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Assistance to North Korea

Mark E. Manyin, Specialist in Asian Affairs; Mary Beth Nikitin, Analyst in Nonproliferation

December 24, 2008

Abstract. Aid to North Korea has been controversial since its inception, and the controversy is intricately linked to the overall debate in the United States, South Korea, and other countries over the best strategy for dealing with the DPRK. North Korea is deemed a threat to U.S. interests because it possesses advanced nuclear and missile programs, has a history of proliferating missiles, may have exported its nuclear technology, is suspected of possessing chemical and biological weapons programs, and has large (albeit deteriorating) conventional forces on the border with South Korea, a key U.S. ally. Instability inside North Korea could spill over into China, South Korea, and possibly Japan and/or Russia. Additionally, Pyongyang also is characterized as one of the world's worst violators of human rights and religious freedom, a record that some Members of Congress and interest groups say should assume greater importance in the formation of U.S. priorities toward North Korea.

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Mark E. Manyin
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Summary

Since 1995, the United States has provided North Korea with over \$1.2 billion in assistance, about 60% of which has paid for food aid and about 40% for energy assistance. U.S. aid fell significantly in the mid-2000s, bottoming out at zero in 2006.

The Bush Administration resumed energy aid in the fall of 2007, after progress was made in the Six-Party Talks over North Korea's nuclear program. The Six-Party Talks involve North Korea, the United States, China, South Korea, Japan, and Russia. The United States and other countries began providing heavy fuel oil (HFO) in return for Pyongyang freezing and disabling its plutonium-based nuclear facilities in Yongbyon. By the second week of December 2008, the United States had provided all of the 200,000 MT of HFO it had promised under this "Phase Two" of the Six-Party Talks process. The talks themselves came to a standstill in December over disagreement on verification procedures. The other countries that agreed to provide HFO are continuing their shipments, as they appear to be calibrating their assistance to North Korea's progress in disabling Yongbyon, which continued to take place as of mid-December 2008.

The United States also provides technical assistance to North Korea to help in the nuclear disablement process, a role that could be expanded should North Korea move to dismantle its nuclear facilities. In 2008, Congress took legislative steps to legally enable the President to give such assistance.

For over a decade, North Korea has suffered from chronic, massive food deficits. Foreign assistance – largely from China, the United States, and South Korea – has been essential in filling the gap. Throughout 2008, United Nations officials issued increasingly urgent calls for international donations of food to avert a "serious tragedy" in North Korea, as hunger has deepened and expanded. In May 2008, the Bush Administration announced it would resume food assistance to North Korea by providing 500,000 metric tons (MT) of food, 80% of which is to be channeled through the United Nations World Food Programme (WFP). The rest is to be sent through a consortium of non-governmental organizations.

Food aid to the DPRK has been scrutinized because since the end of famine conditions of the mid-1990s, Pyongyang has resisted taking the steps that many experts feel would help the country distribute food more equitably and pay for food imports to make up for its domestic shortfall. Additionally, the North Korean government restricts the ability of most donor agencies to operate in the country, placing some areas off limits and restricting monitoring activities. In the past, various sources have asserted that some—perhaps substantial amounts—of the food assistance going to North Korea is routinely diverted for resale in private markets or other uses. Compounding the problem, China, North Korea's largest source of food aid, has little to no monitoring systems in place. The Bush Administration's latest food aid pledge came after Pyongyang agreed to loosen its restrictions on access and monitoring. However, as of mid-December 2008, the WFP portion of the program had been virtually suspended due to differences between the U.S. and North Korean governments over implementing the agreement.

Finally, in 2008, the Bush Administration began a new, \$4 million program to provide assistance to several rural and provincial hospitals in North Korea.

This report will be updated periodically to track changes in U.S. provision of aid to North Korea.

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Introduction

For four decades after the end of the Korean War in 1953, U.S. strategy toward the Democratic People's Republic of Korea (DPRK, commonly referred to as North Korea) was relatively simple: deter an attack on South Korea. This included a freeze on virtually all forms of economic contact between the United States and North Korea in an attempt to weaken and delegitimize the North Korean government. In the 1990s, two developments led the United States to rethink its relationship with the DPRK: North Korea's progress in its nuclear weapons and missile programs and massive, chronic food shortages there. In response, the United States in 1995 began providing the DPRK with foreign assistance, which has totaled over \$1.2 billion. This aid has consisted of energy assistance, food aid, and a small amount of medical supplies. (See **Table 1**.)¹

U.S. aid fell significantly in the mid-2000s, bottoming out at zero in FY2006. The Bush Administration halted energy assistance in the fall of 2002, following North Korea's reported admission that it had secretly been developing a uranium-based nuclear program. This energy assistance, which primarily took the form of heavy fuel oil, was channeled through the Korean Peninsula Energy Development Organization (KEDO). After a decade of being one of the largest providers of food aid to North Korea, the United States gave no food aid in FY2006 or 2007, in large part due to new restrictions that the North Korean government imposed upon humanitarian agencies.

The Bush Administration resumed assistance to North Korea in 2007. In July of that year, after initial progress in the Six-Party Talks over North Korea's nuclear programs, the United States and other countries began providing heavy fuel oil (HFO) in return for Pyongyang freezing and disabling its plutonium-based nuclear facilities in Yongbyon.² Then, in May 2008, the Bush Administration announced it would resume food assistance to North Korea by providing 500,000 metric tons (MT) of food. The United States also provides technical assistance to North Korea to help in the nuclear disabling processes, and is expected to continue to provide assistance for nuclear dismantlement should that be undertaken.

Aid to North Korea has been controversial since its inception, and the controversy is intricately linked to the overall debate in the United States, South Korea, and other countries over the best strategy for dealing with the DPRK. North Korea is deemed a threat to U.S. interests because it possesses advanced nuclear and missile programs, has a history of proliferating missiles, may have exported its nuclear technology, is suspected of possessing chemical and biological weapons programs, and has large (albeit deteriorating) conventional forces on the border with South Korea, a key U.S. ally. Instability inside North Korea could spill over into China, South Korea, and possibly Japan and/or Russia. Additionally, Pyongyang also is characterized as one of the world's worst violators of human rights and religious freedom, a record that some Members of Congress and interest groups say should assume greater importance in the formation of U.S. priorities toward North Korea.

¹ From 1995-2002, the energy assistance was provided through the Korean Peninsula Energy Development Organization (KEDO), the multinational group established to provide energy aid to North Korea in exchange for Pyongyang's shutdown of its existing plutonium-based nuclear program.

² The Six-Party Talks involve North Korea, the United States, China, South Korea, Japan, and Russia.

Table I. U.S. Assistance to North Korea, 1995-2008

Calendar or Fiscal Year (FY)	Food Aid (per FY)		KEDO Assistance (per calendar yr; \$ million)	6-Party Talks-Related Assistance (per FY; \$ million)		Medical Supplies & Other (per FY; \$ million)	Total (\$ million)
	Metric Tons	Commodity Value (\$ million)		Fuel Oil	Nuclear Disablement		
1995	0	\$0.00	\$9.50	—	—	\$0.20	\$9.70
1996	19,500	\$8.30	\$22.00	—	—	\$0.00	\$30.30
1997	177,000	\$52.40	\$25.00	—	—	\$5.00	\$82.40
1998	200,000	\$72.90	\$50.00	—	—	\$0.00	\$122.90
1999	695,194	\$222.10	\$65.10	—	—	\$0.00	\$287.20
2000	265,000	\$74.30	\$64.40	—	—	\$0.00	\$138.70
2001	350,000	\$58.07	\$74.90	—	—	\$0.00	\$132.97
2002	207,000	\$50.40	\$90.50	—	—	\$0.00	\$140.90
2003	40,200	\$25.48	\$2.30	—	—	\$0.00	\$27.78
2004	110,000	\$36.30	\$0.00	—	—	\$0.10	\$36.40
2005	25,000	\$5.70	—	—	—	—	\$5.70
2006	0	\$0.00	—	—	—	\$0.00	\$0.00
2007	0	\$0.00	—	\$25.00	\$20.00	\$0.00	\$45.00
2008	158,000	\$95.30	—	\$106.00	—	\$0.10	\$201.30
2009	21,000 ^a	n.a. ^a	—	\$15.00	—	\$4.00	\$19.00
Total	2,267,894	\$ 701.25	\$ 403.70	\$ 146.00	\$ 20.00	\$ 9.40	\$1,280.35

Sources: Compiled by CRS from USAID; US Department of Agriculture; State Department; KEDO (Korean Peninsula Energy Development Organization).

a. As of December 3, 2008. 342,000MT is expected to be procured and sent to North Korea in FY2009, at an estimated cost of \$185.5 million.

Congress' Role in U.S. Assistance to North Korea

Congress and Energy Assistance

The provision of aid to North Korea has given Congress a vehicle to influence U.S. policy toward the DPRK. From 1998 until the United States halted funding for KEDO in FY2003, Congress included in each Foreign Operations Appropriation requirements that the President certify progress in nuclear and missile negotiations with North Korea before allocating money to KEDO operations.³ To support the Six-Party Talks, Congress provided funds for energy assistance in the

³ President Clinton was responding to Section 582(3) of P.L. 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. In response, Section 1211 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (P.L. 109-364; 120 Stat. 2420) required the Bush Administration to appoint a special envoy (continued...)

FY2008 Supplemental Appropriations Act (P.L. 110-252). Also in this bill, Congress gave authority to the executive branch to waive Arms Export Control Act sanctions on Pyongyang. Congress has also encouraged continued funding for the denuclearization of North Korea, for example in the FY2008 Defense Authorization Act (see “Denuclearization Assistance” section below). Although this waiver has not yet been issued by the President, potential inclusion of budget items for denuclearization in North Korea as part of a future Department of Energy budget proposal could be an indicator of the incoming Administration’s intent to exercise this authority.

Congress and Food Assistance

With regard to food aid, some Members have supported continued donations on humanitarian grounds of helping the North Korean people, regardless of the actions of the North Korean regime. Other Members have voiced their outright opposition to food aid to the DPRK, or have called for food assistance to be conditioned upon North Korean cooperation on monitoring and access. The congressional debate over food assistance to North Korea also has been colored by the competing demands for other emergency situations that have stretched U.S. food aid funds and commodities. The North Korean Human Rights Act (P.L. 108-333) included non-binding language calling for “significant increases” above current levels of U.S. support for humanitarian assistance to be conditioned upon “substantial improvements” in transparency, monitoring, and access. The re-authorized act (P.L. 110-346) does not include this language, and drops the extensive discussion of humanitarian assistance that was included in P.L. 108-333. Both the original and the re-authorized act require annual reports to Congress on U.S. humanitarian assistance to North Korea.⁴

Congress’ ability to direct the amounts, manner, and recipients of food aid is relatively limited. The 500,000 MT of food that the U.S. pledged to North Korea in May 2008 is to come from the Bill Emerson Humanitarian Trust, a reserve of commodities and cash that is intended to provide food aid when other statutory sources of aid are unavailable. The Secretary of Agriculture has authority to release up to 500,000 metric tons of eligible commodities for urgent humanitarian relief. Historically, P.L. 480 has been the main vehicle for providing U.S. agricultural commodities as food aid overseas, and from FY2003-FY2005 was the program that funded nearly all of the U.S. food commitments to North Korea. When commodities or cash are released from the Emerson Trust, they are provided under the authority of P.L. 480 Title II. The Emerson Trust statute essentially authorizes the use of commodities or cash in the Trust to be used as a backup to Title II when there are unanticipated humanitarian needs. Congress directly appropriates P.L. 480 aid, and therefore could, although it rarely does, direct how the food should or should not be disbursed.⁵

(...continued)

for North Korea. Christopher Hill, the Assistant Secretary for East Asian and Pacific Affairs, was named to the post.

⁴ See CRS Report RS22973, *Congress and U.S. Policy on North Korean Human Rights and Refugees: Recent Legislation and Implementation*, by Emma Chanlett-Avery.

⁵ P.L. 480 (originally P.L. 83-480) was reauthorized most recently by the 2008 farm bill (P.L. 110-246, 7 USC 1691).

Energy Assistance

Korean Peninsula Energy Development Organization (KEDO)

From 1995 to 2002, the United States provided over \$400 million in energy assistance to North Korea under the terms of the U.S.-North Korean 1994 Agreed Framework, in which the DPRK agreed to halt its existing plutonium-based nuclear program in exchange for energy aid from the United States and other countries.⁶ After Washington and Pyongyang reached their agreement, the United States, Japan, and the Republic of Korea formed an international consortium, the Korean Peninsula Energy Development Organization (KEDO) to manage the assistance.⁷ The planned aid consisted of the construction of two light-water nuclear reactors (LWRs) and the provision of 500,000 metric tons of heavy fuel oil annually while the reactors were being built. The two turn-key light-water reactors were to replace the DPRK's graphite-moderated reactors that were shut down under the agreement. The LWR plants would have had a generating capacity of approximately 1,000 MW(e) each and were to be constructed by 2003.⁸ The United States' contributions covered only heavy fuel oil shipments and KEDO administrative costs.

In October 2002, KEDO board members decided to halt fuel oil shipments following a dispute over North Korea's alleged clandestine uranium enrichment program. In December, North Korea expelled inspectors from its Yongbyon nuclear site, withdrew from the Nuclear Nonproliferation Treaty (NPT), and resumed operations at Yongbyon. The Bush Administration thereafter sought to permanently end the KEDO program.⁹ In 2003 and 2004, KEDO's Executive Board (the United States, South Korea, Japan, and the European Union) decided to suspend construction on the LWRs for one-year periods. In the fall of 2005, the KEDO program was formally terminated. In January 2006, the last foreign KEDO workers left the LWR construction site at Kumho, North Korea.

Assistance Related to the Six-Party Talks

As with KEDO, the Bush Administration and other members of the Six-Party Talks – South Korea, Japan, China, and Russia – have promised energy assistance to North Korea as inducement to end its nuclear program. In January 2003, President Bush said that he would consider offering the DPRK a “bold initiative” including energy and agricultural development aid if the country first verifiably dismantled its nuclear program and satisfied other U.S. security concerns.¹⁰ The Six-Party process began with talks in August 2003.¹¹ In June 2004, the United

⁶ See “Total Financial Support by Country: March 1995 to December 2005,” Table B, Appendix 1, KEDO 2005 Annual Report. http://www.kedo.org/pdfs/KEDO_AR_2005.pdf.

⁷ Membership in KEDO expanded to include additional states and international organizations that contributed funds, goods or services: Argentina, Australia, Canada, Chile, the Czech Republic, the European Union (as an executive board member), Indonesia, New Zealand, Poland, and Uzbekistan. KEDO also received material and financial support from nineteen other non-member states. Details at http://www.kedo.org/au_history.asp

⁸ Full text of the KEDO-DPRK supply agreement at <http://www.kedo.org/pdfs/SupplyAgreement.pdf>.

⁹ State Department Daily Press Briefing by Adam Ereli, Deputy Spokesman, November 5, 2003.

¹⁰ The Administration reportedly was preparing to offer this plan in 2002, but pulled it back after acquiring more details of Pyongyang's clandestine uranium nuclear weapons program. Testimony of Richard Armitage, State Department Deputy Secretary, before the Senate Foreign Relations Committee, February 4, 2003. http://www.nti.org/e_research/official_docs/dos/dos020403.pdf.

States offered a proposal that envisioned a freeze of North Korea's weapons program, followed by a series of measures to ensure complete dismantlement and eventually a permanent security guarantee, negotiations to resolve North Korea's energy problems, and discussions on normalizing U.S.-North Korean relations that would include lifting the remaining U.S. sanctions and removing North Korea from the list of terrorist-supporting countries.¹²

In September 2005, the six parties issued a joint statement agreeing to "promote economic cooperation in the fields of energy, trade and investment, bilaterally and/or multilaterally." The United States, China, South Korea, Japan, and Russia also stated their "willingness to provide energy assistance to the DPRK." The agreement said that the parties would discuss the provision of a light water nuclear power reactor to North Korea "at the appropriate time." This document serves as the foundation for subsequent agreements.¹³

North Korea tested a nuclear device in October 2006, resulting in the swift passage of U.N. Security Council Resolution 1718, which imposed international sanctions banning trade of military goods, WMD and missile-related goods, and luxury items to North Korea.¹⁴ In the Six-Party Talks held in December 2006, as well as in meetings held earlier that month with North Korean negotiators, U.S. officials reportedly spelled out a detailed package of humanitarian, economic, and energy aid that would be available to Pyongyang if it gave up nuclear weapons and technology.¹⁵

The resulting Denuclearization Action Plan of February 2007 called for a first phase to include the shut-down of key nuclear facilities and initial provision of 50,000 metric tons of heavy fuel oil to North Korea. In the second-phase, the parties agreed to provide North Korea with "economic, energy and humanitarian assistance up to the equivalent of 1 million tons of heavy fuel oil, including the initial shipment of 50,000 tons of heavy oil." Concurrently, North Korea promised to provide a declaration of its nuclear programs and to disable its nuclear facilities at Yongbyon. A future Phase Three envisioned under the agreement would involve assistance for the permanent dismantlement of North Korea's nuclear facilities, the removal of spent fuel rods from the country, and eventual dismantlement of its weapons and weapon sites as part of 'denuclearization.'

Heavy Fuel Oil Shipments

The shipments of fuel oil or equivalent (i.e., steel products to renovate aging power plants) assistance were to happen on an "action for action" basis, as North Korea made progress on the second phase steps (nuclear disablement at Yongbyon and declaration of nuclear facilities and activities). An October 2007 joint statement on "Second-Phase Actions" confirmed these

(...continued)

¹¹ See CRS Report RL33590, *North Korea's Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch, and CRS Report RL34256, *North Korea's Nuclear Weapons: Latest Developments*, by Mary Beth Nikitin.

¹² See CRS Report RL30613, *North Korea: Terrorism List Removal?*, by Larry A. Niksch.

¹³ Joint Statement of the Fourth Round of the Six-Party Talks Beijing, September 19, 2005. <http://www.state.gov/r/pa/prs/ps/2005/53490.htm>

¹⁴ <http://www.un.org/News/Press/docs/2006/sc8853.doc.htm>

¹⁵ Helene Cooper and David Sanger, "U.S. Offers North Korea Aid for Dropping Nuclear Plans," *New York Times*, December 6, 2006.

commitments.¹⁶ The shipments of 1 million tons (MT) of heavy fuel oil or equivalent were to be divided equally by the five parties – i.e., 200,000 MT each. As of December 2008, the DPRK had received 450,000 MT of heavy fuel oil and equipment and 147,000 MT of fuel equivalent assistance. Of this, the United States has contributed its promised share of 200,000 MT of heavy fuel oil. Russia shipped its third shipment in mid-December 2008, and has provided a total of 150,000 MT of HFO to date. A fourth shipment to fulfill its commitment was to follow “in a few months,” according to the Russian Six-Party negotiator.¹⁷ China and South Korea have each contributed 50,000 MT of heavy fuel oil. The remainder of China and South Korea’s contribution is to be fuel oil equivalent.

South Korea provided the initial shipment of 50,000 metric tons of heavy fuel oil in July 2007 under Phase One of the February 2007 Six-Party agreement. Subsequently, South Korea has delivered assistance worth 124,000 metric tons of HFO according to press reports.¹⁸

Japan has said it would not provide its share of energy assistance to Pyongyang until North Korea had satisfactorily resolved the issue of Japanese citizens abducted by North Korea.¹⁹ However, press reports have said that the United States was arranging for other countries such as Australia, New Zealand and European states to provide the HFO aid in its stead. Australia and New Zealand have each reportedly agreed to donate \$10 million, approximately equal to 30,000 metric tons of heavy fuel oil.²⁰ Japan may instead contribute the equivalent of 200,000 metric tons of HFO (approximately 16 billion yen or \$164 million) as technical assistance related to North Korea’s nuclear dismantlement.²¹

Table 2. Delivery of Heavy Fuel Oil to the DPRK, July 2007 – December 2008

Shipment Date	Donor Country	Amount HFO Delivered (MT)
July 2007	ROK	50,000
September 2007	China	50,000
November 2007	USA	46,000
January 2008	Russia	50,000
March 2008	USA	54,000

¹⁶ These commitments were reaffirmed in the October 3, 2007 Agreement on “Second-Phase Actions for the Implementation of the Joint Statement.” <http://www.state.gov/r/pa/prs/ps/2007/oct/93223.htm>

¹⁷ “Russia Vows to Fulfill Pledge to Supply Fuel Oil For N. Korea,” *Russia & CIS Diplomatic Panorama*, December 12, 2008; “Russia to make N Korea Fuel Shipment,” *United Press International*, December 14, 2008. http://www.upi.com/Top_News/2008/12/14/Russia_to_make_N_Korea_fuel_shipment/UPI-68611229280896/

¹⁸ “Seoul Delivers Energy Aid Under Six Party Deal,” *Asia Pulse*, August 11, 2008.

¹⁹ See CRS Report RS22845, *North Korea’s Abduction of Japanese Citizens and the Six-Party Talks*, by Emma Chanlett-Avery.

²⁰ “Japan mulls funding N. Korea denuclearization, others to give oil aid,” *Japan Economic Newswire*, October 21, 2008.

²¹ “Japan may pay cash for North Korea’s denuclearization, says report,” *BBC Monitoring Asia Pacific*, October 22, 2008.

Shipment Date	Donor Country	Amount HFO Delivered (MT)
May 2008	Russia	50,000
July 2008	USA	34,000
August 2008	USA	16,000
November 2008	USA	50,000
December 2008	Russia	50,000
TOTAL		450,000

Source: Compiled by the Congressional Research Service.

North Korea has said it would predicate its actions on disablement on the pace of energy assistance shipments. Pyongyang several times slowed down removal of the spent fuel rods at Yongbyon, saying, for example, in June 2008 that while 80% of the disablement steps had been completed, only 36% of energy aid had been delivered.²² Responding to this, the five parties agreed in July to work out a binding agreement for the provision of their remaining share of non-HFO assistance by the end of October 2008, but this has been delayed.²³ North Korea again delayed disablement work in August, September, and October, although those instances appear to be linked to disputes over when the U.S. would remove the DPRK from its State Sponsors of Terrorism List and negotiations over verification measures.

The United States had delayed its fuel shipments while these issues were being negotiated. After an informal agreement on verification had been reached bilaterally, the United States removed North Korea from the SST List and resumed HFO shipments.²⁴ However, Pyongyang in November 2008 denied having agreed to the verification measures the United States sought, and once again slowed disablement work, saying that energy shipments were not proceeding as planned.²⁵ The United States announced its fourth shipment of 50,000 metric tons HFO on November 12.

The six parties met on December 8 to discuss verification issues, and were also expected to finalize a schedule for future HFO shipments and disablement steps. Since no agreement was reached on verification measures at the December meeting, no HFO delivery schedule was set. However, some announcements followed on provision of energy assistance. China announced it would deliver 99,000 tons of HFO equivalent by the end of January 2009 to complete its promised share of assistance.²⁶ As stated above, Russia announced its plans to go forward with remaining HFO assistance, and the United States had already completed its share in November.

²² Lee Chi-dong, "N Korea Complains About Slow Provision of Energy Aid," Yonhap News, June 5, 2008.

²³ Press Communique of the Heads of Delegation Meeting of the Sixth Round of the Six-Party Talks, Beijing, July 12, 2008. http://www.mofa.go.jp/region/asia-paci/n_korea/6party/press0807.html

²⁴ <http://www.state.gov/r/pa/prs/ps/2008/oct/110922.htm>

²⁵ "N. Korea slows nuclear disablement to snail's pace," *Japan Economic Newswire*, November 8, 2008.

²⁶ "SKorea Says Energy Aid to NKorea to Continue," *Agence France Presse*, December 15, 2008.

However, State Department spokespersons said that future HFO shipments from other countries would not be sent because North Korea had not agreed to verification measures.²⁷ This does not appear to have been coordinated or agreed to by the other parties. Russia and China, for example, appear to link the provision of energy assistance with progress on Yongbyon disablement, not with progress on verification. South Korea, on the other hand, is reviewing its next shipment of 3,000 tons of steel plate for delivery to North Korean power stations in December in light of lack of progress on disablement and other matters.²⁸ The North Korean negotiator responded by saying that disablement would be slowed if fuel shipments were not forthcoming.²⁹ South Korea, as chair of the Six-Party Energy and Economy Cooperation Working Group, is charged with coordinating the provision of energy assistance going forward.

Heavy fuel oil provided by the United States was paid for through the FY2008 Supplemental Appropriations Act (P.L. 110-252), passed in May 2008. The FY2008 supplemental allocated \$53 million for energy assistance to North Korea in support of the Six-Party Talks, “after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements,” and notwithstanding any other provision of law. The Supplemental also gives notwithstanding authority for an additional \$15 million of energy-related assistance for North Korea, under the State Department’s Economic Support Fund.

Denuclearization Assistance

As part of Phase Two under the Six-Party agreements, the Departments of State and Energy have been working to disable the nuclear facilities at the Yongbyon complex in North Korea.³⁰ This effort is funded through the State Department’s Nonproliferation and Disarmament Fund (NDF). The State Department is paying the North Korean government for the labor costs of disablement activities, and also paying for related equipment and fuel. Approximately \$20 million has been approved for this purpose to date. NDF funds may be used “notwithstanding any other provision of law” and therefore may be used to pay North Korea. DOE’s National Nuclear Security Administration (NNSA) has been contributing its personnel as technical advisors to the U.S. Six-Party delegation and as technical teams on the ground at Yongbyon overseeing disablement measures. NNSA has estimated it has spent approximately \$15 million in support of Phase Two (Yongbyon disablement) implementation.³¹

North Korea’s nuclear test triggered sanctions under Section 102 (b) (the “Glenn Amendment” 22 *U.S.C. 2799aa-1*) of the Arms Export Control Act, which prohibits assistance to a non-nuclear weapon state under the NPT that has detonated a nuclear explosive device. Due to this restriction, DOE funds cannot be spent in North Korea without a waiver. Congress passed language in the FY2008 Supplemental Appropriations Act (P.L. 110-252) that would allow the President to waive the Glenn Amendment restrictions and that stipulates that funds may only be used for the purpose

²⁷ December 12 and 15, 2008 State Department Daily Press Briefings.

²⁸ “Six Party Confusion,” *The Korea Herald*, December 18, 2008.

²⁹ “N. Korea envoy warns halt in aid would slow disablement work,” *Japan Economic Newswire*, December 13, 2008.

³⁰ Nuclear disablement should be distinguished from nuclear dismantlement, the former referring to a process that could be reversed.

³¹ Statement of William H. Tobey, National Nuclear Security Administration, U.S. Department of Energy, to the Senate Committee on Armed Services, July 31, 2008.

of eliminating North Korea's WMD and missile-related programs.³² If the President does exercise the Glenn Amendment waiver authority, then DOE "will be able to procure, ship to North Korea, and use equipment required to support the full range of disablement, dismantlement, verification, and material packaging and removal activities that Phase Three will likely entail."³³ NNSA has estimated that this could cost over \$360 million in FY2009 if verification proceeds and North Korea agrees to the packaging and disposition of separated plutonium and spent fuel at Yongbyon. The Congressional Budget Office estimated that nuclear dismantlement in North Korea will cost approximately \$575 million and take about four years to complete.³⁴

Department of Defense funds must be specifically appropriated for use in North Korea. Section 8045 of the FY2008 Defense Appropriations Act (P.L. 110-116) says that "none of the funds appropriated or otherwise made available in this act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose." Section 8044 of the FY2009 Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329) also contains this language. However, authorization was given for Department of Defense's Cooperative Threat Reduction (CTR) funds to be used globally in the FY2008 Defense Authorization Act (P.L. 110-181, see Section 1305) and expressly encourages "activities relating to the denuclearization of the Democratic People's Republic of Korea" as a potential new initiative for CTR work. Senator Richard Lugar has proposed that the CTR program be granted "notwithstanding authority"³⁵ for this work since the Defense Department's experience in the former Soviet Union, expertise and resources could make it well-positioned to conduct threat reduction work in North Korea and elsewhere.

The United States has provided \$1.8 million to the IAEA to support its monitoring activities at Yongbyon. Japan has provided the agency with \$500,000 for this purpose.³⁶ The European Union contributed approximately \$2.2 million (1.78 million euros) to the IAEA for Yongbyon shut-down monitoring.

Food Assistance

Since 1996, the United States has sent over 2.2 million metric tons (MT) of food assistance, worth nearly \$800 million, to help North Korea alleviate chronic, massive food shortages that began in the early 1990s. A severe famine in the mid-1990s killed an estimated 600,000 to three

³² Similar language appeared in the Senate version of the FY2009 Duncan Hunter National Defense Authorization Act (P.L. 110-417), but was not included in the House version. The final act includes it under "legislative provisions not adopted" under Title XII, since the waiver authority was passed earlier in the FY2008 Supplemental. See joint explanatory note:

<http://armedservices.house.gov/pdfs/fy09ndaa/FY09conf/FY2009NDAAJointExplanatoryStatement.pdf>.

³³ Tobey testimony, *ibid*.

³⁴ The CBO's cost estimate takes into account the dismantling of the reactor and three associated plants at Yongbyon as well as the transport and reprocessing of the spent fuel outside North Korea. Congressional Budget Office, "Cost Estimate: S. 3001 National Defense Authorization Act for Fiscal Year 2009," June 13, 2008. <http://www.cbo.gov/ftpdocs/93xx/doc9390/s3001.pdf>

³⁵ So that funds may be used "notwithstanding any other provision of law." Senator Richard Lugar, Remarks to National Defense University, October 2, 2008. <http://lugar.senate.gov/record.cfm?id=304026&&>

³⁶ Christopher R. Hill, Assistant Secretary for Bureau of East Asian and Pacific Affairs Testimony before House Committee on Foreign Affairs Subcommittee on Asia, the Pacific and the Global Environment and Subcommittee on Terrorism, Nonproliferation, and Trade Washington, DC October 25, 2007.

million North Koreans.³⁷ Over 90% of U.S. food assistance to Pyongyang has been channeled through the U.N. World Food Programme (WFP), which has sent over 4.2 million MT of food—an amount that includes U.S. contributions—to the DPRK since 1996. The United States has been by far the largest cumulative contributor to the WFP’s North Korea appeals. The second largest donor of food aid to North Korea through WFP is South Korea. As discussed below, North Korea’s largest sources of food assistance have come from bilateral donations (i.e., those not channeled through the WFP) from China and South Korea.

U.S. Food Aid Policy

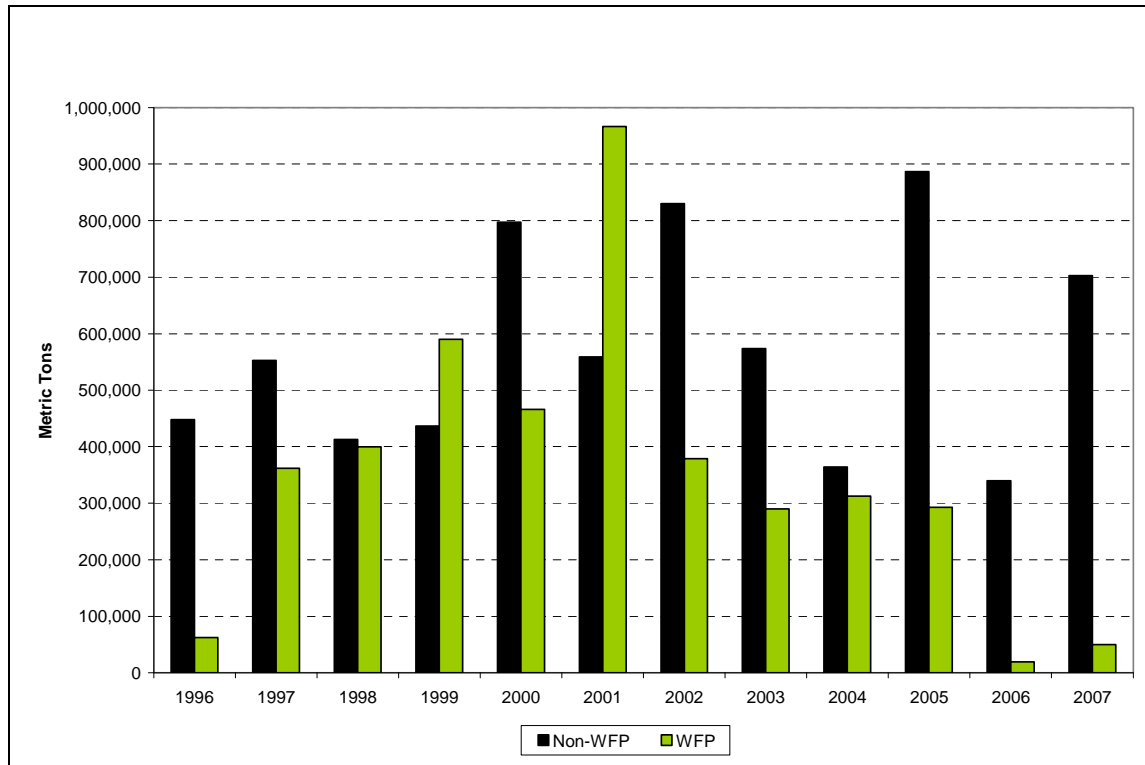
U.S. official policy in recent times has de-linked food and humanitarian aid from strategic interests, including the Six-Party talks. Since June 2002, the Bush Administration officially linked the level of U.S. food aid to three factors: the need in North Korea, competing needs on U.S. food assistance, and “verifiable progress” in North Korea allowing the humanitarian community improved access and monitoring.³⁸ In practice, some argue that the timing for U.S. pledges sometimes appears to be motivated also by a desire to influence talks over North Korea’s nuclear program, and that the linkage between U.S. donations and improvements in North Korea’s cooperation with the WFP occasionally has been tenuous.³⁹

There is conflicting evidence on this front. For instance, in February 2003, the Bush Administration announced it would provide 40,000 MT of food and would make an additional 60,000 MT contingent upon the DPRK allowing greater access and monitoring. In December 2003, the Administration announced that it would donate the additional 60,000 MT because of the continued poor humanitarian situation in North Korea and improvements in North Korea’s cooperation with the WFP. Those improvements, however, were widely thought to be marginal. Administration officials denied the decisions were motivated by a desire to influence the Six-Party Talks on North Korea’s nuclear programs, which at the time had reached an impasse. On the other hand, in late 2005, despite another impasse in the Six-Party Talks, the United States halted its food aid shipments in response to North Korea’s tightening of restrictions on the WFP’s operations. The cessation included the second half of a 50,000 MT pledge that the United States had made in June 2005.

³⁷ For a short review of the estimates of the famine’s death toll, see Stephan Haggard and Marcus Noland, *Famine in North Korea. Markets, Aid, and Reform*, (New York: Columbia University Press, 2007), p. 73-76.

³⁸ USAID Press Release, June 7, 2002.

³⁹ Andrew S. Natsios, *The Great North Korean Famine*, United States Institute of Peace Press, Washington, DC, 2001, pp. 135, 143-148. Mark Noland, *Avoiding the Apocalypse: The Future of the Two Koreas*, Peterson Institute of International Economics, June 2000, pp. 159, 186, 189. Stephen Haggard, Marcus Noland, and Erik Weeks “Markets and Famine in North Korea,” *Global Asia*, Vol. 3, No.2, August 2008.

Figure 1. Food Aid to North Korea, WFP and Non-WFP

Source: Interfais database.

WFP Assistance

As shown in **Figure 1**, after peaking at over 900,000 MT in 2001, assistance provided by the WFP fell dramatically. There were two primary reasons for the decline in WFP assistance. The first was “donor fatigue,” as contributing nations objected to the North Korean government’s continued development of its nuclear and missile programs as well as tightened restrictions on the ability of donor agencies to monitor food shipments to ensure that food is received by the neediest. The emergence of other emergency food situations around the globe also has stretched the food aid resources of the United States and other donors. Whatever the causes, the WFP was unable to fill its goal of 150,000 MT for the 2006-2008 period. During this time, increased bilateral assistance—outside the WFP’s program—that China and South Korea shipped directly to North Korea, as well as improved harvests in North Korea, appear to have made up much of the gap, which generally is estimated to be in the range of one million MT per year.

Diversion, Triage, and North Korea’s “Aid-Seeking” Behavior

Various sources assert that some—perhaps substantial amounts—of the food assistance going to North Korea is routinely diverted for resale in private markets or other uses.⁴⁰ Although there has

⁴⁰ See, for instance, Stephan Haggard and Marcus Noland, *Hunger and Human Rights: The Politics of Famine in North Korea* (Washington, DC: U.S. Committee for Human Rights in North Korea, 2005), in which the authors argue that up to half of the WFP’s aid deliveries did not reach their intended recipients.

been much public concern about diversion to the North Korean military, WFP officials and other experts have say they have seen little to no evidence that the military is systemically diverting U.N. food donations, and further, that the North Korean military has no need for WFP food, since it receives the first cut of North Korea's national harvest. Even if the military is not directly siphoning off food aid, however, such assistance is fungible; funds that otherwise would have been spent on food can be spent on other items, such as the military.

The North Korean government's desire to maintain control over the country is inextricably linked to the food crisis and its chronic reliance on food aid. Residency in North Korea is tightly controlled and highly politicized, with the elite permitted to live in or around Pyongyang, where food shortages are less acute than in the country's more remote areas, where politically less desirable families live. For this reason, the United States generally has shipped its food aid to the northern provinces. Additionally, North Korea is believed to expend little of its foreign currency to import food, relying instead upon the international community. Moreover, since 2007, the government has taken many steps to reimpose state controls over farmers and markets.⁴¹

2006 Restrictions

In 2006 the WFP drastically scaled down its program after the North Korean government imposed new restrictions on the WFP, constraining the organization's size and ability to distribute and monitor its shipments. The WFP and Pyongyang then negotiated a new agreement that would feed 1.9 million people, less than a third of the 6.4 million people the WFP previously had targeted. North Korea's total population is approximately 22 million. In the deal, the WFP expatriate staff was cut by 75%, to 10 people, all of whom were based in Pyongyang. Before 2006, the WFP had over 40 expatriate staff and six offices around the country conducting thousands of monitoring trips every year.⁴² The North Korean government did not allow any Korean speakers to serve on the WFP's in-country staff.

The Easing of Restrictions in 2008

In 2008, the WFP warned that food shortages and hunger had worsened to levels not seen since the late 1990s. Not only was the country confronting the results of decades of poor agricultural planning and large-scale floods in 2007, but also shipments declined significantly from the two largest bilateral food providers, China and South Korea. According to the WFP, as of the end of June 2008, bilateral food imports and aid totaled 110,000 MT, compared to 738,000 MT for the same period in 2007.⁴³ In April 2008, the WFP agency issued a call for more international donations and for the North Korean government to relax its restrictions on donor activities.⁴⁴

The following month, the United States Agency for International Development announced that the United States would resume food assistance to North Korea by providing 500,000 MT for one

⁴¹ Stephen Haggard, Marcus Noland, and Erik Weeks "Markets and Famine in North Korea," *Global Asia*, Vol. 3, No.2, August 2008.

⁴² WFP Press Release, "WFP Set to Resume Operations in North Korea," 11 May 2006; undated WFP document, Projected 2007 Needs for WFP Projects and Operations, Korea, DPR.

⁴³ World Food Programme, "Emergency Operation Democratic People's Republic of Korea: 10757.0- Emergency Assistance to Population Groups Affected by Floods and Rising Food and Fuel Prices," Undated Document.

⁴⁴ WFP Press Releases: "WFP Warns of Potential Humanitarian Food Crisis in DPRK Following Critically Low Harvest, April 16, 2008; "DPRK Survey Confirms Deepening Hunger for Millions, July 30, 2008.

year beginning in June 2008. Of this amount, 400,000 MT is to be channeled through the WFP. Approximately 100,000 tons would be funneled through non-governmental organizations (NGOs), including World Vision, Mercy Corps, Samaritan's Purse, Global Resource Services and Christian Friends of Korea. The announcement stated that the resumption was made possible by an agreement reached with Pyongyang that allowed for "substantial improvement in monitoring and access in order to allow for confirmation of receipt by the intended recipients."⁴⁵ The U.S. move came not long after a breakthrough was reached in the Six-Party Talks. Bush Administration officials have repeatedly stated their policy that decisions on food assistance are unrelated to the nuclear negotiations.

On June 27, 2008, an agreement was signed with Pyongyang that stipulated terms for increased WFP personnel and access for monitoring the delivery of the food aid. It allows WFP to expand its operations into 131 counties, versus an earlier 50, in regions at particular risk of famine.⁴⁶ NGOs have access to an additional 25 counties (see **Table 3.**) In 2005, the WFP had access to 158 of 203 counties and districts, representing approximately 83% of the population.⁴⁷ The agreement allowed the WFP to issue a new emergency appeal for over 600,000 MT for 6.2 million North Koreans. The agreement also expanded the WFP's rights and ability to monitor the shipments of food aid, in order to better ensure that the food was not diverted from its target recipients.

The NGO portion of the distribution is to be done in the two northwestern provinces of Chagang and North Pyongan. The NGO partnership, which has a staff of 16 people based in North Korea, plans to reach 895,000 people.⁴⁸

Table 3. Comparing Past and Present WFP Food Aid Agreements with North Korea

	Tons of Food pledged/planned	Number of People Targeted	Counties Accessed (% of Total Population)	Permanent Staff	Korean Speakers Allowed
2005 WFP	504,000 MT	6.4 million	158	40	No
2006-08 WFP	150,000 MT	1.9 million	50	10	No
2008 Total	730,000 MT	7.1 million	156	75	Yes
- of which:					
- WFP	630,000 MT	6.2 million	131	59	Yes
- U.S. NGOs	100,000 MT	0.9 million	25	16	Yes

Sources: WFP and NGO press releases; CRS interviews with aid officials.

⁴⁵ USAID Press Release, "Resumption of U.S. Food Assistance to the North Korean People," May 16, 2008.

⁴⁶ WFP, "Operational Priorities, September 2008, D.P.R. Korea," EMOP 10757.0 – Emergency Assistance to Population Groups Affected by Floods and Rising Food and Fuel Prices.

⁴⁷ USAID, *Report on U.S. Humanitarian Assistance to North Koreans*, April 25, 2005; March and April 2005 e-mail exchanges and phone conversations with WFP and USAID.

⁴⁸ "Aid Agencies Send Fourth U.S. Food Shipment to North Korea," Mercy Corps and World Vision press release, October 16, 2008.

Developments in Late 2008

Since the late summer of 2008, operating conditions for the WFP appear to have worsened. The North Korean government reportedly has not allowed the U.N. agency to fully implement parts of its WFP agreement. In particular, the Bush Administration has had disagreements with Pyongyang over the number of Korean speakers and Americans allowed in the country. Due in part to these difficulties, the United States has not sent a shipment of food to the WFP's North Korea appeal since August. In remarks reported in the *Washington Post*, WFP Asia director Tony Banbury said that North Koreans "are fulfilling their obligations," but that the WFP's North Korea program was running short of food. The NGO program reportedly continues to operate smoothly.⁴⁹

Meanwhile, in December 2008, the WFP and U.N. Food and Agriculture Organization (FAO) issued a report summarizing a food security survey taken in October. The agencies estimated that the number of "hungry" has jumped from 6.2 million to 8.7 million, more than a third of North Korea's population.⁵⁰

Chinese and South Korean Bilateral Food Assistance

China is widely believed to be North Korea's single-largest cumulative provider of food (and energy). All Chinese food shipments are given bilaterally, that is, directly to the North Korean government. It is believed that China does not have any systems for monitoring its food shipments to North Korea. As mentioned above, Chinese bilateral food shipments reportedly were down significantly in the first half of 2008.

For much of the past decade, South Korea's yearly shipments of food made it North Korea's largest or second-largest annual provider. Most of this was provided bilaterally, and South Korea had few monitoring systems in place. Seoul also provided 300,000 MT in fertilizer every year. However, in 2008, South Korea sent no food or fertilizer to North Korea. Earlier in the year, the newly inaugurated government of Lee Myung-bak indicated that it would provide humanitarian aid upon North Korea's request (the previous government had simply offered the assistance). The move coincided with the Lee government's announcement that new forms of North-South cooperation would be conditioned upon progress in denuclearizing North Korea. In response to the new policy from Seoul, North Korea has not requested humanitarian assistance from the South.

Other Forms of Assistance

In 2008, the Bush Administration allocated \$4 million in assistance to U.S. NGOs to help several North Korean rural and provincial hospitals by improving their electrical supplies and by providing medical equipment and training. The four recipient NGOs are Mercy Corps, The Eugene Bell Foundation, Global Resource Services, and Samaritan's Purse.⁵¹

⁴⁹ Blaine Harden and Glenn Kessler, "Dispute Stalls U.S. Food Aid To N. Korea," *Washington Post*, December 9, 2008.

⁵⁰ "8.7 Million North Koreans Need Food Assistance," FAO/WFP News Release, December 8, 2008.

⁵¹ "U.S. Spends \$4 Million On Medical Aid For N.Korea In 2008," *Korea Herald*, December 21, 2008; December 2008 (continued...)

During the Bush Administration, various officials, including the President, issued vague pledges of more extensive U.S. assistance that might be forthcoming if North Korea dismantled its nuclear programs and satisfied other U.S. security concerns dealing with missiles and the deployment of conventional forces.⁵² The Administration reportedly was preparing to offer a version of this “bold initiative” to North Korea in the summer of 2002, but pulled it back after acquiring more details of Pyongyang’s clandestine uranium nuclear weapons program.⁵³ Similarly, South Korean President Lee Myung-bak has adopted a “3000 Policy,” whereby South Korea would help North Korea raise its per capita income to \$3,000 over the next ten years by providing a massive aid package if North Korea dismantles its nuclear program.

With regard to U.S. development assistance programs, in the near term, the President has considerable flexibility to offer some forms of development assistance. The Foreign Assistance Act of 1961, for instance, allows the President annually to provide up to \$50 million per country for any purpose.⁵⁴ Longer-term initiatives, however, would likely require changes in U.S. law and thereby require congressional action. For instance, the FY2005 Consolidated Appropriations Act specifically bans many forms of direct aid to North Korea, along with several other countries.⁵⁵ Many health and emergency disaster relief aid programs are exempt from such legislative restrictions because they have “notwithstanding” clauses in their enacting legislation. Additionally, if the Administration were to designate North Korea as a country involved in drug production and trafficking – as some have advocated – then by law North Korea would be ineligible for receiving most forms of U.S. development assistance.⁵⁶

Author Contact Information

Mark E. Manyin
Specialist in Asian Affairs
mmanyin@crs.loc.gov, 7-7653

Mary Beth Nikitin
Analyst in Nonproliferation
mnikitin@crs.loc.gov, 7-7745

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communication with U.S. State Department.

⁵² Testimony of Richard Armitage, State Department Deputy Secretary, before the Senate Foreign Relations Committee, February 4, 2003.

⁵³ Testimony of Richard Armitage, State Department Deputy Secretary, before the Senate Foreign Relations Committee, February 4, 2003.

⁵⁴ Section 614 of the Foreign Assistance Act of 1961, P.L. 87-195.

⁵⁵ Section 607 of P.L. 110-161, the FY2008 Consolidated Appropriations Act, which also bans direct aid to Cuba, Iran, and Syria.

⁵⁶ See CRS Report RL32167, *Drug Trafficking and North Korea: Issues for U.S. Policy*, by Raphael F. Perl.