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The U.S., the UN and Korea

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Introduction

This issue of the *Amateur Computerist* is a collection of articles written between 2006 and 2017, highlighting activities at the United Nations about the Korean Question and the U.S. role in the ongoing division. The tension from the division remains unsolved.

Beginning over 1000 years ago, the Korean people formed themselves into one nation occupying the whole Korean Peninsula with a continuous society, language and political system. In 1943, a Korean in exile wrote that "When the ancestors of northern Europe were wandering

in the forests, clad in skins and practicing rites, Koreans had a government of their own and attained a high degree of civilization.” That was before the U.S. and the Soviet Union agreed in 1945 at the end of WWII to a temporary division to facilitate the withdrawal of Japanese troops.

In March of 1946, a U.S.-Soviet Joint Commission was set up to assist in forming a provisional Korean government. By the summer of 1947, it was clear that the Commission was failing. The U.S. brought the “problem of Korean independence” to the UN.

In 1947 and 1948, the United States led the United Nations to play a major role in dividing the Korean Peninsula and people into the Republic of Korea (ROK – known as South Korea) and the Democratic People’s Republic of Korea (DPRK – known as North Korea). The UN General Assembly sent to Korea UNTCOK (United Nations Temporary Commission on Korea) with the mandate to “facilitate and expedite the attainment of the national independence of Korea and withdrawal of occupying forces.” But instead, UNTOCK arranged an election in the south of Korea in May 1948. In that election all Koreans in the north and many Koreans in the south were excluded. The U.S. military government and right wing paramilitary groups controlled the entire election process. Most major political parties and politicians in southern Korea opposed the elections. There were strikes, demonstrations and protests against creating a separate South Korea. In the run-up to the voting, the repression of this opposition resulted in over 10,000 arrests and hundreds of deaths.

The significant aspect of the UN supported election was that it led to an official government structure for only the southern part of Korea, which months later the UN called the only legitimate government in Korea, thus solidifying the division of Korea. One view of the military conflict two years later that became known as the Korean War was that it was a civil war to restore Korea as one country. (The details of this history can be seen at: <http://www.columbia.edu/~hauben/UN-Role-in-Korea.doc>.)

Over the last 75 years, this division has caused many extremely dangerous situations that the UN has been called on to deal with. The articles gathered in this issue document a little the roles played by the U.S. and the UN but also by netizens and the civil society around the question of the division of Korea that was created in 1948.

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

The Problem Facing the U.N.

Can Ban Ki-moon Help Solve the Problem With the Security Council?

by Ronda Hauben

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 U.N. 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 11th largest economy in the world” (in the words of Gambian Ambassador to the U.N. Crispin Grey-Johnson). Speaking about Ban, Grey-Johnson, who is chairman of the African regional group at the U.N., “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 U.N., Ban acknowl-

edged that he was following “in a line of remarkable leaders.” That “each of the men in his own way, came on board at the U.N. 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 U.N., 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 U.N. 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 U.N. 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 U.N., 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 of the "international community" and that all the nations of the U.N. 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 U.N., 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 U.N.

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 U.N. 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 U.N. 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 U.N. 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 Non-proliferation Treaty to carry out disarmament.¹

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.² 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 non-proliferation 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 U.N. 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 U.N. 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 U.N. 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.³

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 U.N. be changed in the needed ways so that it will be able to handle such problems? This is the urgent issue facing the U.N. 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 U.N. organization as it embarks on a new chapter in the history of this needed global organization.

Notes:

1. See "Pyongyang's Nuke Test Sparks Fission Over Response." <http://us.oneworld.net/article/view/140740/1>. (No Longer Available.)
2. See "What About North Korea's sovereignty?" <http://www.jsonline.com/story/index.aspx?id=518268>. (No Longer Available.)
3. See "U.S. Most Responsible for Nuclear Test: Poll." <http://times.hankooki.com/lpage/nation/200610/kt2006101517230011990.htm>. (No Longer Available.)

[Editor's note: The following article appeared in *Ohmynews International* on March 21, 2007.]

North Korea's \$25 Million and Banco

Delta Asia

by Ronda Hauben

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 dollars 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.”¹

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 Macao, to freeze substantial financial assets of North Korea and also to deny North Korea access to the international banking system.² 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.³

Invoking Section 311 against the BDA effectively sabotaged the implementation of the Six-Party agreement of September 2005⁴ 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.⁵ 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 Macao 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 under-

standing 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.”⁶

Notes:

1. <http://www.ratical.org/ratville/CAH/Section301.html>.
 2. “Treasury Casts a Wide Net Under Patriot Act.” <https://www.arkansasonline.com/news/2007/mar/18/treasury-casts-wide-net-under-patriot-act-20070318/>.
 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.” <https://www.mcclatchydc.com/latest-news/article24461644.html>.
 4. Joint Statement of the Fourth Round of the Six-Party Talks Beijing, September 19, 2005. <https://2001-2009.state.gov/r/pa/prs/ps/2005/53490.htm>.
 5. “Administration Reconsiders Some North Korea Restrictions.” http://www.realcities.com/mld/kwashington/news/columnists/warren_p_strobel/16554751.htm. (Not currently available.)
 6. “U.S., North Korea Move to Open Ties.” http://english.ohmynews.com/articleview/article_view.asp?no=348974&rel_no=1. (No Longer Available.)
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[Editor’s note: In August 2007, Ronda Hauben made a presentation at the World Fellowship in New Hampshire, U.S. She spoke about covering the U.N. as a featured writer for OhmyNews International. In the following section from her presentation, she shows there can be a power in netizen reporting.]

The Net Gives the Power of the Reporter to the Netizen

by Ronda Hauben

BDA Story

This spring as a featured writer for *OhmyNews International* I covered the 50th anniversary dinner in New York City of the Korea Society. One of the speakers at the dinner was U.S. Assistant Secretary of State Christopher Hill. He explained the problem of \$25 million of North Korean money being frozen as part of a U.S. Treasury Department proceeding against a bank in Macao, China, the Banco Delta Asia (BDA). This is a problem that was at the time holding up the implementation of the Six-Party agreement to denuclearize the Korean Peninsula. Hill committed himself to work on this problem until it was solved.

There were several Korean journalists covering the event for their publications. They were particularly interested in what Hill said, but Hill's talk in itself did not seem to represent a newsworthy event.

In the next few days, however, an important story was developing.

In the process of trying to unravel the unfolding developments, I found a story online about the activity the bank had engaged in for North Korea. It documented that this was legitimate banking activity, not illegal activity. The news organization which published the story was the McClatchy Newspapers. I also found links on the blog, "China Matters," to some documents refuting the Treasury Department's charges against the bank.

I now had the documents in the case. The U.S. government's findings were general statements providing no specific evidence of wrong doing on the part of the bank. The bank's statements and refutation gave significant documentation refuting charges of illegal activity on the part of the bank. The refutation also made the case that there were political motives for the U. S. governments' allegations rather than actual illegal activity on the part of the bank. The U.S. government had targeted a small Macao bank to scare the many banks in China. "To kill the chicken to scare the monkeys," as the government document explained, quoting an old Chinese proverb.

At last I had the news peg for an important story. I wrote an article, submitting it online around 5 a.m. my time on May 18 to *OhmyNews International (OMNI)*, using the software *OMNI* provides for submitting articles. Also on May 18, the *Wall Street Journal* carried an Op Ed by the

former U.S. Ambassador to the U.N., John Bolton. His article scolded the U.S. government for negotiating to return the \$25 million to North Korea. By noon that day, my story appeared on *OMNI*. So an Internet search that day gave people who searched two substantially different analyses to consider. (See **Behind the Blacklisting of Banco Delta Asia**, the next article in this issue.)

This short description was part of a talk that I gave in San Francisco in May 2007 at the International Communications Association (ICA) annual conference.

During the conference, I summed up my experience working on this issue with the conclusion:

There is not yet an OhmyNews (OMN) in the U.S. So my story about the connection of the U.S. government's policy toward China and the U.S. government actions against the Macao bank is not yet likely to be able to impact how the mainstream news media in the U.S. frames the story with North Korea and the Six-Party Talks. But the need for a U.S. model of OMN becomes all the more urgent when one participates in *OMNI* and thus has the experience of exploring the potential of what it will make possible.

Next Episode

Little did I realize when I gave my talk in San Francisco, however, that this story was not ending, but a new aspect was developing.

When I returned home from the ICA conference, I did a follow-up story to my two earlier stories about the BDA issue.

A short time later, on June 11, I found a surprising email in my mailbox. The email was from a reporter who said she worked for the Korean Service of the *Voice of America News (VOA News)*.

She wrote:

Hello Ms. Hauben

She introduced herself as being a reporter with the *Voice of America News* in Washington D.C.

Her email said:

While I was working on a story about BDA issue, I read your report, 'Behind the Blacklisting of Banco Delta Asia.' I thought you made some

valuable points about the BDA issue in this report, I was wondering if I could have a conversation with you in this matter. Since I am on deadline, I'm trying very hard to get a hold of you. So I would really appreciate it if you call or email me back ASAP

She gave her phone number.

The *Voice of American News* is now part of the U.S. State Department.

I called her as she had asked and she said she wanted to interview me by phone. I asked her to let me know what she would want to speak with me about. She sent me an email elaborating:

The questions I am planning to ask you during the interview are going to be about both the content of your article and how you did it. Although I'd like to ask you, first of all, how you came up with the idea of writing this article, the focus of this interview is not just on how you prepared the article.

The purpose of this interview is to let our listeners know what is going on regarding the BDA issue and how the BDA issue is developing. When I read your article, I thought you made valuable and critical points about the BDA issue, and I thought it might be very important to let your idea about the BDA issue be heard by our listeners.

She listed questions she would ask me in the interview.

- 1. How you came up with the idea of writing this article? How you prepared it? About your sources*
- 2. Briefly summarize your findings or main points of the article?*
- 3. What you are trying to accomplish by writing this article? What needs to be done to resolve the BDA issue?*

She wrote ending the email:

Finally, I wanted to ask you if we could do this interview sometime between 9am and 9:30am Thanks again.

She did indeed call and we had a substantial phone conversation discussing my stories, the Internet sources I had used, and what I saw as the problem with the American government's freezing the Banco Delta Asia funds.

Afterwards she asked specifically for the urls to follow up on the Internet sources I had cited. These were basically material I had found including a blog, several government documents, and copies of the legal

documents submitted by the Bank owner to appeal the Treasury Department ruling against the Bank, all on the Internet.

This was all happening at a time when there were new efforts to find a solution to the roadblock that freezing the BDA funds belonging to North Korea represented to the continuation of the Six-Party Talks.

The *Voice of America News* reporter said she would consider contacting the former U.S. government officials who were responsible for crafting the plan to freeze North Korea's assets at Banco Delta Asia.

Just at this time, the U.S. government announced a new possible arrangement for returning the funds to North Korea via the international banking system. In the following week it proved successful.

The *Voice of American News* reporter wrote me saying she had other stories to do and was not for now going to pursue this story any longer.

I can only speculate that perhaps her contacting me and interviewing me was part of an effort by some people within the U.S. government to put pressure on others within the government who were creating the roadblocks.

Regardless of her motivation, the *Voice of America News* reporter had contacted me before the situation was resolved. Whether the contact had any impact on the resolution I can only speculate. At the very least, the articles I had done had caught the attention of someone at the *Voice of America News* which is part of the U.S. State Dept. I was given the chance to explain how I framed the story of the BDA and what I saw the controversy surrounding it to be.

So my story did indeed have more of an impact than I thought possible when I gave my talk at the ICA in San Francisco. OMNI and the Internet in general gave these stories about the BDA a power they would not otherwise have had.

[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

U.S. Assistant Secretary of State Christopher Hill, speaking at the Korea Society's 50th Anniversary dinner in New York City on May 15, 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.¹

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.²

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."³

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."⁴

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.”⁵

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.⁶

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 Macao 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.”⁷

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 U.N.'s sanctions, it was not appropriate to target for blacklisting the legitimate financial activities of North Korea. The sanctions that the U.N.-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 writes⁸:

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, Non-proliferation, and Trade on April 18, 2007, explaining why Banco Delta was chosen to be blacklisted from the international banking system.⁹

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.¹⁰

Notes:

1. See the Article “North Korea’s \$25 Million and Banco Delta Asia” in this issue.
 2. “North Korea says work to transfer bank funds under way,” *AFP*, May 15, 2007.
https://www.spacewar.com/reports/North_Korea_Says_Work_To_Transfer_Bank_Funds_Under_Way_999.html.
 - (3) Scott McCormack, Daily Press Briefing, Washington DC, May 17, 2007.
<https://www.scoop.co.nz/stories/WO0705/S00399/state-dept-daily-press-briefing-may-17-2007.htm>.
 4. “Bank owner disputes money-laundering allegations.”
<https://www.mcclatchydc.com/news/nation-world/world/article24463246.html>.
 5. About the Statement of Mr. Stanley Au in Support of Petition to Revoke Rule Imposing Special Measures Against Banco Delta Asia. See:
<https://www.macaobusiness.com/lifting-of-us-sanctions-on-delta-asia-bank-the-result-of-15-years-of-unrelenting-effort-chairman/>.
- See also Kevin G. Hall, “Bank owner disputes money-laundering allegations,” McClatchy Newspapers, May 16, 2007.
<https://www.mcclatchydc.com/news/nation-world/world/article24463246.html>
6. 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.govinfo.gov/content/pkg/FR-2007-03-19/pdf/07-1303.pdf>.
 7. Petition of Mr. Stanley Au and Delta Asia Group (Holdings) Ltd. to Rescind Final Rule, p. 12. https://www.ncnk.org/resources/publications/Jones_Day_Petition_Rescind_BDA_Rule.pdf.
 8. “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>.
 9. “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.

<https://www.uscc.gov/hearings/hearing-chinas-proliferation-north-korea-and-iran-and-its-role-addressing-nuclear-and>.

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/%3Cbr%3Ehttp://english.ohmynews.com/articleview/article_view.asp?no=360069&rel_no=1. (No longer available.)

[Editor's note: The following article first appeared on the netizenblog on August 31, 2013.*]

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

by Ronda Hauben

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 2013 occasion of the 60th 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.¹ 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.²

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.³ 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.⁴ 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 commander 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.”⁵⁵

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.”⁶ 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.”⁷

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.”⁸

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.”⁹ 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.¹⁰ 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.”¹¹

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.”¹²

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.”¹³

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.”¹⁴

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.¹⁵ 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.¹⁶

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 by passing 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’.”¹⁷

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.¹⁸

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.”¹⁹

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."²⁰

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.
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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."
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Overseas Koreans Remember 6.15 Joint Declaration

by Ronda Hauben

Though the Sunshine Policy that has officially guided the struggle for Korean Reunification since June 15, 2000 (6.15)¹ may be under siege by the current government of South Korea, the U.S. government, and the United Nations Security Council, it was very much alive at the Overseas Koreans Conference for Peace and Reunification of Korea held in Washington, D.C. The conference, marking the 9th anniversary of the historic agreement between the Heads of State of North and South Korea, was held on June 12-14, 2009.

It was with a sigh of relief that I left New York on Friday morning June 12 to travel to Washington, D.C. where the June 15 Joint Korea Declaration Overseas Committee for Peace and Reunification of Korea was hosting this three-day event.

At noon, in New York City on Friday, June 12, the United Nations Security Council passed SC Resolution 1874 imposing harsh sanctions

against North Korea. The voice of reason has been drowned out in a sea of “waiting for Obama” sentiment, giving the Obama administration license to continue and even outdo the anti-democratic policies of the Bush administration.

For example, Obama’s administration has increased the U.S. troop level in Afghanistan and encouraged extensive military actions displacing the civilian population in Pakistan. But when it comes to North Korea, U.S. government policy has been especially harsh. This has been documented in an earlier article in *OhmyNews International*: “U.S. Policy Toward North Korea Fails to Engage.” Page 19 in this issue.

The presentations and discussion at the 6.15 anniversary conference helped to put what is happening at the UN into the bigger framework of U.S., Korean relations and North Korea-South Korea relations.² This broad focus is one where several generations of Koreans have grown up since the rivalry between U.S. and Soviet Union following World War II, imposed arbitrary separation on the Korean Peninsula.

“The separation itself is violent,” explained Park Soh-eyn, the first speaker at the Saturday morning panel, who came to the conference from Germany. She observed that the June 15 Declaration had a



Conference participants

significant symbolic effect. It provided a common approach toward reunification for both North Korea and South Korea. After 60 years of separation, just to be able to look at the North Korean and South Korean flags in the same space was touching, she recalled.

Part of the impact in South Korea of the 6.15 Joint Declaration was to legalize discussions of reunification which had been previously forbidden and criminalized by the South Korea National Security Law. The 6.15 Declaration had also broadened the reunification movement so

that people from different sectors of society participated, including diverse religious organizations, and diverse non-religious organizations including conservative and progressive political groups. Park Soh-eyn pointed out that there have been many exchanges between the Koreas since the 6.15 Joint Declaration.

Park Soh-eyn offered the analogy that if we consider the separation like a disease with its harmful effects, the reunification process provides a medication, with curing qualities.

On Friday evening of the first day of the conference there had been a short set of talks at the dinner held at a Korean restaurant in Tysons Corner, Virginia. U.S. Congressman Eni Faleomavaega of American Samoa, who is the Chairman of the Foreign Affairs Committee on Asia, the Pacific and the Global Environment, gave a short presentation about his support for the Sunshine Policy³ and his respect for the work done by former South Korean President Kim Dae Jung.

I was invited to present a greeting at the dinner. I described how as a featured writer for *OhmyNews International*, I have reported on UN events, particularly focusing on the frustrations among delegates and others with the actions of the UN Security Council. I noted the widespread feeling that there is a need for an English language publication to counter media myths as about North Korea.

Another talk at the Saturday Conference was presented by Kim Chang-soo, who had been on the South Korean National Security Council in the Roh Moo-hyun administration. Kim Chang-soo reviewed some of the recent events in the relations between the two Koreas. President Lee Myung-bak has not recognized the June 15, 2000 or October 4, 2007 agreements with North Korea negotiated by the previous two governments. The Lee regime, in abandoning the Sunshine policy, turned to criticizing North Korea as well as conducting military exercises with the U.S. that are viewed as hostile activities by North Korea.

The media has focused on internal problems in North Korea, failing to take into account broader issues and context. North Korea has indicated it is willing to talk about the nuclear issues with the U.S. on a one to one basis, which would include talking about U.S. protection of South Korea under the U.S. nuclear umbrella. Kim Chang-soo proposed that North Korea is trying to get diplomatic recognition from the U.S. as well as to

address its economic issues. But the current world media focuses on problems with North Korea, rather than why the U.S. is not doing anything to encourage negotiations.

Kim Chang-soo suggested that the upcoming summit between Lee Myung-bak and Barack Obama was important and has the potential to have serious military implications. He cautioned against Obama failing to realize that Lee Myung-bak is considered as a repressive dictator and that there is a long tradition of the U.S. government supporting dictatorial regimes in South Korea. Such support for Lee Myung-bak by the U.S. government would remind the people of South Korea of this past history, including the resentment that spread across South Korea in 2002 when two middle school girls were killed by a U.S. military tank. Kim Chang-soo advised Obama to keep this all in mind when he meets the President of South Korea.

Kim Chang-soo offered some observations about the current tense situation created between the U.S. and North Korea by U.S. support for the harsh Security Council Resolution that has recently passed at the UN. He referred to several analogous periods when the U.S. made progress in normalizing relations. One such example was when China and the U.S. began to normalize relations in the early 1970s. Similarly despite the hostility of the Bush administration years, negotiations with North Korea began in earnest toward the latter part of Bush's tenure in office.

The current sanctions, against North Korea, are problematic. They even go beyond the mandate of the Proliferation Security Initiative (PSI) that in itself has the potential to provoke military encounters. The Security Council's sanctions present a contradiction with the Armistice Agreement between North Korea and the UN Command, which forbids one side from blockading the other side. The provision to forcibly inspect North Korean ships contradicts the terms of the Armistice, as do the provisions cutting off financial interactions with North Korea.

Kim Chang-soo observed that Obama's policy is similar to Bush's earlier policy. We need to ask for a fresh policy approach from the Obama administration, he suggested. He advised that there is a need for a very special high level envoy to go to North Korea to change the direction. Also he proposed that an exchange of cultural events and people to people interactions could be helpful.

For the upcoming meeting between the U.S. and South Korean presidents, Kim Chang-soo proposed that relations with North Korea need to address not only denuclearization, but also diplomatic recognition, inter Korea exchanges, and forging peace in Northeast Asia. Kim Chang-soo advised that Lee Myung-bak recognize the significance of the June 15 Declaration and continue to implement that spirit and to promote this spirit when he meets with Obama, rather than a tough military approach to North Korea.

In thinking about the impact of the events at the conference, it seems that U.S. and North Korean relations are at a particularly low point with the danger of a military confrontation. At such a time, it is particularly important to consider the achievements of the Sunshine Policy and the 6.15 Joint Declaration as a means to support peace and reunification, rather than war, on the Korean Peninsula.

The continuing tragedy of the two Koreas is a serious problem for the world, not just for the Korean people. Also the U.S. government's refusal to negotiate a peace treaty to end the Korean war means that there is a particularly dangerous situation on the Korean Peninsula. The Armistice is but a temporary truce, not a means of more permanently preventing a return to military action.

A number of conversations at the conference, however, emphasized that people in Korea have faced many hardships over the years so that this difficult time is not unusual for them.

One speaker on Friday evening summing up this sentiment admitted, "I feel sometimes hopeless." But along with this sentiment, he explained his belief that there is a basis for hope. He reminded those at the conference, "But our people have been through so many hardships We shouldn't be passive. As our voices get bigger, we'll get more power. We shouldn't appeal to Lee Myung-bak. We should appeal to the people."

Notes:

1. From June 13 to June 15, 2000, an inter-Korean summit between South Korean president Kim Dae-jung and the Democratic People's Republic of Korea's supreme leader Kim Jong-il took place in Pyongyang. It was the first inter-Korean summit since the Korean War 1950-1953. On the last day of the summit, the June 15th (6.15) North-South Joint Declaration was adopted between leaders of North Korea and South Korea. See

https://en.wikipedia.org/wiki/2000_inter-Korean_summit and https://www.ncnk.org/sites/default/files/content/resources/publications/South-North_Joint_Dec_2000.pdf.

2. Most of the talks presented at the conference and dinner were in Korean. This account of the conference is based on translations from Korean into English provided by several colleagues.

3. During the South Korean presidency of Kim Dae-jung, a national security policy was adopted known as the Sunshine Policy. The national security policy had three basic principles: (1) No military provocation from the North will be accepted; (2) The South will not attempt to annex or occupy the North in any way; (3) The South will actively seek peace and mutual partnership with the North. For example, see:

https://en.wikipedia.org/wiki/Sunshine_Policy.

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U.S. Policy Toward North Korea Fails to Engage

by Ronda Hauben

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.¹

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 Undersecretary 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 Undersecretary 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."²

In contrast to the loss of Hill as a negotiator with North Korea, the Obama administration reappointed Stuart Levey, as the Undersecretary of 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.³ 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.⁴

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.⁵ 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?” See page 8 in this issue.)

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 uni-laterally 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.⁶

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 2000.⁷ 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.⁸

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.⁹ 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 1718.¹⁰

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.¹¹

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.”¹²

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 endeavor to inflict on another nation.

Notes:

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[Editor's note: The following article first appeared in *OhmyNews International* on June 8, 2010.]

Netizens Question Cause of Cheonan Tragedy

Online media challenge claims that North Korea is responsible for sinking the Cheonan

by Ronda Hauben

The South Korean government headed by Lee Myung-bak is trying to dispel criticism that its accusation that North Korea is responsible for the sinking on March 26 of the Cheonan warship is politically motivated and a cover-up or possible false flag operation.

On May 20, the South Korean government presented as incontestable fact its conclusion that the warship Cheonan split in two and sank because of hostile action by North Korea. Online discussion seriously challenged that presentation. Perhaps not coincidentally, May 20, the day of the presentation coincided with the date when campaigning for the June 2 provincial and local elections was to officially begin.

The military communication logs show that the first message from the Cheonan of trouble said "aground on rocks." The ship was in shallow waters. Similarly, numerous early statements by both South Korean and U.S. officials assured the public that North Korea was not involved with

the incident.

The rescue operation saved 58 of the crew members. Forty-six of the 104 members of the ship's crew died as a result of the ship's breaking in two and sinking. Relatives of the sailors who died complained that the rescue effort was inadequate and too late. Public criticism of the Lee government grew regarding how it was handling the ship disaster. A so called international group was charged with the task of assessing blame for the disaster. That Joint Investigation Group (JIG) was under the Korean military.

The Investigation

When the five page investigation statement¹ was presented on May 20, however, North Korea was accused of being the cause of the disaster. The accusation was based on a part of a torpedo allegedly dredged up from the sea which bore a supposed pen marked number on a rusted surface.

The sinking of the Cheonan occurred during a period when the U.S. military and the South Korean military were conducting joint military exercises named Key Resolve/Foal Eagle. The joint South Korean-U.S. naval action involved several Aegis class warships which have the most advanced computer and radar systems to track and guide weapons to find and destroy enemy targets. The Cheonan was a patrol combat corvette (PCC) specializing in anti-submarine warfare.

The investigation statement claims that somehow an undetected North Korean submarine pierced a highly protected arena of U.S.-South Korean military maneuvers and released a torpedo in shallow waters, and then escaped totally undetected.

An article in the Korean newspaper *Hankyoreh*² points out the unlikely scenario that “a North Korean submarine [would be able] to infiltrate the maritime cordon at a time when security reached its tightest level and without detection by the Cheonan.”

No evidence was presented as to the actual firing of the torpedo or the actual presence of a North Korean submarine in the vicinity of the Cheonan. There is no actual observation of a North Korean submarine in the area of the Cheonan, despite the fact that there was sophisticated surveillance equipment used for the military exercises. Also, the shallowness of the sea where the Cheonan sunk, about 40 to 50 m. and the

rocky bottom would make submarine travel near there almost impossible

The statement of the investigation is unsigned. The parties who allegedly conducted the investigation are unnamed. Instead of facts to document a basis for the accusations which might lead to war, a number of allegations are followed by the statement that “There is no other plausible explanation.”

Blogs and Other Online Media

The accusations made by the conservative media in South Korea about North Korea have taken on a James Bond quality given the mismatch between the reality of North Korean capability and the claims being made of how it has been able to perform amazing deeds. Blogs and other online media in both the U.S. and South Korea have presented facts and discussion challenging the claims in the investigation statement, and proposing other alternative explanations of the cause of the sinking of the Cheonan. These online discussions and questions have begun not only to supplement newspaper accounts but also to become the subject of newspaper articles in South Korea.

Questions discussed on blogs included whether there was a North Korean or German made torpedo involved in the sinking of the Cheonan, or whether there was any involvement of a torpedo at all.³ An online letter⁴ addressed to Hillary Clinton by one of the members of the investigation, questions whether the marks on the ship came from being run aground or a collision with some other vessel or both.

The Whole Story as a False Account?

The nature of the pen mark on the torpedo part offered by South Korea as its main evidence that the torpedo was fired by North Korea was challenged⁵ as not being a reliable piece of evidence of North Korean involvement because there was rust under the pen mark. Also, the blades of the offered evidence show a degree of corrosion that would usually require far more time than the two months in the water as claimed.

Another blog⁶ challenges the whole story of the South Korean government as a false account like the Gulf of Tonkin incident. Some of the Korean netizens and political activists who challenged the South Ko-

rean government about the cause of the Cheonan sinking have been referred to the prosecutor for charges.⁷

The South Korean government has been cited⁸ by both Frank La Rue, UN Special Rapporteur for the Promotion and Protection of Freedom of Opinion and Expression and Amnesty International for interfering with the rights of South Korean citizens and netizens.

They Need Teeth

Given the growing set of questions about the South Korean government account of the sinking of the Cheonan, the government has invited⁹ some chosen bloggers and twitter users to a session “to dispel any doubts among the young that North Korea was behind the deadly attack,”

A Yonhap News Agency press release explains that it will select 20 twitter users, 10 defense bloggers and 30 college reporters “to take a trip to Pyeongtaek naval port south of Seoul where the salvaged parts of Cheonan are being kept.” The article explains that “The event is aimed at removing skepticism among young Internet users who have raised doubts in online communities about the results of a multinational investigation that concluded North Korea downed the ship in a torpedo attack.”

Like in the case of 9/11, careful fact checking and examination of the evidence by netizens has shown the South Korean government’s case for the involvement of North Korea in the sinking of the Cheonan to be unsustainable. Netizens are more and more able to act as watchdogs. But they need teeth.

Notes:

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9. <http://english.yonhapnews.co.kr/national/2010/05/31/3/0301000000AEN20100531003100315F.HTML> (No Longer Available.)

Appendix

Some comments from Scott Creighton's blog entry, "The Sinking of the Cheonan: We are being lied to," May 24, 2010. <http://willyloman.wordpress.com/2010/05/24/the-sinking-of-the-cheonan-we-are-being-lied-to/>. (No Longer Available.)

6. Tim, on May 24, 2010 at 1:55 p.m. said: 'The markings in Hangul, which reads "1?(or No. 1 in English)," found inside the end of the propulsion section, is consistent with the marking of a previously obtained North Korean torpedo.' Now, just hang on a minute? a previously obtained NK torpedo? A previously obtained NK torpedo?? How many do they have? Is it not beyond the realms of possibility that this 'evidence' did not originate from NK at all. We really ought to demand the same level of ballistic forensics that apply to crime scenes where ordinary firearms have been discharged. After all many more lives could be at stake here.

57. Mika, on May 27, 2010 at 5:34 a.m. said: You may want to have a look at this: <http://www.atimes.com/atimes/Korea/LE26Dg01.html>. (No Longer Available.) I've not tried verifying any of the claims made there yet, but the comments about the Korean handwritten writings are damning if true, and if there was indeed still a large scale exercise going on, that makes it completely unthinkable a NK sub would have penetrated that deep, sank the Cheonan and got away again. OTOH, it does provide a rather credible alternative scenario: a friendly fire incident blamed on the North Koreans. Kursk anyone?

145. willyloman, on May 28, 2010 at 3:38 p.m. said: the following comment was left by a reader and it did not go through so I am posting it here so that others may read it. Mr. Serandos: WordPress sometimes has problems with comments ... it should work fine but if posting again presents a problem, just me know. thank you
scott creighton, willyloman

Tom Serandos left the following comment: I tried to leave the following message on Mr. Creighton's site but I don't think it went through.

PCC-772 report: I agree with the contents of the report.

Examine the photographs of the PCC-772 props. The deformation on each fluke is

evidence of grounding while making turns. If there was an explosion it occurred after the ship ran aground or only the lower flukes would have been damaged when it settled to the bottom. The damage to the shaft alleys would have locked up the props.

If there was an explosion perhaps it was an unexploded bomb from the Korean war or a mine the S. Koreans have not retrieved (reportedly there are over 100 of those still out there). It could have been in the vessels path when it grounded.

Also, the degree of corrosion on the torpedo parts indicates they have been in the sea for a very long time (months). It was long enough for the active alloy in the props to set up a galvanic cell with the other parts. I am a degreed metallurgist with 25 years of experience and seven years of service in the U.S. Nuclear Navy.

Tom Serandos

166. Han Kim, on May 29, 2010 at 7:30 a.m. said: I'm Korean and many Korean ppl know the govt is making things up.

As you might know, the only reason the govt manipulated the truth is to get more votes on the upcoming election from the old generations. :) Keep up the good work! We really appreciate the voices from outside Korea

203. ??, on May 29, 2010 at 2:22 p.m. said:

Dear Scott,

have you seen this article, "Did an American Mine Sink South Korean Ship?" by one Yoichi Shimatsu: <http://newamericamedia.org/2010/05/did-an-american-mine-sink-the-south-korean-ship.php>. (No Longer Available.)

He makes many good points, what I'd like to highlight is what he says about the type of torpedo submitted as evidence on May 20:

"Since torpedoes travel between 40-50 knots per hour (which is faster than collision tests for cars), a drive shaft would crumble upon impacting the hull and its bearing and struts would be shattered or bent by the high-powered blast"

My point is that even more bewildering than the various torpedo schema we've seen is the very implausible situation that such a relatively intact remnant of the alleged weapon exists as foisted onto us.

North Korea is also now vigorously bringing forth their defense, which is comprehensively exposing the various contradictions in the "JIG" case. See my link of "Military Commentator on Truth behind 'Story of Attack by North' (Part 1)." <http://tinyurl.com/29eh9zj> The KCNA site won't link directly, so I'm linking to the article on my own blog.

People are going to cry about giving North Korea a hearing but they are certainly innocent until proven guilty and their exclusion from the investigation process indicates weakness and fear of exposure in the South Korean position, which has been relying so far on a kind of international kangaroo court or media lynching. I'd very much like to see what evidence they presented at their own press briefing recently to contrast with the "JIG" press event of May 20. Again people will virulently impugn and dismiss them, but you can be sure both Russia and China were paying close attention to all the details of their

nearer neighbor's case.

It's also important for your morale to know that South Korean citizens groups and progressive media are banding together as we speak to get to the bottom of this particular Big Lie. Also Mr. Shin is saying he'll use the suppressive court proceedings initiated against him to expose the whole phony deal.

Don't lose sight of the big picture, you've taken some "below-the-belt" hits? hang in there man!

211. hankyul moon, on May 30, 2010 at 11:16 a.m. said:

The kr.gov will keep trying to paint with dirty mentions in order to wrap this page.

In addition of that, the kr.gove will keep change their story and evidence, which is a traditional judgment of suspicion. Many people focused on the torpedo; however, a single evidence is not correlated to the explosion. The torpedo that kr.gov presented is not proven evidence of explosion scientifically. For example, there are no proofs of thermal effects, mechanical damages by explosion, corrosion effects by salty water, and corrosion effects by heat and salty water. Only one evidence is letter "1?", written by bright blue permanent marker. Nevertheless, North kr.gov denied using "1?" on machinery.

[Editor's note: The following article first appeared in *OhmyNews International* in June 2010.]

Questioning Cheonan Investigation Stirs Controversy

by Ronda Hauben

South Korean government officials have denounced an NGO for writing to the Security Council. The NGO is one of the most prominent civil society organizations in South Korea, People's Solidarity for Participatory Democracy (PSPD). Such action disregards the long tradition and established procedure at the United Nations for an NGO or private individual to send communication to the Security Council on matters it is considering.

PSPD is a watchdog NGO that was founded in 1994. Since then it has monitored the actions of the South Korean government, supporting the efforts of South Korean citizens to participate in political affairs.

In a letter asking for support, PSPD writes:¹

PSPD believes that diplomacy and security policy should be

under the citizenry's watch and democratic control. National Security and diplomatic policy should not be monopolized by military and diplomatic authorities.

On June 11, 2010, the Center for Peace and Disarmament of PSPD sent a letter to UN Security Council President Claude Heller, the Mexican Ambassador to the UN. Mexico holds the rotating presidency of the Security Council for the month of June. With its letter, PSPD included its report, "The PSPD's Stance on the Naval Vessel Cheonan Sinking."²

The letter and report were also sent to the other fourteen member states of the United Nations Security Council, to the United Nations Secretary General and to the Permanent Mission of the Republic of Korea (South Korea).

The PSPD report raised a number of questions and problems with the findings presented by the South Korean government of its investigation of the Cheonan sinking.

Background

The South Korean government, unable to win support domestically for its allegations that North Korea was responsible for the sinking of the Cheonan, turned to the UN Security Council for action against North Korea.³ On June 4 the South Korean Ambassador at the UN submitted a letter to the UN Security Council requesting it to take up the matter of the sinking of the Cheonan.⁴

On June 8, North Korea submitted a letter to the Security Council denying any involvement in the sinking of the Cheonan.⁵

The Security Council scheduled an informal meeting for South Korea to present its case against North Korea on Monday, June 14. Initially there was no plan for the Security Council to meet with the North Korean delegation on the Cheonan issue. On Sunday evening, however, news reports from South Korea announced that on June 14, the Security Council would also hold an informal meeting with North Korea.

According to some of the South Korean news media who cover the UN, the big story in South Korea on Monday, June 14, was not that South Korea was making its presentation to the Security Council. Instead the media described denunciations by South Korean government officials against PSPD for sending its report to the UN. The reporters claimed the

South Korean government believed that the PSPD report influenced the North Korean UN delegation to request a presentation at the UN Security Council on the subject of the Cheonan. There was no proof presented for such allegations. This did not, however, stop South Korean government officials from making accusations against PSPD, nor the South Korean conservative media from supporting the denunciations with articles accusing the NGO of unpatriotic behavior.⁶

In Seoul, on June 14, the spokesman for the Blue House, for the President of South Korea, Lee Myung bak, publicly denounced PSPD.

Also on June 14, during the Question and Answer time at the National Assembly, the South Korean Prime Minister, Un-Chan Chung, denouncing PSPD for sending its letter and report to the UN Security Council, said, “ Such actions are against national interest. It (PSPD’s action) dishonored and shamed our country.”

Back at UN headquarters in New York on Monday, June 14, two separate informal meetings of the Security Council were held in the North Lawn Building. A large number of reporters waited in the cafe outside the area where the Security Council was meeting because the meetings were closed to the press.

After the two informal Security Council meetings, the Mexican Ambassador spoke briefly to the press. He said, “the Security Council issued a call to the parties to refrain from any act that could escalate tensions in the region, and makes an appeal to preserve peace and stability in the region.” He also indicated that the Security Council would continue its consultations after the meetings it had with the delegations of both nations. Heller said that it was very important to have received the very detailed presentation by South Korea and also to know and learn from the arguments of North Korea. He commented that it was “very important that North Korea has approached the Security Council.” In response to a question about his view on the issues presented, he responded, “I am not a judge. I think we will go on with the consultations to deal in a proper manner on the issue.”⁷

The North Korean UN delegation scheduled a press conference for the following day, Tuesday, June 15. During the press conference, the North Korean Ambassador presented North Korea’s refutation of the allegations made by South Korea. Also he explained North Korea’s

request to be able to send an investigation team to go to the site where the sinking of the Cheonan occurred. South Korea had denied the request. During the press conference, a reporter with a South Korean newspaper asked the North Korean Ambassador if he had received a copy of the PSPD document from PSPD. The Ambassador responded that not to his knowledge.⁸

In a press release, the Asian Human Rights Commission writes that following the denunciation of PSPD by South Korean government officials, “the country’s Prosecutor’s office reportedly leaked to newspapers that there was a possibility that the staff of the PSPD might be prosecuted under the National Security Act, if a case were to be filed ...”⁹

“In response,” the press release explains, “conservative groups filed a complaint with the Prosecutor’s Office.” On June 15, the Vice Minister of Foreign Affairs and Trade, Mr. Chun Yeong-U said that, “A legal examination is currently going on.”

Following the accusatory remarks by South Korean government officials against PSPD, “people belonging to conservative groups attempted to raid the offices of PSPD.” There are reports that members of PSPD were assaulted verbally and physically, and threatening phone calls were made to the PSPD offices.

In one incident, a van containing flammable material was driven up to the building where PSPD offices are located. The police did not arrest the perpetrators of these deeds. The Prosecutor, instead, opened an investigation of PSPD.

On June 17, according to the Asian Human Rights Commission, the case against PSPD was allocated to the Public Security Bureau 1, which announced its intention to summon PSPD officials.

The Asian Human Rights Commission also reported that the Prosecutor’s office “approached one of the experts who worked on the government-led report in order for this expert to submit a complaint concerning alleged criminal defamation by the NGO.”

South Korean government officials, supported by some of the South Korean media, allege that it is an unusual practice for an NGO to send a letter or report to the UN Security Council. Recently, a reporter asked a government official, “Are there any cases that a NGO sends a contrast

position paper against a government on the security issue.” Chun, Yung-woo, the 2nd Vice Minister of Foreign Affairs and Trade responded, “I have never heard that there are such NGOs, and document sent by a NGO cannot be a UNSC document.”

NGO Communication to Security Council

Such an interchange demonstrates a serious lack of knowledge of UN and particularly Security Council procedures. There is a long established practice at the UN of NGO’s or private individuals sending letters and documents to the Security Council on questions before the Security Council. Most if not all of the matters before the Security Council have to do with security issues.

Records at the UN show that the practice of sending such correspondence to the Security Council dates back to 1946. This is the date when the symbol S/NC/ was introduced as the symbol for “Communications received from private individuals and non-governmental bodies relating to matters of which the Security Council is seized.”¹⁰ The Security Council has the practice of periodically publishing a list of the documents it receives, the name and organization of the sender, and the date they are received. The Provisional Rules of Procedure of the Security Council states that the list is to be circulated to all representatives on the Security Council. A copy of any communication on the list is to be given to any nation on the Security Council that requests it.

There are over 450 such lists indicated in the UN records. As each list can contain several or a large number of documents the Security Council has received, the number of such documents is likely to be in the thousands.

Under Rule 39 of the Council procedures, the Security Council may invite any person it deems competent for the purpose to supply it with information on a given subject. Thus the two procedures in the Security Council’s provisional rules give it the basis to find assistance on issues it is considering from others outside the Council and to consider the contribution as part of its deliberation.

Appeals to End Witch Hunt Against PSPD

Initiating a criminal investigation against a South Korean NGO or citizen for what is a long existing practice and tradition with respect to the UN Security Council, is a South Korean government action that is being compared to the kind of “witch-hunts” that occurred during the period of the 1950s in the U.S. which has come to be known as McCarthyism.

In contrast to the attack on PSPD by the South Korean government and the conservative media, many NGOs and citizens in South Korea have expressed their support for PSPD.

A group of 200 professors and other intellectuals in South Korea has issued a statement calling for the end of the “witch hunt” against PSPD. The statement explains that “PSPD had performed its innate duty and right as a civic group.” The group calls for conservative groups to end their irrational backward attacks on PSPD.¹¹

Also, the Asian Forum for Human Rights and Development, an organization of 46 groups in Asia which includes PSPD, sent a petition to Frank La Rue, the UN Special Rapporteur on the Promotion and Protection of the Right of Opinion and Expression.¹² It asked the UN to “advise the South Korean government to end the prosecutorial investigation of PSPD.”

La Rue had visited South Korea on May 6-17, 2010. He issued a press statement on May 17 documenting other examples of the abuse by the South Korean government of the human rights of its citizens. He referred to the obligation of South Korea to adhere to the provisions of the International Covenant on Civil and Political Rights protecting the right to freedom of expression.¹³

While La Rue’s comments were made prior to the current South Korean government attack on PSPD, Amnesty International has issued a statement regarding the current situation.¹⁴ It writes:

Amnesty International is deeply concerned about the Seoul Central Prosecutor’s Office’s decision on Wednesday to investigate the People’s Solidarity for Participatory Democracy (PSPD) for sending a letter to the UN Security Council questioning the results of the international investigation into the sinking of the South Korean navy vessel the Cheonan. The civic group is accused of ‘benefitting’ North Korea, in violation of the National Security Law, interfering

with state's acts and defamation.

The statement concludes, "Amnesty International is also concerned that the National Security Law continues to be used to arbitrarily target individuals or groups peacefully exercising their basic rights to freedom of expression and association. Simply put, this law is used as a tool to silence dissent."

On Friday, June 18, the UN Secretary General Ban Ki-moon was asked for his view of the current action by the prosecutor in South Korea against an NGO for sending a letter to the Security Council. He responded, "I will have to check. I'm not aware of that.... I don't have a comment at this time, but I may have to check and will get back to you later."¹⁵ He did not get back to the journalist as of the publication date of this article.

Open Letter to Ban Ki-moon

The Asian Human Rights Commission (AHRC) appealed to Ban Ki-moon. On June 24, it sent an Open Letter to Sec-Gen Ban Ki-moon about the situation. In the letter it asks him:¹⁶

... to take all necessary steps to ensure that the reprisals, directly or indirectly attributable to the Republic of Korea, are immediately halted against civil society groups that have communicated with the UN. The AHRC appreciates the work of the Secretary-General concerning reprisals and urges his offices to include this case as part of efforts to protect civil society members from facing attacks based on their participation in the UN's work.

The AHRC has also asked the High Commissioner for Human Rights to intervene to "ensure that these reprisals are halted" and that the recommendations of the Special Rapporteur on freedom of expression be implemented in full and without delay. It also calls upon South Korea as a member of the Human Rights Council to act to "uphold the highest standards."

PSPD as Political Watchdog

PSPD reports that the organization has increased its membership by 15% with 1600 new members joining since the attack by the South Korean

government. Also, numerous individuals and organizations in Korea and outside have sent letters and made statements in support of PSPD.

As a member of the international society, PSPD explains, “PSPD will continuously make every effort to advance the universal goals of democracy and peace through its activities as a political watchdog.”¹⁷

Notes

1. “Stop Oppression and Prosecutor’s Investigation on PSPD,” 6/21/2010. <http://www.peoplepower21.org/English/40195>.
2. PSPD, “The PSPD’s Stance on the Naval Vessel Cheonan Sinking,” June 1, 2010. <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=http://knsi.org/knsi/admin/work/works/s/%2520stance%2520on%2520Sunken%2520Cheonan%2520Warship.pdf&ved=2ahUKEwiZt7nlwZCFAXVshYkEHZZIDpUQFnoECA0QAQ&usq=AOvVaw0YmzlO3QQpO1xn7gox9YbO>.
3. “What’s Behind South Korea Bringing the Cheonan Issue to the UN Security Council,” 6/7/2010. http://blogs.taz.de/netizenblog/2010/06/07/whats_behind_south_korea_bringing_the_cheonan_issue_to_the_un_security_council/. (No Longer Available.)
4. “Letter from the Permanent Representative of the Republic of Korea to the UN with regard to the armed attack by North Korea on 26 May, 2010 against the Republic of Korea’s navy ship the Cheonan, S/2010/281.” <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DPRK%20S%202010%20281%20SKorea%20Letter%20and%20Cheonan%20Report.pdf>.
5. “Letter dated 8 June 2010 from the Permanent Representative of the Democratic People’s Republic of Korea to the United Nations addressed to the President of the Security Council,” S/2010/294. http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/294&Lang=E. (No Longer Available.)
6. See description in: Gwak Byeong-chan, “Which Country Do You Belong To?,” *Hankyoreh*, June 16, 2010. https://english.hani.co.kr/arti/english_edition/english_editorials/425906.html.
7. “Informal comments to the Media by the President of the Security Council and the Permanent Representative of Mexico, H.E. Mr. Claude Heller on the Cheonan incident (the sinking of the ship from the Republic of Korea) and on Kyrgyzstan.” June 14, 2010. [Webcast: Archived Video – 5 minutes.] <http://webcast.un.org/ramgen/ondemand/stakeout/2010/so100614pm3.rm>. (No Longer Available.)
8. “Press Conference: H.E. Mr. Sin Son Ho, Permanent Representative of the Democratic People’s Republic of Korea to the United Nations, on the current situation in the Korean Peninsula.” June 15, 2010. [Webcast: Archived Video – 58 minutes.] <http://webcast.un.org/ramgen/ondemand/pressconference/2010/pc100615am.rm>. (No Longer Available.)
9. “An Open Letter to United Nations Secretary General Ban Ki-Moon by the Asian Human Rights Commission,” 6/25/2010.

<https://www.hrw.org/news/2016/06/08/open-letter-secretary-general-ban-ki-moon>.

10. See “United Nations Series Symbols: 1946-1996,” Dag Hammarskjöld Library, United Nations, New York, 1998, p. 234.

11. “Scholars Call for End to PSPD Witch Hunt,” *Hankyoreh*, June 22, 2010.

https://www.hani.co.kr/arti/english_edition/e_national/426832.html.

12. Forum-Asia Submits the Urgent Appeal on Threats of Prosecution against PSPD to UN Rapporteur 6/21/2010. <https://www.peoplepower21.org/english/40190>.

13. Frank La Rue, Rapporteur, “UN, Full Text of ROK Press Statement,” May 17, 2010. http://www.peoplepower21.org/?module=file&act=procFileDownload&file_srl=40191&sid=4db9d3a9ce23eab695e13dec947e1842&module_srl=37681. (No Longer Available.)

14. “Amnesty International expresses its concern about the investigation on the PSPD,” 6/18/2010.

<http://gaia-lovedream.blogspot.com/2010/06/amnesty-international-expresses-its.html>.

15. “2010-06-18, New York: Secretary-General’s remarks to the media.”

<https://www.un.org/sg/en/content/sg/press-encounter/2010-06-18/secretary-generals-remarks-media>. (No Longer Available.)

16. “An Open Letter to United Nations Secretary General Ban Ki-Moon by the Asian Human Rights Commission,” 6/25/2010.

<https://www.hrw.org/news/2016/06/08/open-letter-secretary-general-ban-ki-moon>.

17. “Stop Oppression and Prosecutor’s Investigation of PSPD.”

<http://www.peoplepower21.org/English/40195>.

[Editor’s note: The following article first appeared on the netizenblog on May 9, 2010.]

In Cheonan Dispute UN Security Council Acts in Accord with UN Charter

by Ronda Hauben

The challenge of Security Council reform has been on the agenda at the United Nations for decades with little obvious effect on the workings of the Security Council itself.¹

But what happens when an action of the Security Council is an improvement over past Security Council practices and presents an important model for conflict resolution in line with the obligations of the Charter? Will there be recognition of the peaceful direction that the action points in or will it be ignored and members of the Security Council revert

back to the practice of the past?

The situation I am referring to is the consideration by the Security Council of the sinking of the South Korean naval warship, the Cheonan. The dispute over the sinking of the Cheonan was brought to the Security Council in June and a Presidential Statement was agreed to in July.

An account of some of what happened in the Security Council during an important part of this process is described in an article in Spanish that has appeared in several different Spanish language publications. The article, “Heller mediacion de Mexico en conflict de Peninsula de Corea” by Maurizio Guerrero, the UN Correspondent for Notimex (the Mexican News Agency), was published on July 5.² The article describes the experience of the Mexican Ambassador to the UN, Claude Heller in his position as president of the Security Council for the month of June.

In a letter to the Security Council dated June 4, the Republic of Korea (ROK) more commonly known as South Korea, asked the Council to take up the Cheonan dispute. Park Im-kook, the South Korean Ambassador to the UN requested that the Security Council consider the matter of the Cheonan and respond in an appropriate manner.³ The letter described an investigation into the sinking of the Cheonan carried out by South Korean government and military officials. The conclusion was to accuse North Korea of sinking the South Korean ship.

Sin Son Ho is the UN Ambassador from the Democratic People’s Republic of Korea (DPRK), which is more commonly known as North Korea. He sent a letter dated June 8 to the Security Council, which denied the allegation that his country was to blame.⁴ His letter urged the Security Council not to be the victim of deceptive claims, as had happened with Iraq in 2003. It asked the Security Council to support its call to be able to examine the evidence and to be involved in a new and more independent investigation on the sinking of the Cheonan.

How would the Mexican Ambassador as President of the Security Council during the month of June handle this dispute? (The presidency rotates each month to a different Security Council member.) This was a serious issue facing Heller as he began his presidency in June 2010.

Heller adopted what he refers to as a “balanced” approach to treat both governments on the Korean peninsula in a fair and objective manner. He held bilateral meetings with each member of the Security Council

which led to support for a process of informal presentations by both of the Koreas to the members of the Security Council.

What Heller calls “interactive informal meetings” were held on June 14 with the South Koreans and the North Koreans in separate sessions attended by the Security Council members, along with a time to ask questions and then to discuss the presentations.

At a media stakeout on June 14, after the day’s presentations ended, Heller said that it was important to have received the detailed presentation by South Korea and also to know and learn the arguments of North Korea. He commented that “it was very important that North Korea approached the Security Council.” In response to a question about his view on the issues presented, he replied, “I am not a judge. I think we will go on with the consultations to deal in a proper manner on the issue.”⁵

During June, Heller held meetings with the UN Ambassadors from each of the two Koreas and then with Security Council members about the Cheonan issue. On the last day of his presidency, on June 30, he was asked by the media what was happening about the Cheonan dispute. He responded that the issue of contention was over the evaluation of the South Korean government’s investigation.

Heller describes how he introduced what he refers to as “an innovation” into the Security Council process. As the month of June ended, the issue was not yet resolved, but the “innovation” set a basis to build on the progress that was achieved during the month of his presidency.

The “innovation” Heller refers to, is a summary of the positions of each of the two Koreas on the issue, taking care to present each objectively. Heller explains that this summary was not an official document, so it did not have to be approved by the other members of the Council. This summary provided the basis for further negotiations. He believed that it had a positive impact on the process of consideration in the Council, making possible the agreement that was later to be expressed in the Presidential statement on the Cheonan that was issued by the Security Council on July 9.

Heller’s goal, he explains, was to “at all times be as objective as possible” so as to avoid increasing the conflict on the Korean peninsula. Such a goal is the Security Council’s obligation under the UN charter.

In the Security Council's Presidential Statement on the Cheonan, what stands out is that the statement follows the pattern that Heller described of presenting the views of each of the Koreas and urging that the dispute be settled in a peaceful manner.⁶

In the statement, the members of the Security Council do not blame North Korea. Instead they refer to the South Korean investigation and its conclusion, expressing their "deep concern" about the "findings" of the investigation.

Analyzing the Presidential Statement, the Korean newspaper *Hankyoreh* noted that the statement "allows for a double interpretation and does not blame or place consequences on North Korea."⁷ Such a possibility of a "double interpretation" allows different interpretations.

Some of the articles that have appeared in the English language media about the Cheonan, however, appear to be oblivious to the effort to accommodate the different viewpoints in the Presidential Statement. For example, an editorial in the *New York Times* about the Presidential Statement complained that the statement contained "weasel wording about blame."⁸

An AP article reported that the U.S. Ambassador to the UN, Susan Rice, and the South Korean Ambassador, Park Im-kook said the Presidential Statement "made clear who to blame" for the attack on the Cheonan.⁹ Instead of directly pointing out this is contrary to the wording of the statement, however, the AP article notes that in private some diplomats and analysts expressed concern that the statement didn't blame Pyongyang.

Another article in the *New York Times*, however, referred to a statement of Li Baodong, China's Ambassador to the UN, that the Presidential statement moved matters in "the right direction" because it urged "the parties concerned" to avoid escalating tensions.¹⁰

Russia had sent a team of experts to South Korea to do its own evaluation on the South Korean findings. Though the Russian evaluation has not been released publicly, a leaked copy was the subject of articles in *Hankyoreh*. These describe how the Russian team of experts disagreed with the South Korean government's conclusions about the sinking of the Cheonan. The Russian experts observed the ship's propeller had become entangled in a fishing net and subsequently a possible cause of the sinking

could have been that the ship had hit the antennae of a mine which then exploded.¹¹

The Presidential Statement explains that “The Security Council takes note of the responses from other relevant parties, including the DPRK, which has stated that it had nothing to do with the incident.”¹²

With the exception of the DPRK, it is not indicated who “the other relevant parties” are. It does suggest, however, that it is likely some Security Council members, not just Russia and China, did not agree with the conclusions of the South Korean investigation.

The Security Council action on the Cheonan took place in a situation where there has been a wide ranging international critique, especially in the online media, about the problems of the South Korean investigation, and of the ROK government’s failure to make public any substantial documentation of its investigation, along with its practice of harassing critics of the ROK claims.

The U.S. media, however, for the most part has chosen to ignore the many critiques which have appeared. These critiques of the South Korean government’s investigation of the Cheonan sinking have appeared not only in Korean, but also in English, in Japanese, and in other languages. They present a wide ranging challenge of the veracity and integrity of the South Korean investigation and its conclusions.

An article in the Los Angeles Times on July 28 noted the fact that the media in the U.S. has ignored the critique of the South Korean government investigation that is being discussed and spread around the world.¹³ More recently, on August 31, an Op Ed by Donald Gregg, a former U.S. Ambassador to South Korea, appeared in the *New York Times*, titled “Testing North Korean Waters.” The article noted that “not everyone agrees that the Cheonan was sunk by North Korea. Pyongyang has consistently denied responsibility, and both China and Russia opposed a UN Security Council resolution laying blame on North Korea.”¹⁴

In a subsequent interview with the Washington correspondent for *Hankyoreh*, Gregg adds that the Russian team’s conclusions could only be tentative because they were not given access to all the materials they needed for their investigation. The Russian team recommended that the Chinese not make an effort to review the South Korean investigation. They would likely not have access to all the materials needed to be able

to do an adequate review.

In his Op Ed in the *New York Times*, Gregg maintains that, “The disputed interpretations of the sinking of the Cheonan remain central to any effort to reverse course and to get on track toward dealing effectively with North Korea on critical issues such as the denuclearization of the Korean Peninsula.” Therefore, he urges the South Korean government to make public the study it has done.

Gregg’s public statements are just one example of the disagreement around the world, along with the Chinese and Russian governments, with the South Korean government’s conclusions about the sinking of the Cheonan and about the process of the investigation itself.

North Korea referred to this widespread international sentiment in its June 8 letter to the Security Council. The UN Ambassador from North Korea wrote:¹⁵

It would be very useful to remind ourselves of the ever-increasing international doubts and criticisms, going beyond the internal boundary of south Korea, over the ‘investigation result’ from the very moment of its release

The situation that the North Korean Ambassador is referring to is one marked by actions on the part of the South Korean netizens and civil society who challenged the process and results of the South Korean government’s investigation. There is support for the South Korean critics by bloggers, scientists and journalists around the world, writing in a multitude of languages and from many perspectives. A number of the non-governmental organizations and scientists in South Korea sent the results of their investigations and research to members of the Security Council to provide them with the background and facts needed to make an informed decision.¹⁶

The result of such efforts is something that is unusual in the process of recent Security Council activity. Most often decisions are made according to the degree of power and self interest in the issue being considered, rather than according to an impartial analysis of the problem and an effort to hear from all those with an interest in the issue. But an impartial analysis is what is required by the obligations of the UN Charter.

In its June 8 letter to the Security Council, North Korea referred to the earlier experience of the Security Council, to the February 5, 2003

Security Council meeting when U.S. Secretary of State Colin Powell made his presentation of his “evidence” that weapons of mass destruction existed in Iraq. The U.S. then used these claims as the pretext for its invasion of Iraq in March 2003.¹⁷

The June 8 letter from North Korea urges:

It is imperative for the Security Council not to step into the same situation in which it was once misused as a tool of high-handedness and hegemony of the United States by giving legitimacy to its armed invasion into Iraq, based on a single word of lies of Powell, United States Secretary of State, in February 2003.

The Security Council is duty bound to adhere strictly to the principles of respect for the sovereignty and impartiality of United Nations Member States, as enshrined in the Charter of the United Nations.

The process of how the Security Council took up and determined its response to the dispute on the Cheonan is an important example of a different process than that which occurred in the Iraq situation. The effort in the Security Council described by the Mexican Ambassador, to uphold the principles of impartiality and respectful treatment of all members involved in a problem.

The process instituted by the Mexican presidency of the Security Council in June with respect to the Cheonan dispute has the potential of providing for a significant precedent in the process of Security Council reform. It represents an important example of the Security Council acting in conformity with its obligations as set out in the UN charter.

In the July 9 Presidential Statement, the Security Council urges that the parties to the dispute over the sinking of the Cheonan find a means to peacefully settle the dispute. The statement says:

The Security Council calls for full adherence to the Korean Armistice Agreement and encourages the settlement of outstanding issues on the Korean peninsula by peaceful means to resume direct dialogue and negotiation through appropriate channels as early as possible, with a view to avoiding conflicts and averting escalation.

Ambassador Gregg is only one of many around the world who have

expressed their concern with the course of action of the U.S. and South Korea which is contrary to the direction of the UN Security Council Presidential Statement. Gregg explained his fear that the truth of the Cheonan sinking “may elude us, as it did after the infamous Tonkin Bay incident of 1964, that was used to drag us (the U.S.) into the abyss of the Vietnam War.”¹⁸

The Security Council Action on the Cheonan dispute, if it is recognized and supported, has set the basis instead for a peaceful resolution of the conflict.¹⁹

Notes:

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2. Maurizio Guerrero, “Heller mediacion de Mexico en conflict de Peninsula de Corea,” *Notimex*, July 5, 2010 (published in *en la Economia*). <http://enlaeconomia.com/news/2010/07/05/69561>. (No Longer Available.)

3. Security Council, S/2010/281, “Letter dated 4 June 2010.”

<http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DPRK%20S%202010%20281%20SKorea%20Letter%20and%20Cheonan%20Report.pdf>.

4. Security Council, S/2010/294, June 8, 2010 Letter.

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9. Edith Lederer, “UN Condemns S Korea ship sinking,” AP, July 10, 2010.

10. Neil MacFaquahar, “Condemnation of Ship’s Sinking is a ‘Victory’ North Korea Says,” *New York Times*, July 9, 2010, a version of online article appeared in print edition

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12. UN Security Council, S/PRST/2010/13. Presidential Statement of July 9, 2010. http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PRST/2010/13. (No Longer Available.)
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15. Security Council, S/2010/294, June 8, 2010. <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/NKorea%20S%202010%20294.pdf>. Letter, DPKR June 8 2010.
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17. Security Council, S/2010/294, June 8, 2010. <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/NKorea%20S%202010%20294.pdf>.
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19. See for example “PSPD’s Stance on the Presidential Statement of the UNSC Regarding the Sinking of the ROK Naval Vessel Cheonan.” <http://www.peoplepower21.org/English/40247>.
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[Editor’s note: The following article first appeared on the netizenblog on June 26, 2013. It can be sen online at: <https://libya360.wordpress.com/2013/06/26/us-misrepresents-its-role-in-korean-war-and-in-armistice-agreement-as-un-command/>.]

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

by Ronda Hauben

July 27 of this year will be an important anniversary. It will be the 60th 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.¹ 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:²

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:³

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 60th year since the Armistice Agreement was signed.”

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>. (No Longer Available.) 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>. (No Longer Available.)
 3. E-mail from Eduardo del Buey on June 25, 2013.
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[Editor’s Note: This article appeared on the netizenblog on Jan. 29, 2017.]

Channel for Individuals or NGO’s to Send Communication to the UN Security Council

by Ronda Hauben

Since the early days of the UN Security Council, there has been a procedure for private individuals and non-governmental organizations to be able to send communications to the Security Council on matters of which it is seized.¹ The procedure has been referred to by its library classification symbol which is S/NC.

I first came across this procedure when an NGO in South Korea had been accused of being unpatriotic to the South Korean government because that NGO (and others as well) sent a critique to the Security Council about something the South Korean government was presenting to the Security Council.²

It seemed particularly inappropriate for the South Korean government to accuse an NGO of disloyalty because of a letter sent to members of the Security Council as there is a long tradition from 1946 to the present for private individuals or NGO's to write to the Security Council. Security Council documents show that there are lists of probably thousands of such communications.

In doing some research at the UN into the background of this procedure of the UN I came to realize that in the early days of the Security Council, lists of such communications were issued by the Secretariat on a frequent basis. The procedure is described in the Appendix of the Provisional Rules of Procedure of the Security Council. It states:

Provisional Procedure for Dealing with Communications from Private Individuals and Non-Governmental Bodies

A. A list of all communications from private individuals and non-governmental bodies relating to matters of which the Security Council is seized shall be circulated to all representatives on the Security Council.

B. A copy of any communication on the list shall be given by the Secretariat to any representative on the Security Council at his request.

The lists published by the UN Secretariat of the communications received by the Security Council from individuals or non-governmental entities included the name and organization of the sender, the date of the communication, the city or town and country of the sender, and originally

whether the communication was a telegram, letter, petition etc. The communications were grouped by the Security Council agenda item that the communication referred to.

If a Security Council member saw some communication on a list that was of interest, the Security Council member could request a copy of the communication from the Secretariat.

From 1946 and for several years afterwards, lists were issued on a frequent basis. By the mid 1990's the lists would be issued on a quarterly basis by the UN Secretariat. Then for some reason not yet understood, starting from the 2000 list, lists by the Secretariat would only be issued once a year, around April.

Along with the less frequent issuing of the lists of communications sent to the Security Council, there appears to be no publicly available information indicating how or where an individual or non-governmental entity can send a communication to the Security Council.

Recently when asking some Security Council members if they were aware of this procedure, only one indicated he remembered seeing some correspondence from individuals or NGO's sent to the Security Council. Others appeared to have no knowledge of this process. While this brief survey was only based on a small sample, it demonstrated a breakdown in one of the few publicly available channels of communication between members of the public and members of the Security Council.

In 2010 some NGO's and some academics who were scientists attempted to send communication to the Security Council about a matter being considered by the Security Council. They sent email to all the member states then on the Security Council. None of these communications, however, appeared on the annual S/NC list published by the UN Secretariat for 2010.

More recently, during the press conference marking the beginning of the Russian Federation's Presidency of the Security Council for the month of October 2016, Ambassador Vitaly Churkin responded to a question raised by a journalist. He said that he would support, "the greater involvement of women" in line with Security Council Resolution 1325 to help address the high level of tension on the Korean Peninsula.

In response to his statement, Christine Ahn, the International Coordinator for the NGO "Women Cross DMZ" wrote to the Security

Council asking that several recommendations the group proposed be raised at the Security Council Debate on Resolution 1325 planned for October 25, 2016.

When she tried to find where to send her letter to have it considered as a communication to the Security Council, however, there was no clear information publicly available about where an individual or NGO should send their communication. A press inquiry demonstrated that such information was not easy to locate.

Similarly, a press inquiry to some Security Council members yielded little help with how to find such information. It was only a month later, at the press conference held by the Spanish Ambassador on the occasion of assuming the Presidency of the Security Council for the month of December 2016, that there was an offer of help to find the answer to the mystery.

Ambassador Román Oyarzun Marchesi, the Spanish Ambassador to the UN, welcomed the question on how to send communication to the Security Council saying that his delegation “really believed in the participation of civil society.” He promised that if information was sent to him documenting the problem, “I’ll do my best . . . I’ll see what I can do.”³

An inquiry by his press secretary led to a response from the Secretariat. The email from the Office of the President of the Security Council in the UN Department of Political Affairs in the Secretariat stated that if an email or surface mail on a topic being considered by the Security Council is sent to the email address given in the UN Journal for communications for UN member nations to send their communication to the Security Council, or to the postal address provided, it will usually be informally circulated by the Security Council President via their “political coordinators’ network.”

If the document “falls under one of the agenda items seized by the Security Council, it gets listed and published as a Security Council document under S/NC [year]/1.” Then it will appear on the list that is published for that year by the Secretariat.⁴

Looking at the earliest S/NC lists, one is impressed by the fact that there are communications from individuals and groups around the world. For example some of the earliest lists present communication received

“Concerning Franco Regime in Spain.”

Looking at the names of those who are listed as sending communication to the UN Security Council from 1946 to the present, one gets a sense of the UN existing in bigger world in a way that is different from what is conveyed when one just watches the workings of, for example, the Security Council. It would appear that more serious attention should be paid to making the address for sending communication to the Security Council publicly available.

Also more frequent publication of the lists would make it possible for Security Council members to make timely requests for copies of the communications that interested them. That could help broaden the perspectives of Security Council members to enable them to be better able to find peaceful ways to resolve difficult conflicts.

Notes:

1. The term “seized” as used at the UN indicates, “that, while the Security Council is seized of a matter, no other organ of the United Nations may legally take it up, as under Article 12 of the UN Charter.” See: https://en.wiktionary.org/wiki/be_seized_of.

2. Ronda Hauben, “S. Korean Gov’t Urged to End Criminal Investigation of NGO for Questions on Cheonan Sent to UN,” taz.de/netizenblog, June 26, 2010.

3. Román Oyarzun Marchesi (Spain), President of the Security Council for the month of December 2016 – Press Conference. See “1 Dec 2016 – Press Conference by H.E. Mr. Román Oyarzun Marchesi, Permanent Representative of Spain to the United Nations and President of the Security Council for the month of December 2016, on the Security Council Programme of work for the month” at: <https://media.un.org/en/asset/k1c/k1cgrjce9a>. (watch starting at 23:20.) (No Longer Available.)

4. Communication from private individuals, NGO’s or other entities which relate to the work of the Security Council can be sent to the e-mail address listed in the UN Journal, dpa-scsb3@un.org or mailed to:

United Nations Security Council
405 East 42nd Street
New York, NY 10017

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