a verification procedure to be imposed on North Korea which was in the words of an expert in nuclear disarmament akin to "a license to spy on any military site they (North Korea) have."

By launching a satellite rather than a ballistic missile, North Korea has avoided violation of the ballistic missile sections of S.C. Resolution 1718. This gives the U.S. a chance to respond by returning to the six-party-talks and seeking to finish Phase 2 before requiring verification in Phase 3 of the process.

The Security Council has this opportunity to call for all parties to cease any obstruction and to return to the six-party talks and to intensify their efforts to complete Phase 2 and enter the next phase of the agreed path to the denuclearization of the Korean Peninsula.

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#### Notes

1. Vietnam calls for 'prudent' reaction to DPRK rocket, April 5, 2009.
  2. Pak Tok Hun, Deputy Ambassador from the Democratic People's Republic of Korea (North Korea) to the UN, speaking to reporters at the UN on Tuesday, April 7, 2009. <http://webcast.un.org/ramgen/ondemand/stakeout/2009/so090407pm2.rm>
  3. Ronda Hauben, "U.S. Media and the Breakdown in the Six-Party Talks," *OhmyNews International*, Sept. 29, 2008.
  4. Glenn Kessler, "Far reaching U.S. Plan Impaired N. Korea Deal: Demands Began to Undo Nuclear Accord," *Washington Post*, Friday, Sept. 26, 2008; Page A20.
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[Editor's note: The following article appeared in *OhmyNews International* on April 17, 2009]

## **Security Council's Ad Hoc Actions Increase Tension on Korean Peninsula**

### **[Analysis] North Korea Responds by Withdrawing from Six-Party Talks as Promised**

by Ronda Hauben  
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On April 13, 2009, the UN Security Council (UNSC) issued a presidential statement condemning North Korea's satellite launch on April 5. The Security Council statement declared the launch "in contravention" of UNSC Resolution 1718 (2006), even though there was no wording in the 2006 statement against satellite launches. In the 2009 statement, the Security Council demanded North Korea not conduct further launches, including of satellites. The presidential statement also mandated that new sanctions would be added to the sanction's list in the 2006 resolution.

Usually, a presidential statement issued by the Security Council is considered a non binding statement. Suddenly, the Security Council has changed its processes, using a presidential statement to deny North Korea the right to launch satellites, and to impose a new set of sanctions.

South Korea has recently noted that the trajectory of the North Korean launch was indeed the trajectory for a satellite launch.<sup>1</sup> Lee Sang-hee, the South Korean Defense Minister, in response to a question asked during a hearing held in South Korea's National Assembly, replied that "The rocket launched by the North followed the trajectory of a satellite and later separated in its final two stages before crashing into the Pacific Ocean." South Korea's *Yonhap News Agency* reported the minister's remarks, adding that these remarks were an official acknowledgment that the rocket was the effort to launch a satellite, not a ballistic missile.

UNSC resolution 1718 (2006) demands North Korea not conduct any launch of ballistic missiles, but does not refer to satellite launches.<sup>2</sup>

Pak Tok-hun, the North Korean Deputy Ambassador to the UN, referred to the fact that his country

is being denied a right that other countries have, and that this treatment is not "fair." In an interview with Aljazeera, the Ambassador said that if the Security Council acted against his country for its satellite launch, North Korea would respond with harsh measures.<sup>3</sup>

The Ambassador noted that Japan has launched satellites more than 100 times and other countries like the U.S. has launched satellites and the Security Council has not taken up the issue. He complained that North Korea is being treated in a way that is different from how other countries are treated.

Some of what is striking about the action by the Security Council is the closed process used to consider the issue. There was no public discussion. There were several closed meetings, called consultations, among the P-5 members and Japan. During these meetings journalists were told the P-5 and Japan discussed what the response of the Security Council should be to North Korea's launch.

After there was agreement among the P-5 and Japan on what was to be contained in a presidential statement on the launch, the statement was presented to the other elected members of the Security Council for their approval. Despite the obligation specified in Article 32 of the UN Charter that a nation that is a party to an issue being discussed by the Security Council be invited to the Security Council for the discussion, no such invitation was made, according to sources on the Security Council.

Similarly, though several of the nations on the Security Council indicated that they favored the resumption of the six-party talks as a way to deal with the launch by North Korea, there was no indication that there was any consideration by the Security Council of what led to the breakdown of the six-party talks. The U.S. government's effort to require verification in Phase 2 of the six-party Feb. 2007 agreement, rather than in Phase 3, as had been agreed to by the six-parties was not discussed in the Security Council.

Instead of the Security Council members considering the problem which derailed the talks, they agreed to impose new sanctions on North Korea. Since no new Security Council resolution was being issued, there was no appropriate means of issuing new sanctions. They resorted to acting in an ad-hoc manner when they announced they would use a presidential statement to add new sanctions to Security Council resolution 1718 issued in 2006.

One journalist, at the press stakeout after the Security Council meeting issuing the presidential statement, asked:<sup>4</sup>

Mr. Ambassador, Does this presidential statement set a precedent whereby in the future, if you want to adjust the sanctions, supposedly for example for Iran, you can issue another presidential statement to change the content of the sanctions in a resolution? Is this legally speaking, a precedent?

Baki Ilkin, Turkey's Ambassador to the UN, who is the head of the UNSC Resolution 1718 sanctions committee, responded:

I am a newcomer. I wish you had asked the previous speakers (Several Security Council Ambassadors had spoken before Ambassador Ilkin at the stakeout-ed).

After the Security Council issued its presidential statement, North Korea announced it is leaving the six-party talks. It announced that it does not recognize the actions of the Security Council condemning its satellite launch. There is justification for North Korea's actions. Yet much of the mainstream media in the U.S. frames North Korea's reasonable response as but an indication of how unreasonable it behaves.

North Korea has asked that the IAEA and U.S. inspectors leave North Korea. It says it will resume its nuclear deterrent development, as North Korean Deputy Ambassador Pak Tok-hun promised would happen if the Security Council acted to condemn North Korea. The Ambassador told Aljazeera and other media that the Security Council could expect strong measures in response to any action against North Korea. "We don't say empty talk. What we say is what we do," the Ambassador told journalists.

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#### Notes

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2. Ronda Hauben, "Every country has the inalienable right to use the outer space peacefully: UN Security Council Controversy over North Korean Satellite Launch," *Telepolis*, April 8, 2009. <http://www.heise.de/tp/r4/artikel/30/30099/1.html>
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13, 2009." <http://webcast.un.org/ramgen/ondemand/stakeout/2009/so090413pm7.rm>

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[Editor's note: The following article appeared in *OhmyNews International* on June 12, 2009]

## **U.S. Policy Toward North Korea Fails to Engage** **[Opinion] UN Security Council Should be Neutral in its Dealings with North Korea**

by Ronda Hauben  
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U.S. policy toward North Korea since Barack Obama assumed the U.S. presidency is very different from the promises of engagement which he made during his election campaign. This policy presents a striking example of the disparity between pre election promises and the action taken thus far during the Obama presidency.

On the first day of the new administration, sanctions were authorized against three North Korean firms under the Arms Export Control Act, along with several nonproliferation executive orders. The three firms were KOMID, which had been sanctioned by other administrations, Sino-Ki and Moksong Trading Company, which were being sanctioned for the first time.<sup>1</sup>

The hostile direction of Obama's policy, however, has been signaled most clearly by the change made when the new administration failed to reappoint Christopher Hill to his position as Assistant Secretary of State for East Asia and the head of the U.S. negotiation team for the six-party talks with North Korea.

Not only was Hill not reappointed, but the role of U.S. negotiator with North Korea was downgraded and split among several different officials. A part time position was created for an envoy. Another person would be the U.S. representative to the six-party talks. And still another official was to be appointed to the position of Assistant Secretary of State for East Asia, which was Hill's former position.

Stephen Bosworth accepted the position as envoy. His official title is Special Representative for North Korea Policy. Bosworth did so on a part time

basis. At the same time, he maintained his full time position as Dean of the Fletcher School of Law and Diplomacy at Tufts University along with his new part time job.

There has been little public discussion about why the Obama administration made such significant changes. The *Boston Globe*, in an article about Bosworth's appointment, refers to the concerns expressed by Leon Sigal, the director of the Northeast Asia Cooperative Security Project at the Social Science Research Council in New York. The article quotes Sigal saying that there are officials in the new administration, "who don't think we can get anywhere, so they don't want to do the political heavy lifting to try."<sup>2</sup>

In contrast to the loss of Hill as a negotiator with North Korea, the Obama administration reappointed Stuart Levey, as the Under Secretary of the Treasury for Terrorism and Financial Intelligence. Levey's office in the Treasury Department, was created in 2004 under George W. Bush. This office was used to impose economic sanctions on North Korea. One such action was the freezing of funds that North Korea had in a bank in Macao, China, the Banco Delta Asia (BDA).

North Korea was not only denied access to U.S. \$25 million, but it was also denied the use of the international banking system. This freezing of North Korean funds was announced shortly after North Korea and the five other nations who were part of the six-party talks signed the September 19, 2005 agreement to denuclearize the Korean Peninsula.<sup>3</sup> The announcement by the Treasury Department sabotaged the implementation of this important agreement which would have gone a long way toward the goal of denuclearizing the Korean Peninsula. North Korea withdrew from the six-party talks until the \$25 million was returned.<sup>4</sup>

It is significant here to note that Levey and his office briefly came under public scrutiny in 2006 when the *New York Times* published an article exposing how the office has access to and uses the SWIFT Data Base to do intelligence work targeting people and transactions that it claims are in violation of U.S. law.<sup>5</sup> The SWIFT Data Base contains the transactions and identification information for the hundreds of thousands of people and entities that do electronic banking transactions using the SWIFT system.

The action by the U.S. Treasury using a section of the Patriot Act against the Banco Delta Asia Bank,

however, demonstrated that the U.S. government has the ability to use this data base information against those it wants to target politically, rather than those who have committed any actual illegal acts. Testimony by former U.S. government officials to the U.S. Congress, and documents submitted to the U.S. government by the bank owner and his lawyer, demonstrated that there was never any evidence offered of any illegal acts. Instead the Patriot Act had been used to allow the U.S. government to act against this bank for political objectives. (See "Behind the Blacklisting of Banco Delta Asia: Is the policy aimed at targeting China as well as North Korea?")

[http://english.ohmynews.com/articleview/article\\_view.asp?menu=c10400&no=362192&rel\\_no=1](http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=362192&rel_no=1)

The new positions, designated to negotiate with North Korea, are at a lower administrative level than was Hill's former position. In addition, the Obama administration, by not reappointing Hill, has lost his valuable expertise. Hill had effectively countered the sabotage to negotiations caused by Levey's office during the Bush administration.

Hill was met with opposition from some in the Bush administration at each step along the way. Remarkably, Hill effectively countered much of this opposition, making progress in the negotiations. In August 2008, however, the Bush administration unilaterally changed what it claimed North Korea's obligations were as part of Phase 2 of the six-party Feb. 2007 agreement, and falsely declared that North Korea was in violation.<sup>6</sup>

With Hill gone from the North Korean desk at the State Department, and Levey reappointed to his position at the Treasury Department, it is significant that Obama sent an inter-agency group to visit the capitals of Japan, South Korea and China to discuss punishments for North Korea. Levey was featured as one of the U.S. government officials on the trip.

But is punishment appropriate? There has been no similar effort to open negotiations with North Korea.

Instead, the U.S. administration has given its support to Levey and others whose actions have sabotaged the success of the six-party talks. This failure of the Obama administration is similar to previous U.S. policy on North Korea.

Robert Carlin, part of the U.S. government negotiation team with North Korea under the Clinton Administration, documents that there were significant and successful negotiations on 22 issues carried out in

the period between 1993 and 2000.<sup>7</sup> These achievements, however, could not survive into the transition to the Bush Administration.

Similarly, Mike Chinoy, a former *CNN* journalist, in his book *Meltdown*, documents both the Clinton years and much of the Bush years. He chronicles how negotiations were torpedoed not by North Korea, but by forces within the U.S. government itself.<sup>8</sup>

In addition, the U.S. conducts frequent military maneuvers close to North Korea which North Korea has claimed as a threat to its peace and security.

On April 5, 2009, North Korea test launched a communications satellite using a rocket of advanced design. This test broke no international law or treaty to which North Korea is a party.<sup>9</sup> Still the launch was condemned by the UN Security Council in a Presidential Statement. Also new sanctions were imposed on North Korea, stating as authority, a previous Security Council Resolution 1718.<sup>10</sup>

North Korea has been the target of hostile acts by the U.S. North Korea has tested rockets and has done tests of two nuclear devices, which it claims it needs as a deterrent. The U.S. has military agreements with Japan and South Korea, including them under the protection of the U.S. nuclear umbrella. There is only an armistice ending the fighting of the Korean War. The U.S. as the head of the UN command has not been willing to negotiate a treaty ending the Korean War.

The failure of the UN Security Council to explore North Korea's problems in trying to check U.S. hostility demonstrates its failure to carry out its obligations under the UN Charter. The failure of the Security Council to protect Iraq from U.S. invasion is a warning that the Security Council should reform its processes so that it doesn't just become a vehicle for the political targeting of a nation as happened with Iraq.<sup>11</sup>

In his comments to journalists in response to the sanctions put on North Korea in April 2009, the Deputy Ambassador to the UN from North Korea, Pak Tok Hun said, "The recent activity of the security council concerning the peaceful use of outer space by my country shows that unless the security council is totally reformed and democratized we expect nothing from it."<sup>12</sup>

The challenge to the nations of the UN is to provide a more neutral and considered investigation of the problem it is trying to solve rather than just carrying out the punishment a P-5 nation may en-

deavor to inflict on another nation.

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[Editor's note: The following article first appeared on the netizenblog on June 26, 2013 at: <https://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command/>]

## **U.S. Misrepresents its Role in Korean War and in Armistice Agreement as UN Command**

by Ronda Hauben  
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July 27 of this year will be an important anniversary. It will be the 60<sup>th</sup> anniversary of the Armistice Agreement which provided the means to end the hostilities of the Korean War.

The armistice was recognized as a temporary means to stop the military action. It included a recommendation that it be followed by a political conference three months later to hammer out a political agreement which would serve as a peace treaty ending the Korean war. The political conference has never been held. And no means has yet been created to settle the unresolved issues of the Korean War.

At the UN on Friday, June 21, the permanent mission of the Democratic People's Republic of Korea (DPRK), more commonly known as North Korea, held a press conference.<sup>1</sup> Sin Son Ho, DPRK's Ambassador to the United Nations, presented journalists with a statement outlining the background of a serious problem remaining from the Korean War, a problem that needs to be resolved if the tension on the Korean Peninsula is not to escalate.

He documented how the United States, without any authority from the United Nations, changed the name of the Unified Command it was to direct, to the name 'UN Command'. This change falsifies the nature of the U.S. role in the Korean War and in the Armistice, making it appear that the U.S. is acting under the authority of the United Nations. The decisions made by what is called the 'UN Command' are made by the U.S. The U.S. is not acting as a subsidiary or representative of the UN when it acts under the name of the "UN Command." Yet the false appearance given is that the U.S. is acting under the authority of the UN.

The DPRK Ambassador explained how this misrepresentation was accomplished by the U.S. in

July 1950. On July 7, a Security Council Resolution (S.C. 84, 1950) was passed putting the U.S. as the head of what was called in the resolution the Unified Command, but with no oversight obligations by the UN for the actions of the U.S. On July 25, 1950, the U.S. submitted a report to the Security Council in which it replaced the name Unified Command with the name 'UN Command.'

Subsequently, the U.S. uses the designation UN Command despite the fact that this creates a false impression that there is a role played by the UN in Korean Armistice activities. The U.S. even uses UN Command as its designation in the actual Armistice Agreement.

The DPRK has at various times tried to get the U.S. to drop its misleading use of the title UN Command. In November 1975, Resolution 3390 (XXX) B was passed by the UN General Assembly calling for negotiations between the relevant parties so that the U.S. would no longer use the misleading designation 'UN Command' to represent the U.S. military role. The U.S. has not fulfilled on the obligation to carry out these negotiations. Instead the U.S. at the time argued that changing its designation as the UN Command would affect the oversight provisions provided for in the Armistice Agreement.

Subsequently, the DPRK points out that in the 60 years since the Armistice Agreement was signed, any oversight provisions it may have included no longer exist and the actual decisions regarding the agreement currently are made through negotiations between the Korean People's Army (KPA) and the U.S. military authority.

In view of the facts, Ambassador Sin said, the existence of the UN Command is an "anachronism." Instead of agreeing to dissolve it, however, he explained, the U.S. is projecting that it can serve as a "multinational force command" which would constitute the "matrix of an Asian version of NATO."

Two former UN Secretary-Generals have spoken out against the continuing use by the U.S. military of the name 'UN Command.' Ambassador Sin noted that both Boutros Boutros-Ghali and Kofi Annan have gone on record confirming that there is no UN military activity related to the U.S. claim that it is the UN Command.

At the June 21 noon press briefing by the Deputy Spokesman for UN Secretary-General Ban Ki-moon, a question was raised asking for Ban Ki-moon's views on the issue. The journalist asked:<sup>2</sup>

As I am sure you know, just now, Sin Son Ho, the Permanent Representative of the Democratic People's Republic of Korea, held a press conference in which he said he called for the dismantling of the "UN Command" uh, in South Korea, and he said it is not really a UN body at all, and quoted Boutros Boutros-Ghali and Kofi Annan to that effect. So what I wonder is as, as, the office of the Secretary-General, Ban Ki-moon, as the head of the UN system, has, does he, what is his position on the legal status in terms of the UN of the 'UN Command'? And separately, does he have any, what...would be, what's his response to a call to, to dismantle this entity?

In apparent agreement with the DPRK, Deputy Spokesperson for the Secretary-General, Eduardo del Buey responded:

But the United Nations has never had any role in the command of any armed forces deployed in the Korean peninsula. In particular, the United Nations did not at any time have any role in the command of the forces that operated in Korea under the Unified Command between 1950 and 1953.

In response, to the part of the question relating to Ban Ki-moon's view on the U.S. representing itself as the UN Command, the Deputy Spokesperson promised a future reply. He noted that:

Well, first of all, as you know, the Secretary-General is just getting off the plane from China now, so he is going to be reading the transcript of the statement by the Permanent Representative of the Democratic People's Republic of Korea, and we'll have something later on to say.

To an e-mail asking for further clarification of the Secretary-General's view about the DPRK's call for the dissolution of the 'UN Command,' the Deputy Spokesperson answered by referring to the Secretary-General's view that with respect to an issue related to the Armistice Agreement:<sup>3</sup>

This is a matter for the parties to the Agreement. The United Nations is not party to the Armistice Agreement.

Does this mean Ban Ki-moon believes that the misuse of the UN name by the U.S. is an issue to be

solved by the parties to the Armistice Agreement, and is not a concern for the UN?

In his press briefing Ambassador Sin said that if the U.S. did not dissolve the UN Command, the DPRK is considering once again pursuing this issue at the UN General Assembly, which in November 1975 had already urged the U.S. to dissolve the UN Command (See 3390(XXX)B 1975).

Ambassador Sin explained that "due to the existence of the 'UN Command', the security mechanism on the Korean peninsula has become war-oriented not peace-oriented."

"In other words," he elaborated, "the existence of the 'UN Command' is not serving the peace building efforts on the Korean peninsula. On the contrary, it is the root of evil or tumor laying a stepping stone for the U.S. armed forces of aggression toward the DPRK and the realization of the America's Pivot to Asia strategy."

Ambassador Sin proposed that "If the United States has real intention to put an end to hostile relation with the DPRK, it should make the right decision to dissolve the 'UN Command' and replace the Armistice Agreement with a peace regime as proposed by the DPRK this year when we mark the 60<sup>th</sup> year since the Armistice Agreement was signed."

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#### Notes

1. Press conference June 21, 2013, Ambassador Sin Son Ho at the UN. <http://webtv.un.org/media/press-conferences/watch/ambassador-sin-son-ho-the-permanent-representative-of-the-democratic-peoples-republic-of-korea-to-the-un-press-conference/2498682301001>

A text version of the statement presented is online at:

<http://www.4thmedia.org/2013/06/26/illegitimacy-and-injustice-of-the-un-command-in-south-korea-dprk-calls-for-its-immediate-dissolution/> For an earlier version of the statement, see: KCNA, "DPRK Foreign Ministry Issues Memorandum" January 14, 2013.

2. Daily Press Briefing by the Office of the Spokesperson for the Secretary-General June 21, 2013.

<http://www.un.org/News/briefings/docs/2013/db130621.doc.htm>

3. E-mail from Eduardo del Buey on June 25, 2013.

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[Editor's note: The following article first appeared on the netizenblog on August 31, 2013 at: <http://blogs.taz.de/netizenblog/2013/08/31/united-nations-command-as-camouflage/>]

## **United Nations Command As Camouflage: On the Role of the UN in the Unending Korean War**

by Ronda Hauben  
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### **I – Some Background**

The story of the Korean War is a story not often told. Yet sixty years after the agreement to end the military hostilities on July 27, 1953, there is not yet a peace treaty to end the war. This article on the occasion of the 60<sup>th</sup> Anniversary of the Armistice Agreement is intended as a contribution to the body of research and study needed to find the underlying cause of the bottleneck impeding the negotiation of a peace treaty so a breakthrough can be made.

Korea, which had been one nation for over 1000 years, had been forcibly divided at the end of WWII. By the UN legitimating an election in the South of Korea in May 1948 which was boycotted by many Koreans and from which all North Koreans and many South Koreans were excluded, a formal structural division was created which continues until today.<sup>1</sup> The significant aspect of the UN supported election was that it led to an official government structure for only the southern part of Korea, thus solidifying the division of Korea. The government structure created in the South by the election was a repressive government structure. One view of the military conflict that became known as the Korean War was that it was a civil war that was trying to restore Korea as one country.

The U.S. Government response to the fighting which broke out in June 1950 in Korea was to perpetuate support for the repressive government that the U.S. and UN had put in place as the Republic of Korea (more commonly known as South Korea). This is the context in which the United Nations Security Council resolutions of June and July 1950 authorizing UN participation in the Korean War took place.

The question that led me to begin this study

was:

What Was the Role of the UN in the Korean War and What Should be the Role of the UN in Bringing an End to the War?

It is important to take into account that before any action was taken on the part of the UN on June 27, 1950 authorizing intervention in the Korean War, the U.S. had decided and began to send military support to the South Korean side of the conflict. The independent journalist, I.F. Stone in his book, "The Hidden History of the Korean War," describes this U.S. action as forcing the UN Security Council to support the U.S. Government action in Korea.<sup>2</sup>

Stone writes:

When Truman 'ordered the United States air and sea forces to give the Korean Government troops cover and support' he was in effect imposing military sanctions before they had been authorized by the Security Council. The Council had to vote sanctions or put itself in the position of opposing the action taken by the United States. For governments dependent on American bounty and themselves fearful of Soviet expansion, that was too much to expect, though again Yugoslavia had the courage to vote 'No,' an act of principle for which it got no credit from the Soviet bloc while antagonizing the United States to which it owed its Council seat.

By acting before the Security Council could act, the U.S. was in violation of Article 2(7) of the UN Charter which requires a Security Council action under Chapter VII before there is any armed intervention into the internal affairs of another nation unless the arms are used in self-defense. (See Article 51 of the UN Charter. The U.S. armed intervention in Korea was clearly not an act of self defense for the U.S.) Also the actions of the UN have come to be referred to as the actions of the "United Nations Command"(UNC), but this designation is not to be found in the June and July 1950 Security Council resolutions authorizing participation in the Korean War.<sup>3</sup> What is the significance of the U.S. using the UN in these ways?

The current U.S. military command in South Korea claims to wear three hats: Command of U.S. troops in South Korea, Combined Forces Command (U.S. and South Korean troops), and "United Nations Command" with responsibilities with respect to the

Armistice. The United Nations, however, has no role in the oversight or decision making processes of the “United Nations Command.” The U.S. Government is in control of the “United Nations Command.” The use by the U.S. of the designation “United Nations Command,” however, creates and perpetuates the misconception that the UN is in control of the actions and decisions taken by the U.S. under the “United Nations Command.”

The Democratic People’s Republic of Korea (more commonly referred to as North Korea) has called for disbanding the “United Nations Command”(UN Command). At a press conference held at the United Nations on June 21, 2013, the North Korean Ambassador to the UN, Ambassador Sin Son Ho argued that the actions of the U.S. Government using the designation “United Nations Command” are not under any form of control by the United Nations.<sup>4</sup> Since the UN has no role in the decision making process of what the U.S. does under the title of the “United Nations Command,” North Korea contends the U.S. should cease its claim that it is acting as the “United Nations Command.”

## II – UN Authorized “Unified Command”

Looking at the Security Council resolutions related to Korea that were passed in June and July 1950, it is clear that the content of these resolutions supports North Korea’s argument. During this period the UN Security Council passed four resolutions. They are:

S.C. 82 (V)-S/1501 on June 25, 1950

S.C. 83 (V)-S/1511 on June 27, 1950

S.C. 84 (V)-S/1588 on July 7, 1950

S.C. 85 (V)-S/1657 July 31, 1950

None of these resolutions refers to a “United Nations Command” or gives the United States permission to call itself the United Nations Command.

The last two of these resolutions refer to a “Unified Command.” S.C. Resolution 84 of July 7, 1950 is the first Security Council resolution to refer to the creation of a “Unified Command.” The language of the resolution says that the Security Council, “Recommends that all members providing forces and other assistance pursuant to the aforesaid Security Council resolution make such forces and other assistance available to a Unified Command under the United States of America.”

The resolution states that the Security Council requests the United States to designate the com-

mander of such forces, and it authorizes the “Unified Command” at its discretion to use the United Nations flag “concurrently with the flags of the various nations participating.”

S.C. Resolution 84 also made the request that “the United States...provide the Security Council with reports as appropriate on the course of action taken under the Unified Command.”

In subsequent action by the Security Council during this period, the members of the Security Council, were careful to refer to the U.S. command of the Korean War forces related to the United Nations as the “Unified Command.”

Therefore, when reviewing the action by the U.S. to designate itself as the “United Nations Command,” the question is raised as to how, why and by whom the designation “United Nations Command” was substituted for the Security Council designation of a “Unified Command.”

S.C. Resolution 84 was passed on July 7 using the designation “Unified Command.” The following day, on July 8, the U.S. President Harry Truman appointed General Douglas MacArthur to head this Command. A Memo referring to this appointment, states that with this appointment, General MacArthur was designated as the Commander of the “Unified Command.”<sup>5</sup>

In the period immediately following the passing of UN Security Council Resolution 84, U.S. Ambassador Warren Austin refers to the U.S. government command as the “Unified Command.”

For example, “A Letter to the UN Secretary-General from Warren Austin, U.S. Ambassador to the UN,” on July 12, says:

(...)I have the honor to inform you that the President of the United States, in response to the Security Council resolution of 7 July 1950, has on 8 July designated General Douglas MacArthur as the Commanding General of the military forces which the Members of the United Nations place under the Unified Command of the United States pursuant to the United Nations effort to assist the Republic of Korea.

Similarly the “Unified Command” was the designation used in a letter dated 24 July 1950 transmitting the first Report from General MacArthur to the Security Council. The Report is titled, “First Report to the Security Council by the United States

Government on the course of action taken under the Unified Command (USG).”

### III – U.S. Substitutes “United Nations Command” as Camouflage

It appears that it was in a U.S. Government communiqué dated July 25 that the designation “UN Command” was first officially used in a U.S. Government communication to the UN. This document was titled, “Communique Number 135 of the Far East Command S/1629 25 July 1950.” It states:

The United Nations Command with Headquarters in Tokyo was officially established today with General Douglas MacArthur as Commander-in-Chief. The announcement was made in General Order No. 1, General Headquarters, United Nations Command. The order reads:

1. In response to the resolution of the Security Council of the United Nations of July 7, 1950, the President of the United States has designated the undersigned Commander-in-Chief of the Military Forces this date the United Nations Command. Pursuant thereto, there is established this date the United Nations Command, with General Headquarters in Tokyo, Japan.

According to this communiqué dated July 25, 1950, it is the President of the United States not the United Nations that was responsible for creating the designation “United Nations Command,” as a replacement for the UN authorized “Unified Command.” The communiqué alleges that this was done to fulfill the obligations of S.C. Resolution 84 of July 7. It is evident, however, from reading the resolution of July 7 that there is no reference in that resolution to a “United Nations Command.”

Why did the U.S. government substitute the designation “United Nations Command” for the Security Council designation “Unified Command” after initially referring to the designation of “Unified Command,” language which was actually provided for in the Security Council resolution of July 7?

There are accounts that are helpful in understanding what was going on behind the scenes at the time that can give clues to solve this puzzle. One such account is provided by an article by James W Houck titled, “The Command and Control of United Nation

Forces In the Era of Peace Enforcement.”<sup>6</sup> At the time he wrote this article in the early 1990s, Houck was Force Judge Advocate for the Commander of the U.S. Naval Forces Central Command in Bahrain.

Houck writes that UN Secretary-General Trygve Lie and some of the countries on the Security Council, namely the U.K., France and Norway were in favor of creating a structure to provide for a United Nations role in the Korean operations.

Houck describes how, “During the negotiations preceding authorization of the unified command, Secretary-General Trygve Lie had proposed a ‘committee as coordination of assistance for Korea’ consisting of troop contributing states and the Republic of Korea.”<sup>7</sup>

While the explicit purpose of the committee, Secretary-General Lie explained, was, “to stimulate and coordinate offers of assistance, its deeper purpose was to keep the United Nations ‘in the picture’,” as Lie himself writes in his recollections of his seven-year term as UN Secretary-General. He explains that his purpose was, “to promote continuing United Nations participation in and supervision of the military security action in Korea of a more intimate and undistracted character than the Security Council could be expected to provide.”<sup>8</sup>

The U.S., however, was opposed to the idea of such a supervisory committee and had the power to turn it down. This effectively left the U.S. in control of the decisions regarding what was to be done in the UN authorized operations of the Korean War.

“From the start of the Korean conflict,” Houck explains, “the United States exercised both political control and strategic direction over the operation.”<sup>9</sup> Though the Security Council authorized the U.S. intervention in the Korean War, the Security Council failed to fulfill its obligation under the UN Charter to act as the political authority for military actions taken under the authority of the UN Security Council.<sup>10</sup> Implicit in Chapter 7 of the UN Charter is that it is the Security Council that can exercise force not that it can cede its authority to others.

Instead of the United Nations fulfilling its charter obligations, however, as Houck documents, “The United Nations, did not interfere at all in the purely military aspects of the operation and even in political matters it confined itself to making recommendations.”

Corroborating Houck’s account, a military historian, James Schnabel in his account of the first

year of the Korean War, describes why the U.S. government was opposed to the Committee favored by Trygve Lie and several Security Council members. Schnabel explains that the response of the Joint Chiefs of Staff was to oppose such a project. They were hostile to the potential of such a committee to try to control military operations.

“The Joint Chiefs of Staff,” Schnabel writes, “wanted a command arrangement in which the United States, as executive agent for the United Nations, would direct the Korean operation, with no positive contact between the field commander and the United Nations.”<sup>11</sup>

Though the U.S. Government had turned down the political oversight committee proposed by the Secretary-General, there was, according to Schnabel, a recognition that the unilateral political and military control the U.S. Government exercised over the “Unified Command” was problematic. The Chiefs of Staff directed MacArthur “to avoid any appearance of unilateral American action in Korea.”

As Schnabel writes, “For worldwide political reasons,” the Joint Chiefs of Staff, directed that, “it is important to emphasize repeatedly the fact our operations are in support of the United Nations Security Council.”

According to Schnabel, “this led General MacArthur to identify himself whenever practicable as Commander-in-Chief, United Nations Command (CINCUNC), and whenever justified, would emphasize in his communiqués the activities of forces of other member nations.”

Noting that the State Department proposed to the Secretary of Defense that reports be sent to the Security Council each week, Schnabel writes, “These would keep world attention on the fact that the United States was fighting in Korea for the United Nations, not itself.” But these reports were not required and were not a mechanism for UN supervision over the U.S. activities or decision making processes.

Decisions on the operations of MacArthur’s command were made by the U.S. Government, writes Schnabel. The United Nations at no time in the Korean War sought to interfere in the control of operations which were the responsibility of the United States. As MacArthur later testified to a Senate investigating committee, “...my connections with the United Nations was largely nominal...everything I did came from our own Chiefs of Staff.... The controls over me were exactly the same as though the

forces under me were all Americans. All of my communications were to the American high command here.”<sup>12</sup>

#### IV – “United Nations Command” as Achilles Heel

UN Secretary-General Trygve Lie, however, points out that the insistence on unilateral control of the conduct of the War waged in Korea by the U.S. had its Achilles heel. Lie wrote, “As the Korean War developed, Washington complained, and had reason to complain, that the United States was carrying too much of a burden; but its unwillingness, in those early days, when the pattern of the police action was being set, to accord the United Nations a larger measure of direction and thereby participation no doubt contributed to the tendency of the Members to let Washington assume most of the responsibility for the fighting.”<sup>13</sup>

So an interesting anomaly emerges. The UN resolution authorizing military action in Korea spoke about a “Unified Command” and the original resolution the UN Secretary-General proposed included a mechanism for the UN to supervise the military action. This control was rejected by the U.S. government, and it appears, the UN never pressed to exert its supervision over the conduct of the Korean War. This control was thus ceded to the U.S. government.

While the U.S. government had total control over the Korean campaign it was waging, it appears that it also needed a means to camouflage the unilateral nature of this operation. The designation “United Nations Command,” which the U.S. government assigned to its operation, replaced the designation of the “Unified Command” described in Security Council Resolution 84. This change of name provided the camouflage to hide the unilateral nature of the U.S. command and control and of its conduct of the war against North Korea.

The U.S. Government needed the appearance that its unilateral actions were on behalf of and under the United Nations. This was provided by changing the designation of the Command from the “Unified Command” to the “United Nations Command.” The change of name helped to create the needed misleading appearance. Similarly, the reports that the U.S. Government voluntarily submitted to the UN Security Council were titled, “Reports of the United Nations Command.” This made it appear that the U.S. was

conducting the war on behalf of the UN and under its supervision.

This misleading designation continues to exist today over 60 years after it was created, thereby continuing to give the world the false impression that the campaign waged by the U.S. in Korea was and continues to be a United Nations operation and that even today the UN has a presence on the Korean Peninsula.

While the UN did not participate in the decision making process of the military campaign carried out in its name, it played a role then and continues to play a role by allowing the U.S. Government to appropriate the United Nations name as a camouflage cover for the actions of the U.S. Government. What is the UN responsibility in such a matter for what was done, and for what continues to be done in its name? That is the essence of the question raised by North Korea's call that the "United Nations Command" be dissolved.

## V – Conclusion

The research represented in this paper presents a curious, but significant irony. The UN authorized Member States to intervene in the Korean War, to form the "Unified Command," to use the UN flag along with the flags of the member states participating in the "Unified Command," and it authorized the U.S. to appoint a Commander in Chief for the "Unified Command."

According to the obligation required under the UN Charter, and to the original efforts of Trygve Lie, with support from three Security Council members, namely, the U.K., France, and Norway, there was an effort to set up a political entity that would oversee the Korean War operation for the Security Council.

The U.S., however, rejected the proposal and succeeded in controlling the political and the strategic direction for the Korean War. After rejecting the UN proposal for UN supervision over U.S. actions and decisions, the U.S. put itself forward as the "United Nations Command." Thus assuming the cloak of the United Nations, by referring to itself as the United Nations. This mechanism served as a means to misrepresent the U.S. Government's unilateral actions and decision making processes in the Korean War.

Recently several UN Secretary-Generals, including Secretary-General Boutros Boutros Gali, Secretary-General Kofi Annan, and Secretary-General Ban Ki-moon have acknowledged that the U.S. was in charge of the Command structure of the Korean War

activity taken under the authority of the "Unified Command," and that the United Nations had no role in overseeing the actions undertaken in the name of the UN. The statement is made that the UN "never had any role in the command of any armed forces deployed in the Korean peninsula."

The difficulty raised by such a claim, however, is that it evades the salient fact that the Security Council authorized the U.S. to assume this role in violation of the obligations implicit in the UN Charter that the UN exercise supervision over the political, and strategic decision making processes of an action approved under Chapter 7 of the UN Charter.

Therefore, there is some truth to the statements of Boutros Boutros Ghali, Kofi Annan, and Ban Ki-moon that the UN had no role in the command of the military activity carried out under its name in Korea. Specifically as the Spokesperson for Ban Ki-moon stated recently, "The UN did not at any time have any role in the command of the forces that operated in Korea in 1950-1953."<sup>14</sup>

But what this leaves out is that the UN authorized the U.S. to designate the Commander of the "Unified Command." Then, however, under pressure from the U.S., the UN failed to exercise its obligation to supervise the actions of the "Unified Command."

Subsequently, the UN continues to evade fulfilling its obligations by continuing to allow the U.S. to claim that it is the "United Nations Command" in Korea and in failing to provide its political supervision over what the U.S. has done and continues to do in Korea in the name of the UN.

The DPRK proposal is that the U.S. cease to call itself the "United Nations Command." It is important to include a recognition of how the U.S. Government activity represents a continuing violation of the UN Charter.

Recently, in response to a question, the Spokesperson for Ban Ki-moon said that the issues of the Korean Armistice are issues that do not concern the United Nations as the United Nations is not a party to the Armistice.<sup>15</sup> Why then has the United Nations allowed the U.S. to continue to use the designation, "United Nations Command" to misrepresent itself as acting under the control of the UN in the Armistice?

Unless the UN takes responsibility for allowing the U.S. to claim the authority of the United Nations in its continuing actions as part of the Armistice, the UN is continuing to allow actions in violation of the UN Charter. If there is a "United Nations Command"

that is part of the Korean Armistice Agreement, such a command must be under the political and strategic direction of the UN Security Council. Otherwise, the authority of the UN Charter is being treated as a charade to justify U.S. Government unilateral activity under the camouflage of the UN name. It is as if the UN is but a set of words to hide the illegal acts of one of the Great Powers.

## VI – Epilogue

There is another significant aspect of the conduct of the U.S. government with respect to its initiating and intervening into the Korean War. This has to do with the role played by the U.S. Government in bypassing not only the requirements of the UN Charter, but also the requirement of the U.S. Constitution.

The UN Charter specifies that all military action taken to intervene in another country requires a resolution of the Security Council under Chapter 7. Yet the U.S. government made the decision and began to act on that decision to intervene in the Korean conflict before there was any such action by the UN Security Council. This represented a violation by the U.S. Government of the UN Charter.<sup>16</sup>

Similarly, the U.S. Executive Branch violated the provision of the U.S. Constitution requiring that no decision to go to war can be made without a Congressional Declaration of War. There was no such declaration with respect to the U.S. Government waging war on the Korean peninsula.

There is a provision in the UN Charter, Article 43(3) which states that member states participating in military actions under Chapter 7 of the UN Charter are obliged to have such actions “subject to the signatory states in accordance with their respective constitutional processes,”

In his article “The Korean War: On what Legal Basis Did Truman Act?” Louis Fisher who is a specialist in Constitutional Law, points to the constitutional violation represented by Truman’s sending U.S. troops to the Korean War.

Truman used as an illegitimate excuse that the act had been authorized by the UN Security Council. Fisher’s article describes the extensive debate in the U.S. Congress before joining the UN to consider if it was appropriate for the U.S. government to claim that a Security Council resolution justified bypassing U.S. Constitutional obligations.

In his appearance before the House Committee

on Foreign Relations then Under Secretary of State Dean Acheson explained that “only after the President receives the approval of Congress is he ‘bound to furnish that contingent of troops to the Security Council’.”<sup>17</sup>

Not only did Truman commit troops and aid to South Korea before the Security Council called it a military action, but more importantly, no action of the Security Council authorizes the U.S. government to violate the U.S. Constitution. For the U.S. government to wage war, the U.S. Constitution requires that the U.S. Congress make the decision that authorizes that war.

Though other artifices were employed to evade U.S. Constitutional obligation, such as calling the Korean War a “police action,” U.S. Courts rejected such subterfuges.<sup>18</sup>

Responding to these subterfuges, Vito Marcantonio, the American Congressman from N.Y. for the American Labor Party said, “When we agreed to the United Nations Charter we never agreed to supplant our Constitution with the United Nations Charter. The power to declare and make war is vested in the representations of the people, in the Congress of the United States.”<sup>19</sup>

Commenting on this same situation, Justice Felix Frankfurter argued, “Illegality cannot attain legitimacy through practice. Presidential acts of war, including Truman’s initiative in Korea can never be accepted as constitutional or as a legal substitute for Congressional approval.”<sup>20</sup>

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### Notes

1. See for example: Jay Hauben, “Is the UN Role in Korea 1947-1953 the Model Being Repeated Today?” <http://www.columbia.edu/~hauben/UN-Role-in-Korea.doc>
2. I. F. Stone, *The Hidden History of the Korean War*, New York, 1952, p. 75. By August 1, 1950, the Soviet Union had returned to the Security Council ending its 6-month boycott and so there were no further UN resolutions authorized by the Security Council supporting UN participation in the Korean War.
3. See for example: Ronda Hauben, “U.S. Misrepresents its Role in Korean War and in Armistice Agreement as UN Command,” taz blogs, June 26, 2013. <http://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command>
4. Press conference June 21, 2013, Ambassador Sin Son Ho at the UN. <http://webtv.un.org/media/press-conferences/watch/ambassador-sin-son-ho-the-permanent-representative-of-the-democratic-peoples-republic-of-korea-to-the-un-press-conference/2498682301001> A text version of the statement presented is online at: <http://www.4thmedia.org/2013/06/26/illegitimacy-and-injustice-of-the-un-command-in-south-korea->

[dprk-calls-for-its-immediate-dissolution/](#)

5. James F. Schnabel, *United States Army in the Korean War Policy and Direction: The First Year*, available at:

[http://www.history.army.mil/html/books/020/20-1/CMH\\_Pub\\_20-1.pdf](http://www.history.army.mil/html/books/020/20-1/CMH_Pub_20-1.pdf). See p. 102, f/n 6 “Memo, JCS for Secy. Defense, 9 Jul. 50, sub: Designation of a United Nations Unified Comdr by the United States.”

6. James W. Houck, “The Command and Control of United Nations Forces in the Era of ‘Peace Enforcement’,” *Duke Journal of Comparative and International Law*, vol. 4, No 1, 1993.

7. See Houck, p. 13 f/n 51.

8. Trygve Lie, *In the Cause of Peace*, New York, p. 334.

9. Houck, p. 12. “None of the resolutions (referring to the June and July S.C. resolutions-ed),” writes Houck, provided for Security Council control over the ensuing operation despite the fact that it would be conducted under Security Council authorization.”

10. See Articles 42, 44, 46 and 48 of the UN Charter. These articles authorize the Security Council to use force. There is no article in Chapter 7 of the UN Charter which authorizes the Security Council to cede political decision making to a member state to carry out a Chapter 7 action.

11. Schnabel, p. 103, Rad, WAR 85743, DA to CINCFE, Jul. 12, 50.

12. Schnabel, p. 104, f/n 10. See MacArthur Hearings, p. 10.

13. Lie, p. 334.

14. Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, June 21, 2013.

<http://www.un.org/News/briefings/docs/2013/db130621.doc.htm>

15. E-mail received from Eduardo del Buey on June 25, 2013.

16. See I. F. Stone, *The Hidden History of the Korean War*, New York, 1952, p. 75.

17. Louis Fisher, “The Korean War: On What Legal Basis Did Truman Act?,” *American Journal of International Law*, Jan. 1995. (89 Am J. Int’l L. 21), p. 30.

18. Fisher, p. 34.

19. Fisher, p. 35.

20. Fisher, p. 38.

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## **Book Review: *The Hidden History of the Korean War\****

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*The Hidden History of the Korean War*

By I. F. Stone

364 pages. *Monthly Review Press*. 1952, 1970.

The controversial book, *The Hidden History of the Korean War* by I. F. Stone was originally pub-

lished in 1952 during the Korean War (1950-1953) and republished in 1970 during the Vietnam War (1960-1975). It raised questions about the origin of the Korean War, made a case that the United States government manipulated the United Nations, and gave evidence that the U.S. military and South Korean oligarchy dragged out the war by sabotaging the peace talks.

Publishing such a book in the U.S. during the time of [McCarthyism](#), while the war was still continuing was an act of journalistic courage. Forty years later, declassified U.S., Soviet and People’s Republic of China (PRC) documents both confirmed some and corrected some of Stone’s story.

Until his death in 1989, Stone was an experienced and respected, independent, left-wing journalist and iconoclast. This book-length feat of journalism, with over 600 citations for his quotes and materials, is a testament to Stone’s search for a way to strengthen his readers to think for themselves, rather than be overwhelmed by official stories and war propaganda.

The standard telling was that the Korean War was an unprovoked aggression by the North Koreans beginning on June 25, 1950, undertaken at the behest of the Soviet Union to extend the Soviet sphere of influence to the whole of Korea, completely surprising the South Koreans, the U.S., and the UN.

But was it a surprise? Could an attack by 70,000 men using at least 70 tanks launched simultaneously at four different points have been a surprise?

Stone gathers contemporary reports from South Korean, U.S. and UN sources documenting what was known before June 25. The head of the U.S. CIA, Rear Admiral Roscoe H. Hillenloetter, is reported to have said on the record, “that American intelligence was aware that ‘conditions existed in Korea that could have meant an invasion this week or next.’” (p. 2) Stone writes that “America’s leading military commentator, Hanson Baldwin of the *New York Times*, a trusted confidant of the Pentagon, reported that they [U.S. military documents] showed ‘a marked buildup by the North Korean People’s Army along the 38<sup>th</sup> Parallel beginning in the early days of June.’” (p. 4)

How and why did U.S. President Truman so quickly decide by June 27 to commit the U.S. military to battle in South Korea? Stone makes a strong case that there were those in the U.S. government and military who saw a war in Korea and the resulting instability in East Asia as in the U.S. national interest.

Stone presents the ideas and actions of them, including [John Foster Dulles](#), [General Douglas MacArthur](#), President [Syngman Rhee](#) and Generalissimo [Chiang Kai-shek](#), which appear to amount to a willingness to see the June 25 military action by North Korea as another [Pearl Harbor](#) in order to “commit the United States more strongly against Communism in the Far East.” (p. 21). Their reasoning may have been, Stone thought, the sooner a war with China and/or Russia the better, before both become stronger. President Truman removed Secretary of Defense [Louis Johnson](#), according to Stone’s account, because Johnson had been selling this doctrine of a preventive war. (p. 93)

Stone shows that Truman committed the U.S. military to the war in Korea, then went to the UN for sanctions against North Korea. “It was neither honorable nor wise,” Stone argues, “for the UN under pressure from an interested great power to condemn a country for aggression without investigation and without hearings its side of the case.” (p. 50) But that is what the U.S. insisted should happen using, Stone argues, distorted reports to rush its case.

Then when the war came to a stalemate at the 38<sup>th</sup> Parallel, Stone makes a strong case that U.S. Army headquarters provoked or created incidents to derail the cease-fire negotiations. When the North Koreans and Chinese had ceded on Nov. 4, 1952 to the three demands of the UN side, the U. S. military spread a story that “The Communists had brutally murdered 5,500 American prisoners.” The talks were being dragged out, the U.S. military argued, because “The communists don’t want to have to answer questions about what happened to their prisoners” and they are lower than “barbarians.” (pp. 324-25) At no time after these reports were these “atrocities” reported again or documented. But hope of a cease-fire subsided.

Stone takes the story in time only a little beyond the dismissal of MacArthur on April 11, 1951. He quotes press reports as late as January 1952 that “there still could be American bombing and naval blockade of Red China if Korean talks fail.”<sup>1</sup>

The evidence which Stone presents is solid but circumstantial. What else could it be, with the official documents still unavailable? In the 1960s, the Rand Corporation, a major think tank originally funded by the U.S. Air Force, conducted studies with additional information and according to one reviewer came to “almost identical conclusions” as Stone.<sup>2</sup>

Stone’s telling of the history of the Korean War, emphasizing the opportunistic response by the forces in the U.S. advocating rollback and also downplaying the role of the Soviet Union challenged the dominant assumption that this was Stalin’s war. “Until the release of Western documents in the 1970s, prompted a new wave of literature on the war, his remained a minority view.”<sup>3</sup>

Then in the 1990s, documents from the former Soviet archives became available, as did telegrams and other sources from the PRC archives. Scholars examining these documents and fitting the pieces together were able to make the case that Kim Il-sung had sought and eventually received Soviet support for a military effort to unify Korea. Stone had been wrong to suspect that General MacArthur and John Foster Dulles somehow colluded in the start of the Korean War.

But Stone did a service by documenting the role of sectors of U.S. policymakers looking for an opportunity to push the USSR and the PRC back from Northeast Asia. Bruce Cummings studied the detailed policy debate in the U.S. which led to the policy of active containment. Cummings’s book, *The Origins of the Korean War, Volume II* gives substance to the internal fight between supporters of rollback and those who supported containment, which for Stone was journalistic speculation.<sup>4</sup>

In 1952 when it was published, *The Hidden History of the Korean War* met with almost a complete press blackout and boycott. But that included no rebuttals or answers from official U.S. sources. There was a republication in 1970 and the book has been translated at least into Spanish, Italian, and Japanese. Some chapters also appeared in French. Used copies are still available, especially from online booksellers.

I. F. Stone’s case is thought provoking and helpful, especially when tensions are being stirred up again on the Korean Peninsula, and manipulated wars are still in style. Perhaps however journalism like that of Stone’s and lessons from the first Korean War can make a second Korean War less likely.

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#### Notes

1. *Wall Street Journal*, Jan. 17, 1952.

2. Stephen E. Ambrose, Professor of Maritime History at the Naval College in the Baltimore Sun.

3. Kathryn Weathersby, “The Soviet Role in the Korean War: The State of Historical Knowledge,” in *The Korean War in World History*, edited by William Stueck, University Press of

Kentucky, 2004, page 63.

4. Bruce Cumings, *The Origins of the Korean War, Volume II: The Roaring of the Cataract 1947-1950*, Princeton University Press, Princeton, NJ, 1990.

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