CHRONICLE

CHRONICLE OF EVENTS AND INCIDENTS RELATING TO ASIA WITH RELEVANCE TO INTERNATIONAL LAW

July 2002 – June 2004

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* Member of the Editorial Board. For the considerations underlying the Chronicle, see the Editorial Introduction 1 *Asian YIL* (1991) p. 265.

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AFGHANISTAN

See also: Central Asia

The International Security Assistance Force (ISAF)

A shift occurred in the US attitude on the size of the ISAF and the scope of its task (*cf.* 10 Asian YIL 335-336). After a long period of opposition the US agreed, in accordance with the wishes of the new Afghan government, to an enlargement of the force and its deployment outside Kabul. Other countries had been reluctant to consider such expansion until the US agreed to help with logistics, command and control, and intelligence. The US reluctance in the past (and its preference for improving the Afghan forces) was caused by the fear that an expansion as considered would tie down US forces and extend their stay in Afghanistan. (IHT 31-08/01-09-02)

ALIENS

Legalization of prolonged illegal stay

The Tokyo District Court granted an Iranian who had entered Japan in 1990 on a 90-day visa and who, together with his family, overstayed his visa for more than thirteen years permission to stay in Japan, overruling a decision of the Justice Ministry's Tokyo Regional Immigration Bureau for deportation.

The presiding judge held, *inter alia*: "They have already set up a basis for living (in Japan) as good citizens, and forcibly expelling them would go against humanity and would correspond to an abuse of discretionary power." It was the first time for a Japanese court to overrule a decision for deportation by immigration authorities on grounds of prolonged illegal stay, apart from those concerning applicants of refugee status.

The family had applied for a special residence permit, but the application was rejected. In 2000 the Immigration Bureau decided to deport them. The number of cases of extraordinary grant of residence permits had grown, but there were complaints of arbitrariness in the ministry's decisions. (JT 20-09-03)

ARMS SALES AND PROCUREMENT

See: Inter-state relations: India-Israel

ASIA-AFRICA

Asia-Africa Sub-Regional Organization Conference (AASROC)

An AASROC was held in July 2003 in Bandung, Indonesia, the town where the 1955 Asia-Africa Conference had been held. The conference aimed at reviving the spirit of cooperation between the two continents and was considered a preparatory meeting for the fiftieth celebration of the Bandung Conference in 2005. (JP 28-07-03).

ASIA-EUROPE MEETING (ASEM)

NOTE: ASEM (see 6 Asian YIL 401) was set up as a new and comprehensive partnership between Asia and Europe, providing for bi-annual informal meetings of heads of state and government of, initially, ten Asian countries (Brunei, China, Indonesia, Japan, Republic of Korea, Malaysia, the Philippines, Singapore, Thailand, and Vietnam), the (then) fifteen EU member states, and the president of the European Commission. Besides, there were regular ministerial meetings and senior officials' meetings.

The inaugural ASEM summit meeting took place at Bangkok in March 1996; the second meeting at London in April 1998; the third (which adopted the Asia-Europe Cooperation Framework 2000 and the Seoul Declaration on Inter-Korean Peace) at Seoul in October 2000; the fourth at Copenhagen in September 2002, and the fifth at Hanoi in October 2004.

(*See* overview at the EU website http://europa.eu.int/comm/external_relations/asem/intro)

Participation of Myanmar

The European Union had demanded that the military government of Myanmar make political concessions, such as lifting the house arrest of the dissident Aung San Suu Kyi (*see infra*), before it could be allowed to join a forum for Asia-Europe talks. These demands were rejected by the ten Asian members (seven ASEAN members plus China, Japan, and South Korea) of ASEM. They took the position that Myanmar and the two other new ASEAN member states, Cambodia and Laos, should be admitted into the ASEM when the EU brings its ten new member states into the Meeting after 1 May 2004. (IHT 19-04-04)

Asia-Europe Ministers' Meetings

The fifth ASEM Finance Ministers' Meeting took place on Bali Island, Indonesia, on 5-6 July 2003 (the previous meetings took place at Bangkok in September 1997; at Frankfurt in January 1999; at Kobe in January 2001, and at Copenhagen in July 2002). The meeting endorsed the so-called "Bali Initiative", aiming at better cooperation among the fiscal and financial authorities of both regions as a way to prevent a repeat of the financial crisis of 1997-1998.

The fifth ASEM Economic Ministers' Meeting took place on 15-17 July 2003 at Dalian, China (The previous four meetings were held at Makuhari, Japan in September 1997; at Berlin in October 1999; at Hanoi in September 2001, and at Copenhagen in September 2002).

There have also been Foreign Ministers' Meetings (at Singapore in February 1997; at Berlin in March 1999; at Beijing in May 2001; at Madrid in June 2002, and at Beijing in July 2003) and an Environment Ministers' Meeting at Beijing in January.

ASIA-PACIFIC ECONOMIC COOPERATION FORUM (APEC)

Summit Conferences

The tenth summit meeting took place in Mexico on 27 October 2002. The "2002 Leaders' Declaration", influenced by the attack of 11 September 2001 in the US, read *inter alia* that "We agreed on the importance of fighting terrorism, which poses a profound threat to our vision."

At the eleventh meeting, held at Bangkok on 20-21 October 2003 the leaders agreed at US insistence "to dedicate APEC not only to advancing the prosperity of our economies, but also to the complementary mission of ensuring the security of our people", and accordingly adopted a series of commitments to fight terrorism and the proliferation of weapons of mass destruction. (IHT 22-10-03; www.apecsec.org.sg)

ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)

See also: East Asian Community

Counter-terrorism cooperation

ASEAN responded positively to a US request for a strong commitment to fight terrorism and strengthened the US efforts to build a counter-terrorism intelligence network by agreeing to sign, with the US Secretary of State on 1 August 2002 at a meeting in Brunei of the ASEAN Regional Forum (Asian YIL Vol.3: 440-441, Vol.4: 505), a declaration pledging to deepen anti-terrorism cooperation.

Since the 11 September 2001 attacks in the US dozens of suspected Al Qaeda activists had been arrested in Malaysia, Singapore, and the Philippines. (IHT 31-07-02).

Sino-ASEAN commitments

The ASEAN states and China reached agreement on a non-legally binding political *Declaration on the Conduct of Parties in the South China Sea* during the ASEAN Summit at Phnom Penh in early November 2002. The Declaration is intended to reduce the chances of military confrontation over the Spratly Islands and other disputed areas. In the Declaration the parties agreed to exercise self-restraint and to give advance notice of military exercises. (see also: Territorial claims and disputes)

Besides, the states concerned adopted a *Joint Declaration of ASEAN and China on Cooperation in the Field of Non-Traditional Security Issues*. This latter notion was described as including crimes such as drug trafficking, trafficking and smuggling of human beings, sea piracy, terrorism, arms-smuggling, money-laundering, international economic crimes, and cyber crimes. (IHT 05-11-02, ATol 06-11-02, www.aseansec.org)

The Sino-ASEAN Summit on 8 October 2003 on Bali Island issued a *Joint Declaration on Strategic Partnership for Peace and Prosperity*, outlining a partnership by enhancing mutually beneficial relations and cooperation, and upholding the principles of good neighbourliness. The Declaration characterized the partnership as “non-aligned, non-military, and non-exclusive”, not precluding the participants from developing their “all-directional ties of friendship and cooperation with others”. The Declaration listed various kinds of political, economic, social, security, and regional and international cooperation as falling under the partnership. (Antara 09-10-03, www.aseansec.org)

Third-party adherence to 1976 Treaty of Amity and Cooperation

China and India formally expressed their adherence to the Treaty during the Bali Summit in October 2003. South Korea was considering adherence, as was Russia. Japan initially expressed reluctance, saying that Japan-ASEAN ties were already solid. Bowing to strong pressure, however, Japan in November 2003 decided to sign its adherence. [Papua New Guinea was the first non-member state to adhere to the Treaty back in 1989. The UN General Assembly endorsed the treaty in 1992.] (Kompas 21-09-03; Antara 08-10-03; JT 19-11-03)

Ninth Summit Meeting; Declaration of ASEAN Concord II

The ninth summit meeting was held at Bali Island in October 2003. Among other items the meeting resulted in a *Declaration of ASEAN Concord II* (later usually referred to as the Bali Concord II), signed on 7 October and containing ten points.

The Declaration comprised agreement on a framework to achieve a Security Community, an Economic Community, and a Socio-Cultural Community, together to constitute an “ASEAN Community”. (Antara 07-10-03, www.aseansec.org)

The discussion of an ASEAN Security Community (ASC) Action Plan started in 2004 (Antara 24-02-04) and the Economic Community was planned for completion in 2020. (IHT 08-10-03)

Free trade zones and other facilitation of economic relations with non-member states

China, Japan, and India each agreed to create some form of free-trade arrangement with the ASEAN member countries.

China concluded a *Framework Agreement on Comprehensive Economic Cooperation* on 4 November 2002 during the eighth ASEAN Summit at Phnom Penh, in which the parties committed themselves to negotiate the establishment of an ASEAN-China free trade agreement within ten years.

Japan and the ASEAN countries signed a *Joint Declaration on Comprehensive Economic Partnership* during the same ASEAN Summit on 5 November 2002, followed by a Framework during the ninth ASEAN Summit at Bali in October 2003. Its implementation, including elements of a possible free trade area, was to be completed not later than 2012.

Meanwhile, during a Japan-ASEAN summit meeting in December 2003, Japan reached agreement separately with Thailand, Malaysia, and the Philippines to enter negotiations on bilateral free trade agreements. At the time, its only existing free trade agreement was with Singapore (*see* 10 Asian YIL 359). (JT 12-12-03)

An agreement (on a “Regional Integration Area”) with India was delayed as Vietnam raised objections to the number of Indian non-tariff obstacles. (IHT 05-11-02; Tempo 05-09-03; Antara 07-10-03; JT 09-10-03)

The non-intervention principle

The Thirty-sixth Ministerial Meeting in Phnom Penh, 2003, considered a wide range of issues, such as the detention of Aung San Suu Kyi (on 30 May 2003, *see* Dissidents), though “without prejudice to the cardinal principle of non-interference”. (www.aseansec.org)

BORDERS, BORDER DISPUTES AND BORDER INCIDENTS

See also: Divided states: Korea; Inter-state relations: Cambodia-Thailand, China-India

East Timor – Australia

See: Oil and Gas

Indonesia – Vietnam

The two countries signed an agreement on the delimitation of the continental shelf boundary on 26 June 2003. (Kompas 27-06-03)

CENTRAL ASIA

See also: Military cooperation; Shanghai Cooperation Organization

Kabul Declaration on Good Neighbourly Relations

Foreign ministers and delegates of Afghanistan, Pakistan, China, Iran, Tajikistan, Uzbekistan, and Turkmenistan met at Kabul on 22 December 2002 and signed a

declaration in which their countries committed themselves to the principles of “territorial integrity, mutual respect and non-interference in each other’s internal affairs”. They also pledged a shared determination to defeat terrorism, extremism and narcotics trafficking. (IHT 23-12-02)

By resolution 1453 (2002) adopted on 24 December 2002, the UN Security Council “welcome[d] and endorse[d]” the Declaration.

CIVIL WAR

See: Insurgents

DIPLOMATIC IMMUNITIES

See also: Jurisdiction

Local employee of foreign embassy

A Japanese woman employee of the Sri Lankan embassy in Japan caused a traffic accident when driving a car. She claimed before the Tokyo court diplomatic immunity on the grounds of performing official duties at the relevant time. The prosecution argued that the person was driving on personal business, being on her way home after having deposited a Sri Lankan minister on an unofficial visit to Japan at his hotel after a shopping trip. (JT 20-02-04)

DIPLOMATIC RELATIONS

See: Recognition

DISSIDENTS

See also: Association of South East Asian Nations

Mujahidin Khalq bombed by US

During their campaign in Iraq the US bombed the principal bases in Iraq of the main armed Iranian opposition group, which had maintained several thousand fighters on Iraqi territory along its border with Iran for more than a decade. The Mujahidin Khalq (MEK) had by the US been labelled since 1997 a terrorist organization [its political arm was the so-called “National Council on Resistance in Iran”], allegedly as a goodwill gesture to the Iranian government.

The MEK was formed in the 1960s and expelled from Iran after the Islamic Revolution in 1979. Its primary financial support in recent years came from the Iraqi government and also, it was reported, from European and US sources. (IHT 17-04-03)

Aung San Suu Kyi*See also infra*

Despite her having been freed from nineteen months of house arrest in early May 2002 the assurances of the lifting of all restrictions on her movement had not been fulfilled, and the promised political dialogue had not materialized. Her freedom to travel out of Yangon was being obstructed; public meetings were being harassed and disrupted.

On 30 May 2003 Aung San Su Kyi together with nineteen supporters were again taken into “protective custody” after violence erupted at a clash between her supporters and those of the government during a political tour in northern Myanmar. She was accused by government officials of having caused the violence by making inflammatory speeches criticizing the government. (IHT 31-05/01-06, 02-06-03)

DIVIDED STATES: CHINA*See also:* Inter-state relations: China-US, Japan-China**Taiwanese direct investments in mainland China**

It was announced in Taiwan that new rules allowing local enterprises to invest directly in mainland China, ending a half-century ban, would take effect on 2 August 2002. (IHT 01-08-02)

Taiwanese legislation on national referenda

A bill in the Taiwanese legislature enabling referenda on constitutional matters had created concerns with the Chinese government in connection with the possibility of pronouncements on Taiwanese independence. The Taiwanese legislature eventually retreated from confrontation and on 27 November 2003 passed a bill that would allow national referenda on constitutional and sovereignty issues only under very narrow circumstances. (IHT 29/30-11-03)

The US president said the US opposed a move in Taiwan to stage a referendum, and opposed “any unilateral decision by either China or Taiwan to change the *status quo*”. (IHT 10-12-03)

DIVIDED STATES: KOREA**Naval incident**

A naval gun battle occurred in disputed waters west of the peninsula on 29 June 2002, resulting in the sinking of a South Korean ship and deaths of four of its crewmen. The explanation from the North Korean side was that its firing on the South Korean ship was by way of self-defence and in retaliation to a surprise attack by the South Koreans, who provoked a response while the North Korean vessels were on “routine coastal guard duty”. South Korea said that two North Korean gunboats opened fire when challenged by South Korean patrol craft for crossing waters claimed

as being under South Korean jurisdiction (*see* Asian YIL Vol.8:265, Vol.9:392). These waters are determined by a line extending from the mouth of the Imjin River, which forms the western end of the land demarcation line. After several weeks, North Korea on 25 July 2002 issued an expression of regret accompanied by an expression of hope that both sides would make joint efforts to prevent the recurrence of similar incidents.

A resumption of US-North Korean talks (*see infra* at) was announced just hours before the battle broke out. (IHT 01-07, 02-07, 26-07-02)

Meetings

The two parties agreed to high-level negotiations in August 2002, the first in nearly a year. The agenda included issues such as the building of railroads and roads and the construction of an industrial zone in Gaesong, North Korea. (IHT 05-08-02) While reports about the progress of the talks sounded positive, the parties could not agree on a date for key military talks that would enable the construction of road and rail links across the militarized border. (IHT 13-08, 15-08-02) On 30 August 2002 agreement was reached on a timetable for an economic programme including the completion of a railroad linking the two Koreas, closed since the early days of the Korean War. (IHT 31-08/01-09, 19-09-02)

Meetings between the two parties started again in early January 2003. There were in fact three separate rounds of talks in January 2003: as well as a ministerial meeting at Seoul there were Red Cross talks in Kungang (North Korea), resulting in an agreement on a new round of family reunions. (IHT 22-01, 23-01-03)

On 26 May 2004 a series of meetings began between senior North Korean and South Korean military officers (*see infra*), the first such meetings since the end of the Korean War in 1953. (IHT 25-05-04)

New South Korean presidency and policy

In his first interview since his election in December 2002 the South Korean president-elect determinedly defended a policy of engagement with North Korea and was not prepared to contemplate a military strike. He vowed to usher North Korea out of isolation and into the international fold. (IHT 17-01-03)

First regular DMZ-crossing

The first regular land crossing of the demilitarized zone (DMZ) since the Peninsula was split by war in the 1950s was inaugurated on 14 February 2003.

Cooperative measures

According to the South Korean Ministry of Reunification interactions between North and South Korea had increased significantly since regular contacts began in 1989 and became quite intensive in 2002. In the first quarter of 2003 there were, among others, activities for the removal of landmines in the demilitarized military zone and another (sixth) reunion of divided families. (ATol 14-05-03)

On 4 June 2004 high North and South Korean military commanders reached agreement on various confidence building measures such as the removal of propa-

ganda speakers and signs along the Demilitarized Zone and measures to prevent naval clashes (*see supra*), although they failed to resolve the disagreement over the disputed North-South maritime border in the Yellow Sea (*see* 9 Asian YIL 388). (IHT 5/6-06-04)

To avoid naval clashes over rich crab fishing grounds, it was agreed to set up a telephone hot line, share an emergency radio frequency, and institute a mutually understood naval flag signalling system. In the economic field there would be a joint agency to administer an industrial park financed by South Korea and situated in Gaesong (*see supra*), just north of the Demilitarized Zone. (IHT 07-06-04)

EAST ASIAN COMMUNITY

Prospective creation

On the occasion of the ASEAN-Japan meeting held at Tokyo (*see also supra*), ASEAN member states and Japan agreed on 13 December 2003 to work together toward the creation of an East Asian Community also to include China and South Korea, though refrained from setting a clear target. The participants of the meeting signed a declaration on “special relationship” featuring the creation of the proposed Community, and called for the expansion of the existing economic ties to include political and security issues.

The idea of an East Asian Community was first proposed by the Japanese prime minister in 2002. (*Cf.* East Asian Economic Grouping/Caucus in Asian YIL Vol.1:289; Vol.2:305; Vol.4:432; Vol.5:407-408; Vol.6:368) (JP 12-12, 13-12-03)

ECONOMIC DEVELOPMENT COOPERATION

Japanese assistance to China

The annual Japanese white paper on official development assistance for 2004 said that bilateral ties as well as China’s economic development would be considered in Japan’s policy on future economic aid to China. As a result the official development aid in fiscal year 2004 would be less than half of that provided in fiscal year 2000. (JT 31-03-04)

EMBARGO

The So San incident

On 8 December 2002 the US joined Spanish warships in seizing a North Korean vessel, the *So San*, in international waters in the Gulf of Aden, about 600 miles from the coast of Yemen, on suspicion of carrying missiles to a terror-linked Middle Eastern state. The action was part of an expansive US policy on fighting terrorism that includes its questionable right to interdict ships at sea, but according to the US officials the ship flew no flag and its “official markings” had been painted over. The

action was classified by some as an early test of the new US doctrine of pre-emptive military action.

The cargo was destined for Yemen and the ship was finally released since Yemen was not among the states to be targeted (it was in fact “a partner of the US in the war against terrorism”) and since the transport did not violate international law. However, several countries, among them Yemen, Syria, Pakistan, and Iran, had been pressed by the US not to buy North Korean arms.

The White House spokesman was reported to have said: “We don’t have to like everything North Korea does, but that doesn’t mean we have the right to change international law out of convenience”, while others classified the incident as the sacrifice of the principle of interdiction of terror weaponry entering a war zone on the altar of practicality. (IHT 12-12, 20-12-02)

Export controls against North Korea

At Japan’s initiative eight Pacific Rim economies (Australia, China, Hongkong, Singapore, South Korea, Thailand, and the US) agreed on 27 October 2003 to take effective measures to prevent the illegal export of products with military potential. Agreement was reached to establish a system on informing each other about suspicious trade practices. It was the first-ever meeting on export controls in Asia. (JT 28-10-03)

EU embargo against China on arms sales

China on 13 October 2003 asked the EU to end its embargo imposed after the crackdown on opposition protests in Beijing in June 1989. The EU responded that persistent human rights violations prevented it from changing its policy on arms sales, but agreed in December 2003 to consider lifting the embargo. (IHT 14-10, 13/14-12-03)

Relaxation of import ban on Japanese cultural products

South Korea announced in September 2003 it would further relax its ban on imports of Japanese cultural products as of January 2004. This was in line with the joint statement adopted after a summit meeting in Tokyo of the South Korean president and the Japanese prime minister. In 1998 the then South Korean president in a major policy shift had begun a staged lifting of a decades-old ban on imports of Japanese cultural products. This ban had been imposed due to strong anti-Japanese sentiment stemming from Japanese colonial rule in the period 1910-1945. (JT 17-09-03)

ENVIRONMENTAL POLLUTION AND PROTECTION

Whaling

As in the previous year (see 10 Asian YIL 352) Japanese efforts to obtain international permission to resume commercial whaling failed. The International Whaling Commission voted 27 to 17 against the Japanese proposal to permit the

annual catch of 150 Bryde's whales from the Pacific Ocean from 2004 to 2008. (IHT 19-06-03)

ESPIONAGE

US bugging of Chinese plane

According to reports in January 2002 Chinese officials had discovered in October 2001 that an aircraft, bought by China in the US in 2000 for the purpose of serving as a presidential plane and delivered in August 2001, had been bugged while being refurbished in the US.

US involvement was initially denied, but acknowledged in April 2003 in connection with a US spy (Katrina Leung) case, although the government persisted in declining any comment. US counter-intelligence officials suspected that the Chinese authorities were tipped off by the spy in question. (NYT.com 15-04-03)

EXCLUSIVE ECONOMIC ZONE

See also: Borders; Oil and gas

China – Japan

China conducted oceanographic surveying in an area claimed by Japan as part of its EEZ around Okinotori Island ("Douglas Reef"), Japan's southernmost point. Japan urged China to halt its activities, but China claimed on its part that the waters concerned could not be regarded an EEZ on account of the fact that Okinotori Island was not (for EEZ purposes) an island: just a rock formation. According to Japanese sources, however, two rocks on the island remain above sea level during full tide. [The UNCLOS, Art.246, stipulates that coastal states are obliged to grant consent to other states for the conduct of marine scientific research for peaceful purposes, as far as specific criteria are fulfilled, in the former's EEZ.] (JT 10-05-04)

A Chinese consortium was constructing a new drilling facility for the exploration of natural gas resources in the East China Sea, near the intermediate line that separates the Chinese and Japanese exclusive economic zone (EEZ). Japan raised objections, complaining that the project could infringe on Japan's rights because it could draw gas from the Japanese EEZ. It was reported in late June 2004 that Japan would counter the Chinese efforts by starting its own initial exploration.

Meanwhile, China proposed on 21 June 2004 that the two countries should put their differences aside and engage in a joint development project in the area. (JT 22-06, 30-06-04)

EXTRADITION

The Fujimori case

While on an official visit to Japan in November 2000 (after having attended the APEC summit meeting at Brunei Darussalam) Alberto Fujimori, the Peruvian presi-

dent of Japanese descent (born in Peru to Japanese immigrants), submitted his resignation and decided to remain in Japan, opting for Japanese nationality. Under the Japanese Nationality Law he was eligible for acquisition of Japanese nationality on the grounds of registration in a family register by his parents when they emigrated to Peru in 1934. [It was later argued that under the law he should when he reached the age of 20 have expressed his wish to retain this right, which he had allegedly not done.]

Peru rejected the resignation. Instead, Peru deposed Fujimori from office and charged him with dereliction of duty, later added to by a parliament-approved accusation of participation in killings committed by military commandos. It issued an international arrest warrant for Fujimori via Interpol in 2003; on 31 July 2003 it formally asked Japan to turn him over. Japan refused to comply on the grounds of Fujimori's Japanese nationality and the absence of an extradition treaty between the two countries (Japan had concluded only two extradition treaties: with the US, and with South Korea). Peru argued that it had, on its part, in 1996 handed over to Japan a person who was on the international wanted list, despite the absence of an extradition treaty, and that Peru would continue upon request to hand over persons accused of crimes in Japan.

Peru based its demand additionally on the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, but Japan rejected the request on the basis of Fujimori's Japanese nationality (it was reported that the Peruvian Under-Secretary for Foreign Affairs urged that Japan not use domestic law to override international law in considering the extradition). (JT 01-08, 27-09-03, 21-02-04, and other sources)

HIGH SEAS

See: Embargo; Exclusive economic zone; Inter-state relations: Japan-North Korea, Jurisdiction; Regional security

HOT PURSUIT

US troops at Afghanistan-Pakistan border

According to hazy media reports an incident occurred in late December 2002, in which US troops and Pakistan border scouts were involved and that resulted in a US air strike at a place of which it was uncertain whether it was located in Afghan or Pakistan territory.

In any case the incident gave rise to contradictory claims on whether the US were permitted to engage in hot pursuit across the border. The Pakistani information minister publicly denied that any permission had been given, but reportedly Pakistani intelligence officials privately conceded that the US had been given tacit approval to pursue across the border. Moreover, according to a (*Dawn*) newspaper report of 6 January 2003 Pakistan's military ruler and the US Secretary of State "have agreed that hot pursuit of the Taliban and Al Qaeda fighters across the Pakistan-Afghan border will continue but quietly".

[After the 11 September 2001 attacks in the US, Pakistan withdrew support for the Taleban regime, backed the US invasion of Afghanistan, allowed US military use of several Pakistan military bases, gave authorization for overflights, and permitted the FBI to hunt down Al Qaeda suspects in Pakistan.] (WSWS 22-01-03)

IMMIGRATION

See: Aliens

INSURGENTS

Aceh, Indonesia

The territory had known a secessionist movement since 1976. Since January 2000 the Indonesian government and Acehese rebels, organized in the *Gerakan Aceh Merdeka* (GAM, Free Aceh Movement, or: Aceh Sumatra National Liberation Front), had been engaged in a dialogue process mediated by the (Swiss) *Henri Dunant Centre for Humanitarian Dialogue* and assisted by some states, including the US and Japan. A “Preparatory Conference on Peace and Reconstruction in Aceh”, held at Tokyo on 3 December 2002, finally led to the signing at Geneva, on 9 December, of a Cessation of Hostilities Agreement (COHA). The agreement referred to regional autonomy, control over the province’s natural resources, and elections for an Acehese legislature. A joint security committee would design and implement a mutually agreed process of demilitarization including the creation of “peace zones”. The agreement also provided for an international monitoring team from Thailand and the Philippines. (IHT 10-12-02, 23-05-03)

However, subsequent talks held at Tokyo in May 2003 by the joint committee overseeing the agreement collapsed as a result of a difference in interpretation of the Agreement: the Indonesian government accused the rebels of having failed to act in accordance with the letter and spirit of the 2002 agreement through the rebels’ failure to fulfil three conditions. These were: laying down their arms, accepting the Indonesian special Aceh Autonomy Law, and negotiating within the context of the unitary Indonesian state. When the insurgents did not respond to a government ultimatum on the acceptance of the Autonomy Law and the premise of the unitary state, the territory was placed under martial law on 19 May 2003, and a military campaign was started by the government. From that time foreigners were banned from the territory.

In May 2003 the Indonesian government for the fourth time requested the Swedish government to restrain GAM supreme leader Hasan Tiro and also other GAM leaders, who lived in exile in Sweden and who held Swedish and other nationalities, from organizing the separatist movement in Aceh. In order to strengthen its case and to put pressure on Sweden Indonesia later tried to have the Aceh rebel group included in the UN list of terrorist groups. It accordingly based its case on UNGA resolution No. 49/60 of 9 December 1994 which read *inter alia* that “the state members of the United Nations ... reaffirm their unequivocal condemnation of all acts, methods and

practices of terrorism as criminal and unjustifiable ... including those which jeopardize the friendly relations among states and peoples and threaten the territorial integrity and security of states”.

Sweden had rejected previous requests, saying that it would follow its laws and would not expel its citizens; nevertheless, it was reported in February 2004 that the Swedish government had started legal investigations into the alleged involvement of the Swedish GAM leaders in criminal acts in the Indonesian province of Aceh. A Swedish team also questioned GAM detainees in Indonesia in March 2004; specifically, concerning several crimes that had occurred in Indonesia between September 2000 and February 2004, and which were allegedly committed by GAM members. (IHT 21-05, 23-05-03; Kompas 07-05, 09-05, 02-06, 03-06-03; Antara 02-06, 18-06-03, 18-02, 19-03-04; JP 13-09-03, 17-06-04)

Sri Lanka

The Sri Lankan government and the Tamil Tigers separatists began Norwegian-sponsored peace talks on 16 September 2002, aiming at ending the 19-year civil war. The LTTE (Liberation Tigers of Tamil Eelam) had been fighting for an ethnic Tamil homeland in the north and east of the island. The talks were the first in seven years and were held in Thailand. Previously, the government and the rebels had signed a Norwegian-brokered cease-fire in February 2002. (*see* 10 Asian YIL 355-356) (IHT 17-09-02)

At the end of the talks the LTTE announced that they would settle for autonomy rather than a separate state although it was added that they would still fight for a separate state “as a last resort” if their demands for self-determination and autonomy were not met.

A fourth round of talks started on 6 January 2003. The LTTE temporarily pulled out of the peace talks because of the sinking of LTTE vessels some time before and a US refusal to allow the LTTE to participate in an aid conference in Washington DC since the LTTE was classified by the US as a terrorist organization (*see infra*). The talks were resumed in September 2003 on the basis of government proposals of July 2003 for the establishment of an interim administration (“Advisory Council”) for the northern and eastern part of the country, to which the LTTE in October 2003 responded with counter-proposals. On 5 November 2003 the government imposed a state of emergency. (IHT 19-09-02, 07-01-03, and other sources)

The Philippines

The government launched an offensive against the Moro Islamic Liberation Front (MILF, *see* 5 Asian YIL 426) in early 2003 which, however, bogged down. Contrary to allegations of MILF links to Islamic terrorist group the MILF in June 2003 denounced terrorism, after which their leaders were granted safe conduct for travel to Malaysia for new peace talks. Meanwhile, speculations emerged of cooperation between the MILF and the New People’s Army (NPA, *see* 5 Asian YIL 425). (JT 22-07-03) The government announced a cease-fire agreement with the MILF on 18 July 2003. (IHT 19/20-07-03)

INTERNATIONAL COMPANIES

Rubber Consortium

Indonesia, Malaysia, and Thailand concluded an agreement on the setting up of a rubber consortium for the processing and marketing of their rubber production. A “Shareholders Agreement of the International Rubber Consortium Limited” was signed for that purpose by ministers from the three states on 6 October 2003. (Kompas 08-10-03)

INTERNATIONAL CRIMINAL LAW

Immunity of International Criminal Court (ICC) jurisdiction for US military

East Timor and Tajikistan were the first two Asian states to conclude an agreement with the US giving US troops in those countries immunity from prosecution by the ICC. (IHT 28-08-02) (*Cf.* Art.98 of the ICC Statute)

East Timorese arrest warrant for Indonesian general

An East Timor tribunal issued an arrest warrant on 10 May 2004 for the former commander of the Indonesian Armed Forces, citing crimes against humanity committed in 1999 when East Timor broke from Indonesian rule. The tribunal had been set up with UN backing and advice, and included international staff, the judge who issued the warrant being American. The warrant came at a time when the retired general was standing as a candidate in the Indonesian presidential elections and more than a year after he had been indicted by prosecutors for the (UN-sponsored) East Timor Serious Crimes Unit in February 2003. The indictment charged him with “command responsibility for murder, deportation and persecution committed in the context of a widespread and systematic attack on the civilian population in East Timor”. An Indonesian judicial panel had earlier found him innocent of such accusations.

Indonesia made it clear that it denied the Timorese court’s jurisdiction over Indonesian nationals. (Reuters 10-05-04)

INTERNATIONAL ECONOMIC AND TRADE RELATIONS

See also: Association of South East Asian Nations

Japan-South Korea free trade agreement

The two countries agreed on 20 October 2003 to launch negotiations on a bilateral free trade agreement. (JT 21-10-03)

[Japan had one earlier free trade agreement, with Singapore, dating from January 2002, and was involved in negotiations on similar agreements with Mexico and Thailand.]

Singapore-Australia free trade agreement

The two countries reached agreement on a free-trade pact on 3 November 2002, after two years of negotiations. Singapore already had similar agreements with Japan and New Zealand. (IHT 04-11-02)

INTERNATIONAL INVOLVEMENT FOR HUMANITARIAN PURPOSES

Access to territories of civil strife

Some weeks after the declaration of martial law in the province of Aceh on 19 May 2003 (*see supra*) Indonesia closed the territory for foreigners in connection with the military operations against the insurgents. The measure rendered virtually impossible independent scrutiny of the territory. It was reported that the government eased the restrictions in December 2003 by allowing five international organizations to resume their humanitarian activities. These were the ICRC, UNDP, WFP, UNESCO, and UNICEF. The responsible minister said that the new policy was part of the government's intention "to boost transparency and accountability". (JP 12-12-03)

INTERNATIONAL AND MUNICIPAL LAW

See: Extradition; Insurgents

INTER-STATE RELATIONS: GENERAL ASPECTS

Asia – Australia

It was reported in early December 2002 that the *Philippines*, while in favour of counter-terrorism agreements, was concerned about assertions made on 8 December 2002 by the Australian prime minister, of a right to make pre-emptive military strikes against terrorists in other countries who are plotting against Australians. The Philippines accordingly planned to review an Australian-Philippine memorandum of understanding and draft agreement on cooperation against terrorism.

Earlier Indonesia, Malaysia, and Thailand had concluded various counter-terrorism agreements with Australia. The *Indonesian* agreement laid the groundwork for the joint Australian-Indonesian investigation into the Bali bombing of October 2002. In response to the Australian statement *Malaysia* threatened to abrogate its agreement of August 2002 providing for increased sharing of intelligence, as it considered the concept of pursuing terrorists in another country "an act of war". (ST 09-12-02)

Responding to the Australian prime minister's statement, the *Japanese* ambassador in charge of counter-terrorism said in an interview that he was "comfortable" with the Australian position and that, when he had read a full transcript of the remarks, he considered Australia to be "in favour of responsible international law". (ST 10-12-02)

Asia – US: military presence

In late July 2002 the US Secretary of State, during his round of visits to several Asian countries, said in a statement on 29 July 2002 that the US is committed to keeping troops stationed in Asia to guard against nations that might have “aggressive intent”. The US in fact maintained about 100,000 troops in the region and this fact, he said, ensured stability in the region. By way of example he mentioned North Korea which, he said, had been following an “incorrect path”. (IHT 30-07-02)

Afghanistan – Pakistan

A mob rampaged through the Pakistan embassy compound in Kabul on 8 July 2003, the fourth time in fifteen years that Afghans had ransacked the Pakistan embassy. The Afghan president offered his apologies for the incident.

The relations between the two states became strained after troops of the US-backed “Northern Alliance”, long hostile to Pakistan, had moved into Kabul after the defeat of the Taleban by the US-led coalition. Pakistan had been a staunch supporter of the Taleban before abruptly switching sides and allying itself with the US in the war on terror. The Afghan government said Pakistan was not doing enough to hunt down Taleban rebels at Pakistani territory. (IHT 09-07, 10-07-03)

Cambodia -Thailand: incident, tensions and territorial issues

A remark allegedly made (but denied) by a Thai actress, implying that Cambodia had stolen the historic Angkor Wat from Thailand, resulted in January 2003 in anti-Thai riots in Cambodia. The Thai response consisted of a suspension of economic deals and flights, the sealing of the common borders, the withdrawal of Thai embassy staff members, and the evacuation of more than one thousand Thai nationals. After a few days, quiet returned with a Cambodian apology, a Thai acceptance of a Cambodian offer of compensation, and the arrest of nearly one hundred and fifty people involved in the riots. Yet Thailand barred its nationals from crossing the border into Cambodia, to which Cambodia retaliated in a similar manner in early March, resulting in a practical cessation of trade between the two countries. It was said that the riots underscored the resentment against Thai economic and cultural domination in its smaller and poorer neighbour states.

In the past France and Thailand have traded the province of Siem Reap, where the temples are located, for territorial gains. A series of accords were drawn up in 1900-1904 to delimit the boundaries between Thailand, Cambodia and Laos; in 1907 a protocol was concluded under which Siam, as it then was, ceded the territories of Battambang, Siem Reap and Sisophon to Cambodia in exchange for Dan Sai and Krat. These agreements were consolidated into a single treaty in 1937. Subsequently, a Thai-Japanese treaty of May 1941 transferred tracts of Cambodian and Laotian territory to Thailand in return for transit rights for Japanese forces. This treaty was annulled by the post-war Franco-Thai Washington Accord of 1946, restoring the 1937 boundaries. New hostilities occurred in 1958 regarding Thai-Cambodian disagreements which, as far as the temple at Preah Vihear is concerned, resulted in a 1962 ruling by the International Court of Justice. (ATol 04-02, 11-03-03)

Central Asia – US

See: Military cooperation

China – Europe

See: Embargo

China – India

On the occasion of the visit by the Indian prime minister to China the two parties issued a *Declaration on Principles for Relations and Comprehensive Cooperation* on 23 June 2003, and signed several agreements.

The two countries fought a border war on three fronts in 1962. In the Declaration the two parties charged senior officials from each side with resolving the existing boundary disputes. China had been claiming 90,000 square kilometres in Arunachal Pradesh, while India claimed that China was occupying 38,000 square kilometres of the Ladakh region in Kashmir. In the past there was also some Chinese offer of an exchange of disputed territories.

Furthermore, India explicitly re-affirmed its recognition of Tibet as the Tibetan Autonomous Region of China and its commitment not to permit anti-China activities by Tibetans who lived in India. The Indian position on Tibet's status was in fact unchanged, and agreements of 1988 and 1991 were cited to confirm this. In turn China agreed to re-open ancient trade routes to India through the Indian states of Arunachal Pradesh and also Sikkim, merged with India in 1975. This acceptance of a trade route was seen as an affirmation of India's sovereignty, although the Chinese foreign ministry maintained that "the question of Sikkim is a question left over from history and is an enduring one".

The joint declaration also contained the decision to set up a joint study group to recommend ways of strengthening economic cooperation. (Xinhuanet 24-06-03; IHT 25-06, 5/6-07-03; ATol 25-06-03)

China – Japan

See: Economic development cooperation; Exclusive economic zone; Oil and gas; World War II

China – North Korea

The North Korean leader visited China in April 2004 for talks with the Chinese president. It was his first visit to China since January 2001. (IHT 19-04-04)

China – US

See also: Divided states: China; Espionage; Refugees; Terrorism

The US-China Security Review Commission of the US Congress warned in a 200-page report that China was making dramatic economic and strategic advances against the US, requiring a much tougher response to ensure China's compliance with trade laws and to prevent the spread of weapons of mass destruction. The

Congress had created the commission at the end of 2000, when US-China relations were at a low point.

The report urged an “immediate review and overhaul” of US sanction policies, including giving the president authorization to invoke economic sanctions against countries that proliferate weapons of mass destruction or related technologies. It also recommended the use of financial sanctions, such as the denial of access to US capital markets to companies involved in proliferation. (IHT 13/14-07-02)

It was reported in December 2002 that the Chinese president had suggested to his US counterpart during their meeting in October that China link its deployment of short-range missiles facing Taiwan to US arms sales to Taiwan. The proposal was reported to have been raised again in informal talks in November 2002. (IHT 11-12-02)

It was reported that the US Department of Defense planned selling long-range “early warning” equipment to Taiwan, explaining that the proposed sale “will contribute to the foreign policy and national security of the United States by helping to improve the security and defensive capability of the recipient, which has been and continues to be an important force for economic progress in the Far East”. (IHT 01-04-04)

India – Israel

The US gave its approval to Israel for the sale of its advanced Phalcon airborne reconnaissance system to India. It was said that the US was also on the verge of approving the Israeli sale to India of its Arrow anti-missile system. [Israel ranked fifth in the world among arms exporters, after the US, EU, Russia, and Japan.] (ATol 27-05-03)

The Israeli prime minister paid a visit to India in Sep.2003, the first ever since the establishment of diplomatic relations in 1992.

Besides the signature of several agreements, such as on environmental protection, the illicit trafficking and abuse of narcotic drugs, health and medicine, and culture, a joint declaration was issued on 10 September on the occasion of the event, the *Delhi Statement on friendship and cooperation between India and Israel*. In it the two sides stated that, “[a]s democratic countries since their inception”, they “share faith in the values of freedom and democracy”. The Declaration stated that the “shared ideals” were drawing them “into a natural amity in pursuit of common goals”. The two sides expressed their satisfaction with the growth in bilateral economic relations; Israel expressed its interest in participating in key national Indian projects, and invited Indian companies to expand their activities, including investment, in Israel; the two sides expressed willingness to enhance participation in the joint fund for scientific research established in 1994 and to explore the possibility of the establishment of a bi-national research and development fund in the industrial fields. They stated that there “cannot be any compromise in the war against terrorism ... in all its forms and manifestations”, and consider themselves to be “victims of terrorism” and “partners in the battle against” it. They recalled their adherence to UN Security Council resolution 1373 and “condemn[ed] states and individuals who aid and abet terrorism across borders, harbour and provide sanctuary to terrorists and provide them

with financial means, training and patronage". With regard to the Middle East the Statement read: "India and Israel called for the establishment of a just and durable peace in the Middle East. The two sides expressed their views, and called for complete cessation of violence, so that a conducive environment is created for continuation of the dialogue." (*inter alia*, Indian Min.Ext.Aff., <<http://meaindia.nic.in>>.)

India – Pakistan

See also: Special territories within a state: Kashmir

After having been broken off after the December 2001 attack on the Indian Parliament (*see* 10 Asian YIL 394) diplomatic relations were restored on 2 May 2003. (IHT 08-05-03)

On 22 October 2003 India unveiled a number of proposals to normalize relations, including the expansion of travel facilities and family re-unifications. Nevertheless, India still rejected Pakistan's offer of dialogue to resolve all outstanding issues, and emphasized that the "war against terrorism" would continue against Islamic militants who were fighting against Indian control in Kashmir. (IHT 23-10-03)

On 23 November 2003 Pakistan announced a unilateral cease-fire with India along the 740-kilometre-long Kashmir Line of Control in spite of an earlier rejection by India of a Pakistani offer on the matter. The Pakistani measure was accepted and agreed to by India, and it was extended to the disputed Siachen glacier. It was the first formal, and most comprehensive, cease-fire since the insurgency in Indian-controlled part of Kashmir began fourteen years ago. (IHT 24-11, 26-11-03)

The Indian prime minister and the president of Pakistan met in January 2004 on the sidelines of the SAARC Summit. This was the third time they had met; first in 1999 in Lahore and then in 2001 in Agra. They agreed that the two countries would resume talks on the issues that were keeping them apart, beginning in February 2004. (IHT 06-01, 07-01-04) The discussions on the specific issue of Kashmir started on 27 June 2004. (IHT 28-06-04)

India – US

See: India-Israel; Iraq war

Indonesia – Russia

During a visit by the Indonesian president to Russia in April 2003 the two countries signed several instruments. In a joint declaration the parties pledged "to strengthen the central role of the UN and to prioritize principles of international law, such as respect for national sovereignty, territorial integrity and non-interference in internal affairs". Besides, the parties signed an agreement on military cooperation and a Memorandum of Understanding on space-research cooperation. (ATol 21-04-03)

Iran – Egypt

The Iranian vice-president said in an interview that the two countries would shortly restore ties and diplomatic relations, but this was denied by the Egyptian foreign minister.

Ties were broken in 1980 after Egypt signed a peace treaty with Israel and gave refuge to the ousted Shah of Iran. Relations worsened even more when Egypt supported Iraq during the 1980-1988 Iran-Iraq War. (IHT 07-01-04)

Iran – European Union

Despite US disapproval the EU started a landmark meeting with Iran on 12 December 2002 in an attempt to link talks on improving trade relations to existing political issues, such as human rights, the Middle East crisis, nuclear proliferation, and the financing of terrorist movements. It was reported that the EU was at pains to assert that progress on trade would only be possible if Iran were to make concessions in the “areas of political concern”. (IHT 13-12, 24/25-12-02)

Iran – Israel

It was reported that Israel had suggested it would not allow the nuclear power plant at Bushehr, Iran (see 5 Asian YIL 477), to be completed, and during the first half of 2002 it had publicly warned Iran that it considered the plant a threat to its national security. (IHT 30-07-02)

[Neither the technology nor the spent fuel from the Bushehr plant could, by itself, be used to make a nuclear bomb. However, the technology as used in the plant is necessary to manufacture enriched fuel for nuclear weapons, and weapons-grade plutonium could be extracted from the spent fuel.]

[On 7 June 1981 Israeli warplanes destroyed the French-built Osirak lightwater nuclear reactor near Baghdad.]

Iran – UK

Jewish Centre bombing at Buenos Aires

An Argentine judge ordered arrest warrants against four Iranian government officials in early 2003 for alleged help in organizing and carrying out a bombing of a Jewish community centre in Buenos Aires on 18 June 1994, thereby essentially accusing Iran of involvement. However, the judge declined to follow a recommendation by the prosecution also to indict a number of more senior Iranian officials, including the highest Iranian religious leader. All the indicted persons were outside Argentina. The accusations coincided to a large extent with secret testimony offered by a former Iranian intelligence official who had defected to Germany.

In August 2003 there was another Argentinian arrest warrant against eight Iranians, among whom a former Iranian ambassador to Argentina. The person, who had been living in England since early 2003 for study purposes, was arrested on an extradition request from Argentina.

Iran recalled its ambassador from London for consultations, warning that relations would worsen unless the former diplomat were released. The foreign office spokesman was reported to have said: “The arrest of an ex-ambassador is unacceptable for the Islamic Republic of Iran.” (IHT 11-03, 08-09-03)

Iran seized three small British Navy boats on 21 June 2004 and detained eight armed sailors on board after they entered Iranian national waters. The boats were

about to be delivered to the Iraqi Riverine Patrol Service. The British side, however, also said that the sailors were on a training run and that they could have strayed into Iranian waters on a windy day. The arrest took place on the Shatt-al-Arab marking the southern boundary between Iran and Iraq. Assault rifles, pistols, cameras, maps of the border, and global navigation devices were found on the boats. The Iranian government on 23 June 2004 declared that the sailors would be released. (IHT 22-06, 23-06, 24-06-04)

Iran – US

See also: World Trade Organization

Responding to US remarks on the US desire to improve relations with Iran while waiting for Iran to take a first step, the Iranian foreign minister accused the US of not recognizing Iran's counter-terrorism efforts (*see infra*); of itself using terrorist tactics; of supporting Afghan terrorist groups against Iran, and of using the 11 September attacks as a pretext to settle accounts with countries that disagreed with US politics. (IHT 09-09-02)

In the context of its policy in Iraq the US warned Iran on 23 April 2003 not to interfere with the development of a government in Iraq, amid allegedly growing signs of Iranian attempts to influence Iraqis to push for a government similar to that in Iran. (IHT 24-04-03) The Iranian foreign minister denied the accusations and said: "It is very interesting that the Americans have occupied Iraq but they accuse Iraq's neighbour of interfering into its affairs." (IHT 25-04-03)

Japan – neighbouring countries

See also: Embargo

On New Year's Day, 1 January 2004, the Japanese prime minister visited and paid his respects at the Yasukuni Shrine in Tokyo for the fourth time since taking office in April 2001. As on all previous occasions, the visit drew fire from Japan's neighbouring countries where the shrine is considered a monument to Japanese militarism. The shrine honours the nation's war dead, including convicted war criminals from World War II.

The Japanese vice foreign minister said that the visit was to pledge that Japan would never again wage war. (JT 04-01, 06-01-04)

Japan – Myanmar

See also: Dissidents

Japan took a new hard line against Myanmar, suspending official development assistance (except for projects already under way) and increasing pressure over the continued detention of the opposition leader Aung San Suu Kyi. It thus joined the US and EU in taking economic steps, and reversed a policy of careful engagement.

Japan earlier suspended aid in 1990 after the military government refused to honour the results of parliamentary elections. (IHT 26-06-03)

Japan – North Korea

See also: Embargo

Various aspects of the relationship

The on/off talks (see Asian YIL Vol.9:401, Vol.10:374) were renewed with a two-day meeting at Pyongyang on 18-19 August 2002, as a prelude to subsequent talks set for later in the month. (IHT 19-08-02) Instead, however, the Japanese prime minister came to North Korea on 17 September for a one-day summit meeting with the North Korean leader. The meeting turned out to be the result of a year-long series of negotiations behind the scenes. (IHT 31-08/01-09-02)

The meeting resulted in a joint declaration (“Pyongyang Declaration”), a North Korean admission that its agents had played a part in the disappearance of twelve or thirteen Japanese since the late 1970s (see Asian YIL Vol.2:330, Vol.3:399, Vol.5:441, Vol.6:408, Vol.8:280); a Japanese apology for its colonial rule of Korea; Japanese commitments for grants, loans and humanitarian assistance, and the permission for five abducted Japanese to visit Japan. According to North Korea the eight other persons had already died. The apology said that “Japan humbly recognize[s] the historical fact that it caused tremendous damage and suffering to the people of Korea through its past colonial rule and expresse[s] feelings of deep remorse and heartfelt apology”.

The meeting also resulted in a North Korean pledge to extend indefinitely its moratorium on ballistic missile tests (see *infra*), and in broad agreement on the normalizing of relations. (IHT 18-09-02) Talks on this latter issue started at Kuala Lumpur, Malaysia, in late October 2002, but were heavily influenced by the new developments in the field of North Korean nuclear programmes (see *infra*) and the issue of the past abductions of Japanese nationals. Consequently, they ended in a stalemate. (IHT 30-10-02). In early November the North Korean foreign ministry issued a statement (not, however, part of a government-to-government communication) with the warning that unless relations with Japan were quickly normalized, North Korea would resume its testing of ballistic missiles. (IHT 06-11-02)

The Japanese defence minister said in January/February 2003 that Japan would launch a military strike against North Korea if it had firm evidence that North Korea were ready to attack Japan with ballistic missiles. He classified such a strike as defensive and thus permitted by the Japanese constitution (see *infra*). (IHT 04-03-03)

With regard to the abduction issue North Korea in August 2003 initially accused Japan of having broken its promise by not having sent back the five persons who had returned to Japan in September 2002 (see *supra*). However, it later offered to let the children of the five persons go to Japan if Japan would provide food aid and agree to close the abduction issue. Initially, it was unlikely that Japan would accept the Korean conditions and, on the contrary, it insisted on there being an investigation into other suspected cases of abduction by North Korea. (IHT 21-08-03, JT 30-08-03)

In May 2004, however, the Japanese prime minister visited North Korea again and did promise food and medical aid, in exchange for permission for the five North Korean-born children to leave the country and go to Japan. (JT 23-05-04, IHT 24-05-04) [Although the departure for Japan was referred to as “coming home” (*kikoku*), the persons concerned were in fact born and brought up in North Korea as Koreans.] (IHT 17-06-04)

The above reunion was preceded by the arrival in Japan of six offspring of Japanese radicals belonging to the “Red Army Faction” who had hijacked a Japan Airlines aircraft in March 1970 and who had been granted asylum in North Korea. In this case, too, the “returnees” were born in North Korea. (JT 15-01-04)

On the occasion of his visit in May 2004 to North Korea, the Japanese prime minister said that Japan had no intention of evoking economic sanctions against North Korea as long as the latter respected the “Pyongyang Declaration” (*see supra*). Economic sanctions were made possible under the revised Foreign Exchange and Foreign Trade Law since a restriction that such sanctions be based on a UN Security Council resolution had been removed. (JT 23-05, 15-06-04)

On 7 June 2004 the Japanese prime minister repeated that if North Korea wanted Japanese aid and diplomatic relations, it would first have to dismantle its nuclear weapons programme and account for Japanese persons abducted by North Korea. (IHT 08-06-04)

The Mangyongbong-92 incident

Amid strained ties between Japan and North Korea the North Korean ferry *Mangyongbong-92*, which sailed irregularly between Wonsan in North Korea and Niigata in Japan, arrived at Niigata port on 25 August 2003 for the first time in seven months. Upon its arrival it was subjected to a very thorough inspection by Japanese authorities in the light of espionage and smuggling allegations. While no irregularities were found in a joint inspection by coast guard, customs, and immigration officials, some problems with the ship’s safety equipment were found in the context of a (separate) “port state control” (the port state control checks were the first in ten years). These had to be rectified before the ship was allowed to leave port, resulting in a delay of nine hours. Nevertheless, the Japanese government said they did not plan to ban ships from entering Japanese ports. There was no Japanese law on banning specific ships from docking at Japanese ports, as this would be not in conformity with the international freedom of navigation. (JT 26-08, 27-08-03)

On its following visit to Niigata in early September 2003 the *Mangyongbong-92* was again subjected to “port state control” to check that the previously found minor safety infractions had been rectified, and was again searched by coast guard, customs, and immigration officials.

During the next port call on 16 September, the Japanese authorities again found a safety violation and referred the case to the Public Prosecutor who, however, decided to shelve the case.

In order to create a legal basis for barring the vessel from further entry into Japan a law was enacted on 14 June 2004 enabling the government to ban, for a certain period of time, port calls by ships from a designated country, for the purposes of

maintaining peace and security. The Japanese parliament also enacted a Law on Ship Pollution Damage on 14 April 2004, requiring owners of ships of 100 tons or more in Japanese territory to have insurance for oil spill damage, presuming that most North Korean ships would have no such coverage. (JT 03-09, 05-09, 17-09, 17-10-03, 02-04, 15-04, 15-06-04)

Compensation for wartime human right abuses

North Korea on 11 November 2003 proposed holding talks to discuss compensation for human rights abuses committed during the 1910-1945 Japanese colonial rule. It was said by the Japanese side that the proposal was aimed at countering calls to resolve the abduction issue. (JT 12-11-03)

Japan – South Korea

See: Embargo; International economic and trade relations

Japan – Russia

On the occasion of the Japanese prime minister's visit to Moscow, the two countries on 10 January 2003 agreed on a number of matters, such as the solution of their territorial dispute over some of the Kuril Islands (the "Northern Territories", *see* 1 Asian YIL 346-347), while Japan reiterated its support of Russia's efforts to join the WTO and Russia pledged to support Japan's efforts to become a permanent member of the UN Security Council.

The Russian president hailed the agreement as an "action plan", not as a formal treaty. (IHT 11/12-01-03)

Japan – Peru

See: Extradition

Malaysia – Singapore

See: Neighbourly relations

North Korea – Pakistan

See: Nuclear energy matters: Pakistan

North Korea – US

See also: Embargo; Nuclear energy matters

The positive signs in April 2002 of a possible meeting between representatives of the two parties failed to materialize when the US cancelled its offer to send an envoy to North Korea as a consequence of the North-South Korea naval incident in late June (*see supra*) (IHT 03-07-02) Nevertheless, after expressing regret over the naval incident (*see supra*) North Korea stated it was open to a visit by a senior US official (IHT 30-07-02); at the ASEAN Regional Security Forum meeting on 31 July 2002 the North Korean foreign minister announced, after having met the US Secretary of State, that it had been agreed to resume the dialogue. This would

be the first high-level contact since the visit by the US Secretary of State to North Korea in October 2000. (10 Asian YIL 376) Yet commentaries issued by the official North Korean news agency referred to the US, in apparent response to the US president's designation of North Korea, as "the kingpin of evil". (IHT 01-08-02)

Marking a significant change of strategy the US announced on 25 September 2002 that it would send an assistant Secretary of State to North Korea in early October. (IHT 27-09-02)

Comparing its own situation with that of Iraq after more than two weeks after the US attack on the latter country, North Korea said it could guarantee its own security only by arming itself with a "tremendous military strength". The foreign ministry issued a statement in which it was said, *inter alia*: "The Iraqi war shows that to allow disarming through inspection does not help avert a war but rather sparks it ... This suggests that even the signing of a non-aggression treaty with the US would not help avert a war." (IHT 07-04-03)

The US strategy of not engaging in bilateral talks was widely criticized in Asia. It was based on the argument that the North Korean nuclear programme was a major problem for the whole North-east Asian region, and on the fear that bilateral negotiations would enable North Korea to split the US from its Asian allies. (*inter alia*, NYTimes.com 16-04-03)

Pakistan – US

The US announced on 18 March 2004 that it would classify Pakistan as a "major non-NATO ally" for purposes of their military relations, thus making it easier for it to acquire US arms. The classification also applied to Australia, Bahrain, Israel, and South Korea. [The US failed to deliver 28 F-16 fighter planes ordered and paid for by Pakistan, taking eight years for the money to be refunded. (See Asian YIL Vol.1:271, Vol.3:442, Vol.4:508, Vol.5:486, Vol.6:449)] (IHT 19-03-04)

South Korea – US

See also: Iraq war; Military alliances

Relations between the two countries, particularly with regard to North Korea, had shown unchallenged leadership by the US for decades. A visible change in policy was introduced by President Kim Dae Jung (*see supra*) and was affirmed by various statements made during the transition to his successor, Roh Moo Hyun, in early 2003. (IHT 8/9-02-03)

The US Defense Secretary said on 6 March 2003 that the US was studying ways of either withdrawing its 37,000 troops from the Korean Peninsula or moving them south of Seoul and the Han River, about 120 kilometres from the Demilitarized Zone. On the other hand, alarmed South Korean officials demanded that the US troops stay where they were at least until the resolution of the North Korean nuclear issue. It was reported that South Korean officials suspected a US plan under which a withdrawal would put the US troops outside the range of North Korean artillery, thus

allowing the US to stage a pre-emptive strike on North Korean nuclear facilities without fear of the North Korean artillery (*see also infra*). (IHT 8/9-03, 09-06-03)

Thailand – US

See also: Iraq war

It was reported that in spite of Thailand's low-profile approach to terrorism, it was in fact allowing the US both to bring Al Qaeda suspects into the country for interrogation and to use air bases in the country for US warplanes to fly into Iraq, as it had done in the past for bombing raids over North Vietnam and for the Afghanistan War. Nevertheless, Thailand was said to have insisted that it not be included in the list of countries which were part of the US-led coalition in Iraq. (IHT 09-05-03)

Vietnam-US

It was announced that a US warship was to make a port call in Vietnam in November 2003, the first such visit since the end of the Vietnam War in 1975. Besides, the Vietnamese defence minister would visit the US the same month. (IHT 31-10-03)

(NON-)INTERVENTION

See: Afghanistan, Association of South East Asian Nations

IRAQ WAR

See also: Military alliances

Asian attitudes towards the US attack on Iraq

China

During his visit to China in late August 2002, the US Deputy Secretary of State informed the Chinese that the US was considering all options in the matter of the toppling on security grounds of the Iraqi president. *China* strongly opposed military action in Iraq lacking specific approval from the UN Security Council. (IHT 27-08-02) In late January 2003 the *Chinese foreign ministry* urged that more time be given to the UN weapons inspectors and that one should not jump to any conclusion. (IHT 29-01-03) On 6 March 2003 China “endorse[d] and support[ed]” efforts by Russia, France and Germany, who had asserted in a joint declaration that they would “not allow” a draft Anglo-US-Spanish resolution authorizing an attack on Iraq to pass. (IHT 07-03-03).

The Chinese foreign ministry spokesman, responding to the start of the war on 20 March 2003, said that the war violated both the UN Charter and international law, and urged an immediate halt to the military action (IHT 21-03-03); however, apparently vacillating between opposing the war and not angering the US, the Chinese president in a telephone conversation with the US president indicated that China

would not turn the war into a stumbling block in Sino-US bilateral relations. (IHT 25-03-03)

Pakistan

On his part the *Pakistani president* reacted to the US efforts towards “regime change”: “It is not a question of removing Saddam Hussein ... It’s the question of attacking a country, attacking another Muslim country.” (IHT 03-09-02) In late January 2003 the *prime minister* said: “In the 21st century, you don’t go for wars. War is the last resort one goes to.” (IHT 29-01-03) When the war finally started, *Pakistan* officially deplored the attack, yet avoided condemning the US by name. (IHT 21-03-03)

When the US asked for military support from various countries after the first phase of the war in the second part of 2003, the *Pakistan president* said Pakistan needed more political support from Iraqis and the Islamic world before it could send troops to help to stabilize Iraq. (IHT 23-09-03)

Iran

In an interview in which he expressed Iran’s disappointment of the US attitude towards the constructive role of Iran in respect of terrorism and Afghanistan, the *Iranian foreign minister* said that Iran would accept the use of force in Iraq as a reality only if a new UN resolution authorized military action. (IHT 19-09-02) On a later occasion the Iranian president said: “We have said several times that we are against any military attack on Iraq and any unilateral action in resolving international issues.” (IHT 31-10-02)

In connection with the Anglo-US attack on Iraq, the Iranian government spokesman condemned the war as “illegitimate” and “unjustified”, and reiterated Iran’s neutrality. (ATol 25-03-03)

Japan

During a visit to the US the *Japanese prime minister* said on 12 September 2002 that the US should “make further efforts for international cooperation toward a settlement” of the Iraq problem. (IHT 24-09-02) In late January 2003 the *foreign minister* said Iraq had used chemical weapons in the past and must convince the world that it was no longer a threat; it must carry the burden of proof. (IHT 29-01-03) In early March 2003, however, Japan stated that it would support a UN resolution as sought by the US (*see supra*). The Japanese foreign minister said: “Japan supports the proposed resolution as something that will mark the final step of the global community’s effort to pressure Iraq to disarm on its own.” (IHT 11-03-03) The Japanese prime minister also voiced strong support for the US action when the war started on 20 March 2003: “I support the start of the use of force by the US ... If I have to choose between peace and war there is no doubt I go for peace ... But I have made a decision because supporting the US position supports Japan’s national interests.”

Reiterating his support for the war in early April 2003, the Japanese prime minister said that people would come to understand the dangers “when weapons of

mass destruction, chemical and biological weapons fall in the hands of a dangerous despot". As to the underlying reasons for this attitude he said: "The public knows the importance of the Japan-US alliance. The Japanese defence capability is not adequate, and with the security pact with the US, Japan is defending itself."

Calling for UN support and an "international framework" for post-war reconstruction, Japan committed itself to \$100 million in financial aid, while the prime minister offered to attach Japanese personnel to the US Office of Reconstruction and Humanitarian Assistance (ORHA).

In July 2003 the Parliament passed legislation allowing the dispatch of troops, and on 9 December 2003 Japan decided to deploy ground forces to join the US-led war in Iraq. It was its most ambitious military operation since the end of World War II, thus was regarded as a turning point for post-war Japan. Past Japanese troop contributions had consisted of participation in UN peacekeeping operations. The Iraq mission would last for between six months and a year, and would consist of non-combat troops who would engage in humanitarian activities. In June 2004 the Japanese government approved a plan for the Japanese forces to join UN-authorized troops when an Iraqi government took formal authority. (IHT 10-12-03, 16-01, 19/20-06-04, WSWS 17-04-03)

On 9 April 2004 the Japanese prime minister declared not to withdraw the Japanese forces to satisfy the demands of an Iraqi resistance group who had threatened to kill three Japanese hostages. The three were an aid worker, a freelance photo-journalist, and a high school graduate who studied the possible effects of depleted uranium ammunition. (JT 09-04, 10-04, 11-04, 13-04, 14-04, 15-04, 16-04-04; IHT 10/11-04-04)

South Korea

The *South Korean* president responded to the start of hostilities: "We decided it is in our best interest to support the US". (IHT 21-03-03) As to the later US request for additional South Korean troops in Iraq, the South Korean Parliament on 2 April 2003 approved the sending of seven hundred soldiers to Iraq "to help in the country's reconstruction effort", after the president said that "realism" required the country to support the US. He clarified this by saying that: "[i]n order to resolve the North Korea nuclear issue peacefully, it is important to maintain strong cooperation with the US" and "[i]t would be imprudent to make a decision that threatens the survival of our people in the name of an equal relationship with the United States". (IHT 03-04-03) The South Korean president on 1 October 2003 offered to consider the request in exchange for "positive" movement by the US to resolve the stand-off over North Korea's nuclear weapons program. (IHT 02-10-03) In June 2004 it was announced that South Korea would send 3,000 soldiers in early August to assist the US-led coalition, the largest contribution after the US and Britain. (IHT 19/20-06-04)

In June 2004 a South Korean hostage was killed by an Iraqi militant group after the latter's failure in its demand that South Korea withdraw its troops and drop its plans to send additional forces. The South Korean government rejected the demand since its troops were to help to rebuild Iraq, not for offensive operations. (IHT 23-06-04)

North Korea

North Korea condemned the invasion, which it described as the first stage of an attack that would also target North Korea. (IHT 21-03-03)

Indonesia

The *Indonesian foreign minister* said in early January 2003 that “regime change” through military intervention “would be difficult to accept”. Instead, Indonesia supported “every effort on the disarmament of weapons of mass destruction through the UN Security Council”. It was feared that an America-led war against Iraq would spark anti-American demonstrations and could embolden Islamic militants who had been on the defensive in the aftermath of the terrorist Bali bombing. (IHT 09-01-03)

India

In late January 2003 the *Indian prime minister* referred to the US and said that “the superpower should exercise super restraint”. In early April 2003, when the US troops were approaching Baghdad, the Indian Parliament passed a resolution condemning the war as unjust and calling on the US to withdraw.

After the first phase of the war the US asked India to contribute an army division for “peacekeeping”; India rejected the request on 14 July 2003. The decision was explained in the statement from the foreign minister, as follows: “Our longer-term national interest, our concern for the people of Iraq, our long-standing ties with the Gulf region as a whole, as well as our growing dialogue and strengthened ties with the US, have been key elements in this consideration.” (IHT 15-07-03)

In September 2003 the US repeated its request, supported by the Israeli prime minister when the latter paid a visit to India shortly later, at a time when India was pursuing the purchase of the “Arrow” anti-missile system from Israel. This time India did not exclude a military contribution in the event that there was an “explicit UN mandate”.

Singapore

During the discussion on the legitimacy of an attack on Iraq the *Singapore foreign ministry* maintained in January 2003: “It is up to the Security Council to assess and consider what further actions it needs to take.” (IHT 29-01-03)

Thailand

See also: Inter-state relations: Thailand-US

It was reported in early October 2003 that *Thailand* had sent 447 military personnel to join the “coalition forces” in Iraq. The decision was first announced in July 2003 when the number of 886 men was mentioned. In early April of the same year the defence minister still declared that under no circumstances would Thailand commit combat troops in Iraq. The Thai prime minister visited the US in June 2003.

The troops sent consisted mainly of engineers and medical specialists. (WSWS 01-10-03)

Sino-Russian statement

The Chinese and Russian presidents in a joint declaration at Beijing in early December 2002 repeated calls for a peaceful resolution to the US-Iraqi stand-off “on the basis of rigorous observance of the resolutions of the UN Security Council”. (IHT 03-12-02)

JAPAN’S MILITARY ROLE

Right to pre-emptive action

The Japanese defence minister, following the so-called Bush-doctrine, argued in February 2003 that Japan’s constitution does not prevent the country from taking pre-emptive action against a North Korean threat of a missile attack. In March 2003 he told a parliamentary committee that if North Korea started fuelling its missiles, “then it is time to strike”.

On 14 June 2004 seven laws were enacted, supplementing three previous laws enacted in June 2003 and effectively completing Japan’s post-war legislation on its response to a military attack. Two of the seven laws were intended to facilitate US military operations in the event of an attack or imminent attack on Japan, and enable the Japanese Self-Defense Forces to supply provisions to the US forces. The other five laws dealt with, *inter alia*, the protection and evacuation of people, procedures for ship inspections in and around Japanese waters, the use of public facilities, and ensuring proper treatment of prisoners of war. The laws also empowered the prime minister to allow the US military to use privately owned land or buildings if Japan came under or anticipated an attack. The new legislation essentially provided a domestic legal framework for the bilateral mutual support. (WSWS 17-04-03, IHT 23-07-03, JT 15-06-04)

Participation in “Coalition Forces” in Iraq

On 26 July 2003 the Japanese parliament passed legislation allowing the dispatch of up to 1,000 troops to Iraq to “help with reconstruction” (*see supra*). (IHT 26/27-07-03, JT 24-09-03) It was the first time for Japanese military forces to be stationed in a combat zone since the Second World War, and it took place without a UN mandate. [Earlier Japanese troops did participate in several UN peace-keeping missions, such as in Mozambique, Cambodia, and East Timor. In the first Gulf War (1991) the Japanese role consisted of a financial contribution, and Japan supported the US action in Afghanistan by dispatching naval vessels providing logistical support.]

Re-interpretation of the Constitution

In its report an advisory panel to the Japanese foreign minister said that the government should alter its interpretation of the Constitution and allow Japan to exercise the right of collective defence. (JT 19-09-03)

JOINT DEVELOPMENT

See: Exclusive economic zone

JUDICIAL ASSISTANCE

See also: Association of South East Asian Nations; Extradition; Inter-state relations: Thailand-US

Pakistani attitude toward judicial assistance to the US

In mid-September 2002 Pakistan handed over a man thought to be an Al Qaeda activist to US officials in Pakistan who believed he was intimately involved in planning the attacks in the US of 11 September 2001. The Pakistani interior minister said Pakistan was obliged under international law to hand over the suspect to the country where he was wanted, although emphasizing that the legal extradition procedure would be followed. According to news reports, however, Pakistan had previously handed over suspected Al Qaeda members to the US without going through a formal extradition process. (IHT 17-09-02)

A Kuwaiti national suspected of being a prominent Al Qaeda activist was arrested on 1 March 2003 in Rawalpindi by Pakistani and US agents who handed him over to locally-based US intelligence authorities. He was immediately flown out of Pakistan, yet within twenty-four hours the Pakistani authorities denied the hand-over and said that the person was being interrogated in Pakistan by Pakistani officials. (AsT 05-03-03)

It was reported that the Pakistani foreign minister said on 23 February 2004 that any top Al Qaeda fugitives wanted in the US would be handed over. However, the president assured tribal elders that suspects who turn over their weapons and surrender would not be extradited. (IHT 25-02-04)

Iranian cooperation in handing over Al Qaeda fugitives

According to the Saudi foreign minister Iran had, at the request of Saudi Arabia, quietly detained and expelled to Saudi Arabia Al Qaeda fighters who were Saudis and who had sought refuge in Iran after fleeing from Afghanistan. Iran knew that all information obtained during Saudi interrogation would be passed on to the US. This was contrary to the allegations about Iranian assistance to Al Qaeda fugitives. (IHT 12-08-02)

Japan – US

Japan and the US signed a treaty on 5 August 2003 allowing their law-enforcement authorities to by-pass diplomatic channels in exchanging information on criminal cases. (JT 02-08, 07-08-03)

JURISDICTION

See also: Hot pursuit; Insurgents; International criminal law; Inter-state relations: Thailand-US

Japan-US Status of Forces Agreement

The current SOFA did not require the US to hand over US military personnel alleged to have committed crimes until charged by the Japanese prosecutor, but after a rape incident in 1995 (see 6 Asian YIL 421) the US was willing to give “sympathetic consideration” to handing over in the event of suspected serious crimes, although demanding Japanese guarantee of proper protection of the suspect’s rights. In response to US insistence Japan indicated that under certain conditions it would, by way of exception to the applicable rules, allow US law-enforcing officers to be present during the pre-trial police interrogations of the suspect. However, no agreement had been reached on a general rule to that effect.

The two parties had been discussing the details of the conditions for some time, and it was reported in March 2004 that the US withdrew its demand for its presence during the questioning of all arrested US military personnel. Finally, the parties agreed to allow US officials, but not a defence lawyer, to be present “as part of the investigators’ side” when Japanese police question US military personnel suspected of a serious crime. This opened the door for an exception, exclusively in the case of US soldiers, to the general rule of the Japanese law on criminal procedure. (JT 14-09, 24-11-03, 21-03, 29-03, 03-04-04)

MILITARY ALLIANCES

See also: Iraq war

US security guarantee for Japan

At an unofficial meeting in late September 2003 the US made the promise that it would keep Japan under its “nuclear umbrella” even after it was to give security assurances to North Korea in exchange for the latter’s abandoning its nuclear arms programme.

While maintaining a national policy of not processing, producing or allowing nuclear weapons in its territory, Japan remained dependent on US nuclear deterrence for security against its assumed hostile neighbours. (JT 31-10-03)

Thailand – US

See: Inter-state relations

MILITARY COOPERATION

Indonesia – US

In a move aimed at bolstering Indonesian efforts against terrorism the US announced on 2 August 2002 that US aid for direct military training was to be resumed. (IHT 3/4-08-02)

The US Senate approved in February 2003 the re-establishment of Indonesia-US military cooperation. This cooperation in the form of an “International Military

Education Training (IMET) was suspended in 1999 because of the conflict on the self-determination of East Timor (see 9 Asian YIL 407). (Tempo 19-02-030)

Pakistan – US

See: Inter-state relations

Philippines – US

The US participation in a six-month operation against Muslim guerrillas in the Philippines (see 10 Asian YIL 381) was winding down in late July 2002. (IHT 23-07-02) This “training mission” failed to quell the guerrilla movement and in December 2002 there were proposals for a new programme aimed at combating the Muslim insurgents. This reflected the US concern that militant Islamic networks posed an increasing threat to US interests in Southeast Asia. (IHT 02-12-02) In February 2003 it was indeed reported from the US that another 1,700 US troops would be sent to the Philippines and that, contrary to the 2002 mission, the new mission would be a combat operation, backed by attack helicopters and planes. The operation would last as long as necessary “to disrupt and destroy” the Abu Sayyaf group at the Sulu Archipelago. Philippine officials, however, insisted that any US request for a combat role would be denied as being against the (Philippine) constitution. The Philippine Supreme Court had ruled that US troops could shoot only in self-defence and that the constitution forbade the presence of foreign troops unless covered by a specific treaty. (IHT 22/23-02, 24-02-03) The rejection of a combat role for the US troops was repeated after a bombing at the airport of Davao City in early March 2003. (IHT 06-03-03)

South Korea – US

South Korea and the US agreed to hold talks on the withdrawal of a third of the 37,000 US troops stationed in South Korea. It would constitute the first major troop reduction on the Korean Peninsula since 1992 (*see* Asian YIL Vol.2: 303, Vol.3: 369). The initial US idea dated from 2003 (*see supra*), when it was agreed to move US troops stationed near the border to a location south of Seoul, putting them out of North Korean artillery range. (IHT 29/30-05, 08-06-04)

US bases in Central Asia

Since the war in Afghanistan some dozen bases in Central Asia were made available to US forces. In *Uzbekistan* US forces gained permission to be stationed at a former Soviet base in Khanabad. *Turkmenistan* gave permission for fly-over and refuelling of US military planes. This might be important in allowing US aircraft based in Uzbekistan to reach Iran. In November 2001 *Tajikistan* agreed to allow the US to use three former Soviet air bases, to support its operations in Afghanistan. Regarding *Kazakhstan*, it was said that the government was allowing military overflights and refuelling, and had given landing rights in emergencies. In *Kyrgyzstan* the former Soviet base at Manas airport was to accommodate US troops and aircraft. (ATol 10-06-03)

MISSILE TECHNOLOGY

Limitation of export of Chinese missile technology

In accordance with its pledge of 21 November 2000 (see 10 Asian YIL: 383) China on 25 August 2002 issued regulations on the export of missiles and missile-related technology, in order to restrict missile proliferation. The regulations prescribed that exports that might affect national security and state interests must be submitted to the cabinet and the Central Military Commission for approval.

In November 2000 China promised to tighten export controls, but pending specific regulations the US imposed sanctions, accusing China of having supplied missile and nuclear arms technology to Pakistan.

In return for cooperation on proliferation China wanted an end to the US ban on launches of US commercial satellites on Chinese rockets. (IHT 26-08-02)

North Korea

See also: Sanctions

On the occasion of the North Korean-Japanese summit meeting on 17 September 2002 (*see supra*) the North Korean leader said that his country would continue indefinitely to observe a self-imposed moratorium on the testing of ballistic weapons despite its formal termination in 2003. (IHT 18-09-02) It was reported, however, that later revelations on North Korean missile and nuclear weapons programmes (*see supra, infra*) pushed Japan towards joining the US in trying to develop a missile defence programme. (IHT 12-11-02)

Iran

Iran confirmed on 7 July 2003 that it had successfully conducted the final test of its mid-range *Shahab-3* missile several weeks earlier.

NATIONALITY

See also: Extradition

Turkmenistan – Russia

An estimated 300,000 ethnic Russians were living in Turkmenistan, of whom about 100,000 had registered for Russian as well as Turkmen nationality under a 1993 treaty allowing dual nationality.

In April 2003 the presidents of the two countries agreed to cancel the treaty. This was followed by a Turkmen decree of the same month, requiring residents in possession of the two nationalities to choose between them. Non-performance of the option would result in automatic retention of Turkmen nationality and loss of the Russian one. (ATol 11-07-03)

NEIGHBOURLY RELATIONS

Malaysia – Singapore

In recent years the issue of the water agreements between the two countries, especially the question whether Malaysia or Singapore profited most from them, continued to be heatedly discussed. The dispute concerned the price to be paid by a party for the water supplied by the other party.

Bilateral talks on the issue had taken place since 1998. The water agreements dated from 1961 (Tebrau and Seudai Rivers Water Agreement) and 1962 (Johor River Water Agreement) between the Johor state government (Johor being the southernmost state of the Malaysian Federation) and Singapore (then an autonomous self-governing state within the Commonwealth). The continued application of the agreements, which are to expire in 2011 and 2061 respectively, were guaranteed by Malaysia in the Separation of Singapore Agreement (1965).

Under the current agreements Malaysia supplies 350 million gallons of raw water to Singapore at the price of \$0.007 per 1,000 gallons, fixed by the Colonial government in 1927. After delivery the water undergoes treatment (in Singaporean water treatment plants located in Johor) costing \$0.63 per thousand gallons. Singapore in its turn is under obligation to provide the Malaysian state of Johor with at least 17 million gallons of treated water per day at a price of \$0.13 for every thousand gallons. Johor thus paid more than it received. It considered this unfair (although it was selling the water to consumers in Malaysia for \$1.04 per thousand gallons) and intended to stop buying treated water from Singapore once the construction of its own water treatment plant was completed in mid-2003. According to the Johor Chief Minister, three Singaporean water treatment plants in Johor would be taken over by Johor after the expiration of the first water supply agreement in 2011.

The two water supply agreements of 1961 and 1962 provide for price revisions after twenty-five years, in 1986 and 1987 respectively. Singapore maintained that the 25-year marks passed without any review and that, consequently, Malaysia had no more legal basis on which to raise the water price, but Malaysia takes the position that it has that right at any time after the 25-year period.

On 7 October 2002 the Malaysian prime minister announced that in seeking a solution Malaysia had decided to discontinue the “package approach” agreed in September 2001. This approach intended to deal with several key bilateral contentious issues in the Malaysian-Singaporean relationship together, *viz.* the water issue and those concerning the Malaysian railway land in Singapore (*see* Asian YIL Vol.7:483, Vol.8:288); the Malaysian customs, immigration and quarantine facilities on Singapore territory (*id.*); the use of Malaysian air space by Singaporean aircraft, and the pension fund assets belonging to Malaysians working in Singapore. (UPI 28-01-02; ATol 31-08-02; ST 01-11-02, 06-01-03)

NON-ALIGNED MOVEMENT

Summit Conference, Kuala Lumpur, February 2003

The NAM tri-annual summit conference was held at Kuala Lumpur on 20-25 February 2003. The meeting was originally due to be held in October 2001 in Bangladesh after the previous, 1998, conference at Durban, South Africa, but Bangladesh decided to cancel. In its place Jordan would organize the conference in July 2002 yet it withdrew because of the prevailing Middle East situation. In April 2002 the Coordination Bureau then decided unanimously for Malaysia.

The Movement comprised 116 members including the two newest ones: Timor-Leste, and St. Vincent and the Grenadines. (Kompas 24-02-03)

NUCLEAR ENERGY MATTERS

Iran

See also: Inter-state relations: Iran-Israel

It was reported that according to a Russian announcement in late July 2002 Russia planned to increase its cooperation with Iran by building four reactors at Bushehr, including the plant already in progress and two other plants at Akhvaz. On 25 December 2002 Russia and Iran agreed to speed up the completion of the Bushehr plant and to set up a joint commission to carry out feasibility studies for the construction of another energy plant in Iran. While re-affirming its commitments to supply the necessary nuclear fuel, Russia, under US pressure, changed its laws in 2001, thus allowing for the return and storage on Russian territory of the spent radioactive material from Iran and made an agreement under which Iran would return the spent fuel. (IHT 30-07, 3/4-08, 26-12-02, 05-06-03).

[The Bushehr project had its origin in the 1970s when the Shah of Iran, with US blessing, awarded a contract to a subsidiary of the German Siemens company to construct two 1,200 megawatt reactors. IHT 14-10-03.]

In August 2002 an Iranian opposition group disclosed the existence of two nuclear facilities at Natanz (a fuel-enrichment facility) and Arak (a heavy-water production plant) in Iran, apparently designed to play a role in the production of enriched uranium or plutonium which could be used for the fabrication of nuclear weapons. The US published satellite pictures and urged the IAEA to inspect the facilities regarding compatibility with the regime of the Non-Proliferation Treaty. Iran insisted that the sites were designed solely to produce low-enriched uranium for the nuclear power plant being built at Bushehr. (IHT 20-12-02) It gave assurances that the Natanz facility would fall under international safeguards; upon an Iranian invitation, the IAEA in February 2003 visited the facilities. It was reported that there was reluctance on the side of the IAEA to pronounce the site a nuclear-weapons facility; however, the US persisted that it in fact was such a facility and exerted pressure on other states members of the IAEA governing board to have Iran declared in violation of the Non-Proliferation Treaty, a declaration that could lead to punitive action by the UN. (IHT

10-02, 24-02, 09-05-03) Iran consistently denied the accusations that it was seeking to develop nuclear weapons, recalling that it was in fact the first country to have suggested that the whole region must be void of nuclear weapons. (IHT 10-02, 24-02, 09-05, 03-06-03)

Later in 2003 the IAEA reported that it had in fact found particles of highly enriched uranium at the Natanz facility. The Iranian side denied producing highly enriched uranium and suggested that the equipment used might have arrived already contaminated from the foreign supplier. It said it could not mention the country of origin because the equipment was bought through middlemen. (IHT 27-08, 24-10-03)

At a later stage of developments highly-enriched particles were discovered in indigenous centrifuge gear. The Iranian foreign ministry in February 2004 acknowledged publicly that Iran had secretly purchased components for its nuclear program from a network of international suppliers, “but we don’t know what the source was or what country they came from”. The spokesman also insisted that every purchase had been reported to the IAEA. The acknowledgement came after the disclosure of a nuclear trading network set up by the Pakistani scientist A.Q. Khan (*see infra*) (IHT 24-02, 01-03-04)

Ahead of the IAEA meeting on 16 June 2003 the IAEA issued a report which read, *inter alia*: “Iran has failed to meet its obligations under its safeguard agreement with respect to the reporting of nuclear material, the subsequent processing and use of that material and the declaration of facilities where the material was stored and processed”, concluding that the “number of failures by Iran to report the material, facilities and activities in question in a timely manner as it is obliged” was a matter of concern. Iran disputed the allegation, and the IAEA report acknowledged that “these failures [referring to the allegations in its report] are in the process of being rectified by Iran”. (IHT 7/8-06-03)

At the IAEA meeting Iran defended its failure to report the importation of a small amount of uranium by reciting the IAEA report that listed failures by many other countries. The US delegate, on the other hand, said that “the US expect[ed] the [IAEA] accumulation of further information [would] point to only one conclusion: that Iran [was] aggressively pursuing a nuclear weapons program”.

The US and the EU tried to rally support for a resolution urging Iran to accept stricter supervision of its nuclear programme, by way of signing an additional protocol allowing such supervision (this refers to a protocol supplementing the existing safeguards agreement between the country concerned and the IAEA in accordance with the Model Protocol adopted by the IAEA Board of Governors on 15 May 1997). Meanwhile, the UK threatened Iran that the EU would cut off trade ties if Iran refused to allow inspections, and Japan delayed finalizing a \$2 billion oil deal under US pressure aimed at forcing Iran to comply with the inspection demands. (*See, however, infra*)

There was, however, no majority necessary to pass the resolution, with a group of about fifteen states members of the IAEA board taking the position firstly, that Iran had been cooperative and transparent and secondly, that many other countries had equally failed to report. Finally, the result was that the meeting issued a statement

just calling on Iran to allow stricter inspection of nuclear reactor sites in order to defuse the existing suspicions. (IHT 17-06, 18-06, 19-06, 20-06, 08-07-03)

In August 2003 the head of the Iranian Atomic Energy Agency expressed his expectation that Iran and the IAEA might soon reach positive results on the signing of an additional protocol. This was later confirmed by the Iranian foreign minister, although Iran had always said that it would sign a protocol only if the other countries promised technical cooperation in the field of nuclear technology. It was said that this was precisely what Britain, Germany, and France had been offering Iran if it stopped its nuclear fuel enrichments programme, although they had reportedly not specifically pledged to give assistance in a civilian nuclear energy programme. (IHT 15-08, 29-08, 08-09, 20/21-09-03)

At its meeting in early September 2003 the IAEA board of governors adopted a Western draft resolution formally sponsored by Australia, Japan, and Canada, setting a deadline on 31 October 2003 for Iran to demonstrate full compliance with its international obligations, including providing a full declaration of imported material and components for its enrichment programme and giving IAEA inspectors full access to its facilities. The resolution called on Iran to “suspend all further uranium enrichment-related activities” and “promptly and unconditionally” to conclude and implement an additional protocol on unscheduled inspections. The US gave its support to the draft, as there was no support for its initial demand for a resolution finding Iran already in non-compliance, which would have brought the matter before the UN Security Council. (IHT 10-09, 11-09-03)

The Iranian foreign ministry said on 28 September 2003: “Relinquishing peaceful nuclear technology or enriching uranium is not a subject Iran can compromise on.” (IHT 29-09-03). Accordingly, the foreign minister said in early October that his country would not suspend uranium enrichment. However, Iran was under threat of losing a planned trade deal with the EU; in a joint statement with the foreign ministers of the UK, Germany, and France of 21 October 2003, it agreed to conclude a so-called additional protocol to its existing agreement with the IAEA, allowing unexpected and intrusive inspections of its nuclear sites and to suspend temporarily its uranium-enrichment programmes, to show its good will and build confidence. (IHT 08-10, 22-10-03) [Even under such an additional protocol it might take the IAEA two years to complete its survey and begin its inspections.] Accordingly, Iran submitted the relevant documents on its past nuclear energy activities to the IAEA on 23 October 2003, ahead of the 31 October deadline. The protocol was signed by Iran and the IAEA on 18 December 2003. (IHT 24-10, 19-12-03)

On 21 November 2003 the IAEA Governing Board took up a draft resolution, submitted by France, Germany, and Britain, that sought to compel Iran to halt the enrichment and reprocessing of uranium while offering cooperation including the sharing of nuclear technology for civilian use. The US was not satisfied as the resolution failed to declare Iran in violation of the Nuclear Non-proliferation Treaty; furthermore, it lacked “trigger mechanisms” to punish Iran for non-compliance. However, the US abandoned its demand since among the thirty-five board members only Japan, Canada, and Australia (and possibly New Zealand) would support it. The resolution was adopted on 26 November. It warned that Iran would face un-

specified action if the IAEA inspectors uncovered “further serious failures”, yet omitted the conclusion of the IAEA report (*see supra*) that there was “no evidence” of a weapons programme. (IHT 19-11, 24-11, 26-11, 27-11-03)

In preparing a next meeting of the IAEA Governing Board in June 2004, the Western powers in March 2004 agreed on a draft resolution, which was, however, rejected by Iran. The draft praised Iran for opening much of its nuclear activities to outside inspection, but “deplor[ed]” some omissions in Iran’s declarations. It stopped short of declaring Iran in breach of the Nuclear Non-Proliferation Treaty. Iran’s displeasure with the criticism was manifested in its postponement of a planned visit by IAEA inspectors. The resolution was passed unanimously on 18 June 2004. (IHT 10-03, 11-03, 13/14-03, 17-06, 19/20-06-04)

As regards the suspension of the Iranian uranium-enrichment programme: it was initially announced that the suspension would start on 9 April 2004, but on 27 June 2004 the Iranian foreign ministry declared that Iran would resume building centrifuges for its nuclear programme although it would not resume the actual uranium enrichment. This was reportedly a reaction to the IAEA resolution of June 2004 (*supra*) criticizing Iran for past cover-ups. (IHT 07-04, 28-06-04)

North Korea

Implementation and collapse of the 1994 Agreed Framework; withdrawal from Non-Proliferation Treaty

In July 2002 there were still reports of South Korean technicians involved in the building of light-water nuclear reactors at Kumho, North Korea, under the auspices of the Korean Peninsula Energy Development Organization (*see* 5 Asian YIL 473, 547). (IHT 22-07-02) The pouring of the foundation of the reactor began on 7 August 2002, attended by Western diplomats and a US special envoy.

Meanwhile, US and European officials recalled North Korea’s failure to allow unhindered inspection by experts from the IAEA of its nuclear facilities, warning that any hesitation on the part of North Korea in this respect would result in a freeze in the construction activities. Under the 1994 accord, inspection was a condition for the delivery of key components for the reactor. The IAEA on its part affirmed the necessity for an instant inspection of activities for the consortium to deliver the crucial parts on time. By way of response the North Korean foreign ministry on 13 July 2002 denied any such deadline or requirement of inspection. It charged that the US was to blame for years of delays to the project and that according to the original plans, the first reactor should be finished in 2003. The deal should be saved by agreeing to simultaneous action rather than demanding early inspection. (IHT 08-08, 14-08-02)

After being confronted with the data on its uranium enrichment facility in October 2002 (*see infra*) North Korea announced its intentions on withdrawal from the Nuclear Non-Proliferation Treaty (NPT), the expulsion of the IAEA inspectors and the restarting of the plutonium reprocessing facility that was frozen under the 1994 Agreed Framework. (IHT 18-10, 19-10-02, 13-01-03)

In view of the development of the situation, the US decided on 13 November 2002 (also by way of retaliation against the existence of the North Korean uranium enrichment program, *see infra*) to stop financing the monthly shipments of fuel oil to North Korea by the KEDO organization as part of the 1994 arrangement (*see* 5 Asian YIL 471 *et seq.*, 545 *et seq.*). (IHT 15-11-02) North Korea responded by declaring the 1994 agreement as having collapsed, accusing the US of destroying it. (IHT 22-11-02) More explicitly, it announced several weeks later, on 12 December 2002: “The prevailing situation compelled the DPRK government to lift its nuclear freeze adopted on the premise that 500,000 tons of heavy oil would be annually supplied to the DPRK under the DPRK-US Agreed Framework, and immediately resume the operation and construction of its nuclear facilities [referring to the Yongbyon facility, *see* 1 Asian YIL 336] to generate electricity”. Nevertheless, the announcement continued: “Whether the DPRK refreezes its nuclear facilities or not hinges upon the US. ... It is the invariable stand of the DPRK government to find a peaceful solution to the nuclear issue on the Korean Peninsula”. (IHT 13-12-02) Rather surprisingly, it was not until early November 2003 that the states members of KEDO (US, Japan, South Korea, and the EU) said they would formally announce the fate of the reactor project by some later date. It was said that there was no consensus in the US government whether or not to respond through abandoning the 1994 Accord, as this would imply lifting the North Korean obligation to freeze the spent fuel from its nuclear reactors. (IHT 06-11-03)

As a follow-up to its announcement of 12 December 2002 North Korea asked the IAEA to unseal the canisters containing the spent fuel rods, which were sealed and under IAEA supervision, and to remove the surveillance cameras. However, the IAEA showed no haste in either complying with the request or in withdrawing its inspectors, while the KEDO officials said that work on the construction of the two light-water reactors was going on as usual. (IHT 14/15-12-02) North Korea thereupon started itself to remove the UN monitoring equipment and seals. (IHT 23-12-02) On 27 December 2002 North Korea announced that it would expel the IAEA inspectors. (IHT 28/29-12-02)

The IAEA deplored the North Korean moves in a resolution of the IAEA governors in early January 2003, although granting it “a window of opportunity to reverse its decision”. (IHT 07-01-03) However, North Korea rejected the IAEA’s call to reconsider its withdrawal from the Non-Proliferation Treaty. The intention of withdrawal was, on the contrary, confirmed on 10 January 2003 (it was, however, later said by the North Korean side in mid-January 2003 that it could rejoin the treaty if its demands for changes in the IAEA’s inspection regime were met). Both China and South Korea stated their concern about the withdrawal. (IHT 07-01, 08-01, 11/12-01, 14-01-03)

Uranium enrichment facility

In early October 2002 the US confronted North Korea with intelligence data about the building of a *uranium enrichment* facility in violation of the Nuclear Non-Proliferation Treaty. It was suspected that North Korea had begun the programme to produce weapons-grade material from highly enriched uranium, which does not require

nuclear reactors (*see infra*). North Korea admitted that it had been conducting a nuclear energy development programme for the past several years by way of response to the US threat to its sovereignty implied in the latter's classification of North Korea as part of an "axis of evil", but denied the use of the uranium-enrichment method. It persisted in its denial despite the later admissions by the Pakistani scientist A.Q. Khan. (*see infra*) (IHT 18-10-02, 25-02-04)

It was reported in May 2004 that international inspectors had discovered evidence of North Korean supply of uranium to Libya in 2001, which would be the first case of a North Korean sale to another country of a key ingredient for manufacturing atomic weapons. (IHT 24-05-04)

Restart of nuclear programme and the issue of weapon production

In accordance with an earlier North Korean announcement to that effect (*see supra*) it was reported in late February 2003 that North Korea had restarted (on 4 February 2003) a reactor at its primary nuclear complex at Yongbyon (*see* 1 Asian YIL 336). The critical step would be the operating near the reactor of a "re-processor", which is used to convert spent nuclear fuel rods into bomb-grade ("enriched") plutonium. The reactor would be able to produce annually more or less the amount of spent fuel rods necessary for the production of one bomb.

Much confusion arose as to what stage North Korea had reached in its reprocessing efforts and whether it had proceeded with weapons production. In any case there was clarity about the reprocessing aspect when North Korea reported in July 2003 that it had reprocessed all of its spent nuclear fuel rods. (IHT 06-02, 28-02, 05-03, 02-05, 02-07, 14-07, 21-07-03) At the three-party talks in April 2003 (*see infra*) the North Korean delegate asserted for the first time unequivocally that North Korea already had nuclear weapons. However, as late as in early May, it was reported that the US intelligence officials seemed not yet able to ascertain whether North Korea had in fact already reprocessed enough spent nuclear fuel for weapon production and that, consequently, the US instead began to emphasize the prevention of North Korean exports of nuclear material to other countries. (IHT 06-05-03)

On 9 June 2003 North Korea for the first time referred to its need for a "nuclear deterrence". In a commentary published by the official news agency it was said that North Korea had "no other option but to have a nuclear deterrence" to counter the "hostile policy" of the US, including "its nuclear threat". (IHT 10-06-03)

On 2 October 2003 North Korea said (again) that it had completed reprocessing the 8,000 spent fuel rods which had been sealed under the 1994 agreement, while emphasizing that it had no intention of transferring any means of its nuclear deterrence to other countries. (IHT 03-10-03)

On 6 January 2004 a non-governmental group from the US, with the permission of the North Korean government, left for North Korea to visit the Yongbyon nuclear plant. In this context North Korea declared it had shown a "nuclear deterrent" to the unofficial delegation, but from the other side it was reported that the visitors had seen only the facilities to produce bomb fuel, and not an actual weapon. (IHT 3/4-01, 07-01, 12-01-04)

[During the interrogations of the Pakistani scientist A.Q. Khan (*see infra*: Pakistan) the latter divulged that he (being a metallurgist, not a weapon expert, by training) was once shown what he described as three nuclear “devices”. This would mark the first time that a foreigner reported seeing North Korean nuclear weapons. (IHT 14-04-04)]

North Korean and US positions; condition of non-aggression pact; the prospect of a peace treaty

In spite of the disclosure of the North Korean uranium enrichment facility and the North Korean reaction (*see supra*) the latter said on 25 October 2002 that it would be prepared to enter into negotiations about its nuclear programme, but only if the US signed a non-aggression pact. (IHT 28-10-02) With regard to this demand US officials said that a formal non-aggression treaty required ratification by the US Senate and this would be improbable to obtain. However, they did not rule out a less formal commitment, such as, for instance, a reaffirmation of the communiqué of October 2000 (10 Asian YIL 376) in which both sides vowed that they had no “hostile intent” towards the other. (IHT 08-01-03) [Some analysts noted that the US has historically avoided non-aggression pacts.]

The US on its part emphasized its not being prepared to engage in negotiations in the face of threats or broken commitments. Dissimilarly to the attitude of South Korea, the US favoured a policy of no bargaining and no new economic incentives until North Korea abandoned its nuclear programme. It was said that the US policy was one of increasing diplomatic pressure yet not squeezing North Korea further economically or militarily (“structured containment”, “tailored containment”).

Nevertheless, the US-Japanese-South Korean “Trilateral Coordination and Oversight Group” issued a joint statement expressing willingness to talk with North Korea about returning to compliance with nuclear safeguards, although without *quid pro quos*. This was rejected by North Korea. Meanwhile, unofficial talks took place on 9-10 January 2003 between North Korean diplomats and a former US ambassador to the UN. (IHT 04-11, 05-11-02, 02-01, 07-01, 08-01, 10-01, 11/12-01, 14-01-03)

Another shift in US policy was signalled on 14 January when the US president said that if North Korea disarmed, he would reconsider whether to restart a “bold initiative” that could include aid, energy assistance and security agreements, but this was again rejected by North Korea. (IHT 15-01, 16-01-03)

Among other developments, North Korea repeated its interest in a binding non-aggression treaty with the US in exchange for a willingness to prove that it did not make nuclear weapons. The description of North Korea by the US president in his State of the Union speech in late January 2003 as “an oppressive regime” ruling “a people living in fear and starvation” was classified by North Korea as an “undisguised declaration of aggression”. In view of a possible US move to impose sanctions there was a threat from the North Korean People’s Army that in such case it might abandon the 1953 armistice agreement (IHT 1/2-02, 19-02-03)

On the other hand the US president, while trying to involve China in resolving the stand-off, emphasized that “all options are on the table”, apparently not ruling out the use of force. This alternative was later expressed explicitly, while there were

reports in early March 2003 that the US had started sending long-range bombers to the island of Guam, within easy striking distance of North Korea. (IHT 8/9-02, 06-03-03)

As a consequence of the uncertainty about the progress made by North Korea in reprocessing its spent nuclear fuel and against the backdrop of the shifts of emphasis in its policy (*see supra*) the US set up a programme together with other states, including the UK, Japan, and Australia, under the name of “DPRK Illicit Activities Initiative” aimed at squeezing North Korea by applying interdiction and seizure techniques. In this context there was an announcement in September 2003 according to which ten joint military exercises would be held shortly in various parts of the world to train for intercepting shipments to and from countries suspected of having “illegal” arms programmes (*cf. infra*). (IHT 18-08, 19-08, 11-09-03)

On 13 August 2003 North Korea once again re-affirmed its standpoint, through a major policy announcement by its foreign ministry, by insisting that it would not give up its “nuclear deterrent force” “as long as the US insist[ed] on its hostile policy towards the DPRK”, and that it would consider giving up that policy only by a legally binding non-aggression treaty between North Korea and the US. It thereby rejected a collective security guarantee by whatever other participants in the six-party talks (*see infra*: Meetings). It further demanded the establishment of normal diplomatic relations with the US as an additional precondition. (JT 14-08-03) Furthermore, at the six-party talks in August 2003 (*see infra*) some statements by the North Korean delegate appeared to contain references to North Korea’s actual possession of nuclear weapons and its preparedness to test or to deliver them, but denied that his country was developing a uranium-based nuclear weapon.

At the same meeting the US showed a remarkable shift in its attitude, emphasizing that it had “no intention to invade and attack North Korea” nor “to work for regime change”. The US would be prepared to take a range of steps, from gradually easing sanctions to an eventual peace treaty, although phased in slowly as North Korea started surrendering its nuclear weapons, dismantling its facilities, and permitting inspectors. The principal change in approach was said to consist in the sequence of rewards, contrary to the previous absolute dismissal of any benefits for North Korea before the complete elimination of its entire nuclear infrastructure. (IHT 29-08, 05-09, 6/7-09-03)

The new US attitude was further elaborated when six weeks later, in October 2003, on the sidelines of the APEC summit meeting at Bangkok (*see supra*), the US and Chinese presidents discussed a new, if vague, US plan offering North Korea a five-nation commitment not to invade (but still ruling out the North Korean demand for a formal non-aggression treaty that would forbid the US to ever make a pre-emptive strike) if North Korea froze and dismantled its nuclear weapons programme. According to sources at the Japanese foreign ministry the US proposal included a kind of peace agreement to replace the 1953 truce accord between North Korea, the US, and China. (IHT 20-10-03; JT 06-11-03) In early December it was reported that the US had agreed with South Korea and Japan to a broadly worded set of principles, consisting of a “co-ordinated” set of steps in which five states would offer North Korea a security guarantee as it begins the verifiable disassembly of its nuclear

facilities. The statement of principles was submitted to China in order to be conveyed to North Korea. It was admitted that the offer was vague and would require inspections, although it was noteworthy that the plan avoided any reference either to the Non-Proliferation Treaty or to an IAEA role. It included no unilateral, explicit, renunciation of intent to punish North Korea economically or militarily, apparently in order to save the Proliferation Security Initiative (or: Illicit Activities Initiative, *see supra*). (IHT 09-12-03) North Korea rejected the US offer on 15 December 2003 on the grounds that it failed to allay fears of a US attack. (IHT 16-12-03)

North Korea on its part, during the August session of the six-party talks, unveiled a four-stage approach to end the stand-off, while again denying that it had a programme to enrich uranium for nuclear arms. Under the plan North Korea would declare an intent to abandon its nuclear weapons programme after the US had resumed oil supply shipments. In the second stage North Korea would accept inspection of its nuclear facilities after a non-aggression pact with the US was signed. In the third stage North Korea would settle issues relating to its missile development after the relations with the US and Japan would be normalized. In the final stage North Korea would abandon its nuclear weapons programme when the light-water reactors under the 1994 agreement were completed. (JT 29-08-03)

On 6 January 2004 North Korea offered to refrain from testing and producing nuclear weapons and to halt the operation of its nuclear power facilities. This would happen in exchange for its removal from the list of sponsors of terrorism; the lifting of political, economic, and military sanctions and blockades, and for the supply of heavy oil, power, and other energy resources. (IHT 3/4-01, 07-01-04)

Under pressure from the Asian participants in the six-party talks, the US presented a new proposal at the meeting in June 2004, essentially a revised edition of the earlier South Korean proposal, thus softening its hard-line stance. The US plan, resembling the earlier South Korean proposal (*see infra*: Attitudes of other countries), required full disclosure of the North Korean nuclear programme, submission to inspections, and the start of elimination of the programme after a preparatory period of three months. In exchange North Korea would receive heavy oil (contrary to the earlier US attitude), would be granted a provisional security guarantee by the US, and would see the lifting of some sanctions. The plan did not require the dismantling of the North Korean nuclear programme according to the precise formula of “complete, verifiable and irreversible dismantling” (CVID). From its side North Korea presented its demands with respect to the energy aid in exchange for the freezing of its nuclear programme. (IHT 24-06, 25-06-04)

Attitudes of other countries; non-nuclear status for the Korean Peninsula

A joint declaration by the *Chinese and Russian* presidents was issued in early December 2002 on the occasion of a visit by the Russian president to China. The declaration called on North Korea to abandon any programme to develop nuclear weapons. The parties “consider it important for the destiny of the world and security in Northeast Asia to preserve the non-nuclear status of the Korean Peninsula and the regime of non-proliferation of weapons of mass destruction.” The presidents also

emphasized the “extreme importance” of new talks between the US and North Korea, calling for a return to the 1994 agreement. (IHT 03-12-02)

On 20 January 2003 *Russia* presented a three-part plan to resolve the crisis. The plan involved guarantees of a nuclear-free status for the Korean Peninsula, written security guarantees for North Korea from the US, and a package of humanitarian and economic aid. (IHT 22-01-03)

The position of *China* was later formulated by its vice-president on the occasion of the second session of the six-party talks in August 2003, as follows: “China holds that the Korean Peninsula should be nuclear-free and reasonable security concerns of the Democratic People’s Republic of Korea should be addressed.” (IHT 27-08, 28-08-03) Contrary to the dismissive US attitude not only China, but also South Korea and even Australia urged the US to enter into direct bilateral talks with North Korea. (IHT 25-02-03)

One day after the Iraq War started the *European Union* issued a declaration stating that the EU “[stood] ready to look into the possibilities of enhancing cooperation with North Korea if the present crisis can be resolved in a satisfactory manner.” The European Council planned to convene a ministerial meeting on the matter and asked South Korea and Japan to participate. (IHT 22/23-03-03)

At the February 2003 session of the six-country talks (*see infra*) *South Korea* proposed a three-step plan to the six-party negotiations for North Korea to freeze and eventually dismantle the whole of its nuclear programme. Under the first phase North Korea would declare its willingness to give up its nuclear programmes, and the US and its allies would offer a verbal security guarantee. The second phase would involve North Korea initiating the freeze, followed by “corresponding measures” from the other five countries. In a third phase, North Korea would dismantle its nuclear programmes in a verifiable and irreversible manner, while the others would offer unelaborated further measures. The US consent represented a partial retreat from its initial stand of not rewarding North Korea for simply freezing its nuclear programme. However, it was reported that while China and Russia would join South Korea in providing energy aid to North Korea when the latter agreed to freeze its programme, the US (and possibly Japan) would not participate in such aid. (IHT 24-02, 25-02, 26-02, 27-02-04)

Meetings

While refusing bilateral talks with North Korea, the US on 15 April 2003 approved a plan of six-party talks including South Korea, China, Japan, and Russia (instead of the earlier four-party talks with North Korea, South Korea, China, and the US); the US was prepared even to begin negotiations with North Korea, with only China sitting in as a full participant. These meetings would thus be neither strictly bilateral nor multilateral (*cf.* Asian YIL Vol.6: 423, Vol.7: 417, Vol.8: 262, Vol.9: 392, Vol.10: 376, and *supra*). The meeting was scheduled for 23–25 April 2003 at Beijing. It was the first official meeting of North Korea and the US since the visit by a US envoy to North Korea in October 2002 (*see supra*) (IHT 17-04-03) and represented a shift from the earlier US complete rejection of talks before North Korea had started dismantling its facilities. The US entered the discussions with the

objective of not settling for another freeze of North Korea's nuclear programme, but insisting on the dismantling of both of its nuclear weapons projects as part of any larger agreement. (IHT 18-04-03)

The meeting ended a day early on 24 April, with all three parties having presented their point of view. (IHT 25-04-03) North Korea offered a plan that could lead to the dissolution of its nuclear weapons programme, in return for a number of demands. Among these were the normalization of relations with the US, and economic assistance. North Korea also offered to suspend ballistic missile tests and to stop missile exports if the US offered "credible security assurances". The offer was a step-by-step package with, at the end of the process, the dismantling of nuclear weapons. The Chinese side confirmed the North Korean offer. On 29 April the North Korean offer was rejected by the US on grounds that the US "[would] not reward North Korea for bad behaviour".

It seemed that the talks broke down after the North Korean delegate had asserted that North Korea already possessed nuclear weapons (IHT 26/27-04, 29-04, 30-04-03)

China in July 2003 proposed new multilateral negotiations in an effort to end the stand-off that had existed since the trilateral talks in April 2003. It was supposed that within the context of a multilateral meeting, bilateral talks could take place on the sidelines. (IHT 16-07-03) North Korea reacted favourably to the idea, yet even before the meeting started in late August there was disagreement. It arose when the US insisted on forming a new, multilateral inspection team to visit the North Korean nuclear facilities; North Korea rejected any early inspection. Yet the US on its part was reported to be considering some conciliatory steps, and South Korea promised economic assistance if North Korea ended its suspected nuclear weapons programme.

The six-party talks were resumed from 27 to 29 August, with US and North Korean delegates meeting on the sidelines of the formal discussions, thus breaking a freeze on direct dialogue. However, Chinese efforts to have the meeting issue a multi-party declaration that would provide a framework for future negotiations failed. (IHT 15-08, 16/17-08, 21-08, 27-08, 28-08-03; JT 02-08, 14-08-03)

While the Chinese announced that the six parties agreed to reconvene within two months, North Korea said that it saw no purpose in continuing the talks, and that it had no choice but to strengthen its nuclear deterrent. However, it said in late October that it was ready to enter a new round of negotiations "if they provide a process of putting into practice the proposal for a package solution based on the principle of simultaneous actions". (IHT 30/31-08, 01-09, 31-10-03)

The six-country talks were reconvened on 25 February 2004 (IHT 24-02, 25-02, 26-02, 27-02-04) and again in June 2004.

IAEA and UN involvement

The issue of the North Korean nuclear programme was discussed in an emergency meeting of the IAEA board of governors that on 12 February 2003 declared North Korea officially in "non-compliance" with the applicable safeguards agreement the matter was referred to the UN Security Council. The IAEA declared that it "remain[ed] unable to verify that there [had] been no diversion of nuclear material"

for weapons use. The US was said it would seek a UN resolution condemning North Korea, although it would not press for sanctions. (IHT 13-02-03)

The UN Security Council met on 8 April 2003 to discuss the North Korea issue; it failed to agree on a statement condemning North Korea's nuclear programme, due to opposition from China. The latter said it did not want the Security Council to be involved in its efforts to bring the US and North Korea together (*see supra*). The Council met the following day to discuss the North Korean withdrawal from the Nuclear Non-Proliferation Treaty announced on 10 January and which would take effect on 10 April, but the Council failed to agree on a statement. (IHT 09-04, 10-04-03)

Pakistan

According to US Department of Energy and CIA reports dating from 1999 and 2001, Pakistan had since 1998 been supplying enrichment technology to North Korea in exchange for missiles and missile technology (which allegation was at the time denied by Pakistan). This cooperation was, however, reportedly halted after the coming to power in Pakistan of General Pervez Musharraf in 1999. (IHT 25-11-02, 21-04-03)

In 2003 evidence was found of a role played by the Pakistani *A.Q. Khan Research Laboratories* in the development of technology that enabled Iran, in around 1987, to pursue an uranium enrichment programme. Similar circumstances appeared to have been the case with the development of nuclear technology in Libya, which agreed on 19 December 2003, under Western pressure, to dismantle its nuclear programme.

The Pakistani assistance to the Iranian, North Korean and Libyan efforts over the past fifteen years in the form of designs and technology for the production of nuclear fuel was confirmed in the written confession of late January or early February 2004 by the founder of Pakistan's nuclear weapons programme, A.Q. Khan. (IHT 05-01, 07-01, 03-02-04)

[The IAEA director general contended in 2004 that the (Non-Proliferation Treaty) system put in place (in 1970) to contain nuclear weapons technology had ruptured and could no longer control the nuclear trade. He proposed revising the current system by placing under multilateral control any facility that can manufacture fissile material.

The biggest hurdle in making a nuclear weapon seems no longer to be the designing of the warhead, but obtaining the fuel to create an atomic explosion. One method is to extract plutonium from (spent fuel from) nuclear reactors and reprocess it to produce more fuel: the creation of a fuel cycle. The other method is to extract uranium then enrich it, such as by way of centrifugation. A gaseous form of natural uranium is thus separated into U-238, a heavy isotope, and U-235, a light one (highly enriched uranium) which can be split to release nuclear energy. (IHT 05-01-04)]

Japanese nuclear waste

A freighter carrying reprocessed Japanese waste left Cherbourg in France on 19 January 2004 for Japan. The waste, processed from spent nuclear fuel from Japanese nuclear reactors, would be put in a long-term (30-50 year) storage facility in Rokkes-

ho, Japan. The shipment was the ninth of its kind (cf. Asian YIL Vol.2: 357-358, Vol.3: 428, Vol.5: 476, Vol.7: 467). (JT 21-01-04)

OIL AND GAS

See also: Exclusive economic zone; Inter-state relations: East Timor – Australia

China – Australia

Agreement was reached in early August 2002 for the annual supply of 3.3 million metric tons of liquefied natural gas (worth \$11 to 13 billion) over the next 25 years from Australian fields to China. The Chinese made this choice in preference to supply from Indonesia. In late October 2003 the two sides signed a letter of intent for a \$21 billion deal, affirming both the gas supply concerned and a commitment for the China National Offshore Oil Corporation to take an equity stake in an Australian natural gas field. (IHT 09-08, 06-11-02, 25/26-10-03)

China – Indonesia

On 26 September 2002 the China National Offshore Oil Corporation (CNOOC) signed a long-term 25-year contract with Indonesia for the annual supply of up to 2.6 million metric tons of liquid natural gas from the Tangguh fields in the Indonesian province of Papua. The Chinese company also committed itself to investing in the development of the Tangguh gas fields by taking a 12.5 per cent stake in the existing group of mainly British and Japanese companies.

CNOOC also became the largest producer of oil from the seabed in Indonesia by buying the Indonesian assets of the Spanish oil company Repsol-YPF in January 2002.

Other investment pledges were made besides, such as in a preliminary accord between Petrochina Co. and the Indonesian state gas company for the construction of a gas pipeline linking Kalimantan (Borneo) and Java. (IHT 06-11-02)

China – Kazakhstan

Oil companies from China and Kazakhstan signed an agreement to build a pipeline to deliver Central Asian oil to the Xinjiang region in China. (IHT 19-05-04)

China / Japan – Russia

Russia and China agreed in September 2001 to study a project relating to a 1,400-mile pipeline that would carry Russian oil from Siberia to Daqing in north-eastern China. The project was, among other topics, a subject of discussion during a visit by the Russian president to China in early December 2002. (IHT 03-12-02)

Meanwhile, there were competing Japanese efforts to have the pipeline laid to Nakhodka on the coast of the Sea of Japan, at one-day's tanker cruise distance from Japan. (IHT 3/4-01-04) The two options were a 2,400-kilometre extension of an existing network, from Angarsk, near Irkutsk, to Daqing, or a 3,800-kilometre pipeline to Nakhodka, circumventing China.

It was reported in March 2004 that amid competing preferences among Russian circles the Russian ministry was considering a combined project, consisting of a pipeline from Angarsk to Daqing, but with a branch and extension to Nakhodka, running entirely through Russian territory. In late April 2004 the government announced its decision to back the (cheaper) plan of building a pipeline to Daqing. (AT 02-04, 03-05-04; IHT 22-04-04)

East Timor – Australia

Prior to East Timor's separation from Indonesia the seabed boundaries between Indonesia and Australia were regulated by a 1972 treaty, with the exception of a stretch of seabed on which the parties could not reach agreement and which was left undelimited; it was named the "Timor Gap". The apportionment of oil and gas reserves from this sea area was covered by a 1989 "Timor Gap Treaty" between Indonesia and Australia, providing for a three-area "Zone of Cooperation" (ZOC), with parts (Areas B and C) under Indonesian and Australian administration respectively, and a joint development zone (Area A).

East Timor had been insisting on a revision of the maritime borders as drawn by the 1972 treaty and replace it by a delineation treaty in accordance with principles (such as the equidistance rule) contained in the Third UN Convention on the Law of the Sea. This was refused by Australia, and in 2002 Australia withdrew its acceptance of the compulsory jurisdiction of the International Court of Justice in matters of maritime boundaries. Instead, the two countries concluded a Timor Sea Treaty (TST) in May 2002 (*see* 10 Asian YIL 387), which maintained the 1989 joint development zone under the name of "Joint Petroleum Development Area" (JPDA), with 90 per cent of its revenues (deriving from, *inter alia*, the Bayu Undan field) accruing to East Timor. The treaty is concluded for a 30-year period or until such time as final maritime boundaries are achieved.

The two countries, furthermore, concluded a so-called *International Unitisation Agreement* (IUA) relating to oil and gas fields outside the joint development zone (including, especially, the *Greater Sunrise* field, of which not more than twenty per cent is located within the JPDA and which straddles the eastern lateral boundary of the JPDA) which, under the Timor Gap Treaty (and also under the TST), accrued to Australia, but most of which would fall to East Timor under a revised boundary treaty according to the new law of the sea.

East Timor on 6 March 2003 approved the IUA under which it ceded 79.9 per cent of the *Greater Sunrise* oil and gas field to Australia. By way of response Australia ratified the TST. This ratification was necessary for the renewal of commercial contracts concerned and for the actual extraction of gas from the *Bayu Undan* gas field to start, the royalties of which were vital for East Timor.

The disagreement on the continuation or the revision of the Timor Gap Treaty erupted again late 2003 in connection with the issue of the sharing of royalties from the exploitation of yet another field.

India – Iran

The two countries concluded long-term gas and oil agreements on 13 May 2003 under which Iran would supply India with, *inter alia*, liquid natural gas (LNG) for 25 years. The gas agreement provided for “cooperation, exchange of experience in the field of compressed natural gas (CNG) production and reconstruction of refineries”. (ATol 22-05-03)

Iran – Japan agreement

It was reported that after years of negotiations between Iran and Japan on a two-billion-dollar agreement for the development of the Azadegan oil field, an agreement was finally concluded in February 2004. This was achieved when Iran granted a Japanese consortium rights to develop the oil field for twelve-and-a-half years with a 75 per cent stake, and despite US pressure on Japan to give up the deal, in view of alleged Iranian nuclear development programmes and the alleged Iranian “support for violent groups”. (JT 20-02-04)

ORGANIZATION OF THE ISLAMIC CONFERENCE (OIC)

Tenth summit conference

The tenth session of the Islamic Summit Conference was held at Putera Jaya, Malaysia, from 16 to 18 October 2003. [Of the 57 member countries, 27 were African, 14 were West, Central and South-west Asian and Middle East countries, 13 were otherwise Asian, two were South American, and one was European.]

The Conference on 17 October 2003 adopted the “*Putrajaya Declaration on Knowledge and Morality for the Unity, Dignity and Progress of the Ummah*”.

PEACEFUL SETTLEMENT OF DISPUTES

See: Territorial claims and disputes

PIRACY

According to IMO data 24 acts of piracy had occurred in 2002 in the Strait of Malacca, 112 in the South China Sea, and 46 in the Indian Ocean. Seventy-nine per cent occurred at seaports and only 21 per cent at sea.

RECOGNITION

See also: Inter-state relations: China-India

Status of Iraqi embassy

The Indonesian foreign ministry stated in early August 2003 that Indonesia still recognized the Iraqi embassy as such in spite of the fall of the administration of

president Saddam Hussein. The ministry's spokesman said, *inter alia*: "The status of a country's embassy depends on the situation in the country concerned. ... If the new administration [in Iraq] is fully supported by the people, Indonesia and other countries will certainly recognize it." The ambassador had, however, already left Indonesia.

It was reported that a similar issue had arisen with regard to the Iraqi ambassador in China following a recall by the post-war provisional government in Iraq and a US request to China for the ambassador's deportation. (Antara 05-08-03)

REFUGEES

Afghan refugees in Iran

Iran announced that it would require tens of thousands of refugees to return to Afghanistan by 27 August 2002, namely, those who had not taken part in the census of immigrants that had begun a year before. The government contended that while nearly 2.6 million Afghans had taken part, there were at least 250,000 who had refused to do so. The flow of Afghan refugees had already started even before the US-led campaign to oust the Taleban. The displaced Afghans were considered by the Iranian government to be immigrants, not refugees. The Office of the UN High Commissioner of Refugees claimed a right to review of those whom Iran wanted to expel, based on an agreement between the High Commissioner and Iran. (IHT 16-08-02)

Tibetan refugees in Nepal

Nepal on 30 May 2003 handed over to the Chinese authorities eighteen Tibetan refugees who had entered Nepal illegally from the Tibetan region of China. The US reacted by filing a protest note "deploring" the incident.

Over the years since 1959, Tibetans who had sought asylum in Nepal had been handed over to the UNHCR as "persons of concern". They would then be relocated to India (in the Tibetan settlement at Dharamsala) by the UNHCR under a programme paid for by the US. The UNHCR, it was said, acted for all practical purposes on behalf of the US.

The new Nepalese policy meant that Nepal had accepted the Chinese claim that Tibetans are in fact Chinese nationals and that in the event of unlawful border crossing, they must be handed over to China. It was believed that this happened with Indian compliance. (ATol 17-06-03)

North Korean refugees in embassy premises; "persons of concern"

According to news reports in early September 2002, groups of North Korean refugees rushed the fence of a diplomatic compound in Beijing despite attempts by police officers on guard to prevent them from entering the buildings. (IHT 03-09, 04-09-02)

On 31 July 2003 ten North Korean nationals entered the Japanese embassy in Bangkok. They had entered the country illegally, but Thailand was unable to deport

them since the UNHCR had recognized them as “persons of concern”. The position of the UNHCR is that “persons of concern” should not be forced or pressured into returning to their country of origin against their will. The Thai government had consequently granted permission to them to remain in Thailand for the time being.

Although the persons initially asked for entry into Japan, they were persuaded to go to South Korea instead, as the South Korean foreign ministry stated that they would be granted entry. They finally left Bangkok for South Korea on 23 August 2003. (JT 01-08, 02-08, 04-08-03; Kompas 01-08-03, JP 23-08-03)

REGIONAL SECURITY

See also: Asia-Pacific Economic Cooperation Forum

US role in preserving Southeast Asian security

At a three-day conference on Asian security held in early June 2004 in Singapore, the Malaysian defence minister refused US “troops or assets” to set foot in the Strait of Malacca, since their use would fuel Muslim fanaticism and would harm the ideological battle against extremism and militancy in the countries concerned.. Yet he advocated an expansion of anti-terrorism efforts with the US in areas such as the sharing of intelligence, and cooperation in destroying the financial and logistical networks of terrorist groups.

The US was pursuing a “Regional Maritime Security Initiative” for the region, including the interception of ships carrying suspicious cargo. Several US allies, including Japan, South Korea, and Australia, were prepared to step up military plans for improving regional security (*cf. supra*). (IHT 07-06-04, www.globalsecurity.org, www.pacom.mil)

RIVERS

Network of Asian River Basin Organization (NARBO)

The organization, having as its purpose the promotion of integrated, especially river, water resources management (IWRM) in monsoon areas of Asia, was founded by sixteen Asian countries in February 2004. It is particularly aimed at the exchange of information. (Antara 25-02-04, NARBO Charter at www.narbo.jp)

SANCTIONS

See also: Embargo; Inter-state relations: China-US, Japan-Myanmar, Japan-North Korea; Missile technology; Nuclear energy matters

US sanctions against China

The US decided to impose sanctions on nine Chinese companies for three cases of the sale to Iran between September 2000 and October 2001 of advanced conventional arms, and of chemical and biological weapon components. The subjects

of the sanctions would be barred from doing business with the US government or US companies. It was the fourth time since September 2001 that Chinese companies had been the subject of sanctions for such sales. (IHT 23-07-02)

US sanctions against North Korea

In spite of more positive signals concerning US relations with North Korea (*see supra*), the US imposed sanctions against North Korea after concluding that it had sold Scud missile components to Yemen before 2001. The sanctions were based on a Helms-amendment to the US Arms Export Control Act relating to non-market economies. (IHT 24/25-08-02)

Japanese sanctions against Myanmar

Japan cut all official development assistance immediately after the government of Myanmar had on 30 May 2003 arrested Aung San Suu Kyi.

Japanese sanctions against North Korea

The Japanese parliament passed a bill on 9 February 2004 allowing Japan unilaterally to impose economic sanctions on North Korea. The legislation consists of an amendment to the Foreign Exchange and Foreign Trade Control Law. The preceding law prevented Japan from, *inter alia*, halting cash remittances to North Korea without mandate from an international agreement or a UN resolution. The revised law enables Japan to do so and, besides, to restrict investments in North Korea, to freeze assets, and to introduce import and export restrictions on its own if the government deems it necessary so to do in order to maintain peace and security. (JT 24-01, 27-01, 30-01, 10-02-04)

SHANGHAI COOPERATION ORGANIZATION

Developments

The 1996 “Agreement on deepening military trust in border regions” between China, Russia, Kazakhstan, Tajikistan and Kyrgyzstan (see 6 Asian YIL 347, 406) and that of 1997 between the same states “on reduction of military forces in border regions” gave rise to annual summit meetings under the appellation of “*Shanghai Five*” or “*Shanghai Forum*”. In 2001 Uzbekistan was included; the scope of the gathering (not exclusively summit meetings) was extended from strengthening trust in border regions to cooperation in the fields of politics, security (“three evils”: terrorism, separatism, extremism), and economics.

At the fifth anniversary of the grouping in June 2001 it was decided to lift the mechanism to a higher level, for which purpose the parties adopted a “*Declaration on the establishment of a Shanghai Cooperation Organization*” (SCO, text in www.sinomania.com). The same meeting adopted the “*Shanghai Convention on fight against terrorism, separatism and extremism*” (three months before the attacks in the US on 11 September) (see 10 Asian YIL 362).

During their second meeting on 7 June 2002 the SCO heads of state adopted a Charter for the organization, of which the final version was formally approved at the third SCO Summit at Moscow on 29 May 2003. The first budget (2004) was approved at the next summit meeting on 19 September 2003, when the organization also established its headquarters in Beijing and set up a regional anti-terrorism centre ("Regional Anti-Terrorism Structure") at Bishkek. The first summit meeting of the official SCO Council of Heads of State took place in June 2004 at Tashkent. The meeting was attended by the president of the transitional government of Afghanistan and the envoy of the president of Mongolia. (ATol 24-05-03, IHT 24-09-03, www.sectsc.org)

SOUTH ASIA ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

Summit meeting 2004

The organization held its twelfth Summit at Islamabad in early January 2004. The meeting saw the signing of a Social Charter for South Asia, a Framework Agreement establishing a South Asia Free Trade Area (SAFTA), and an Additional Protocol on the Suppression of Terrorism. (IHT 3/4-01-04, *SAARC News* Jan-Mar 2004, www.saarc-sec.org.)

SPECIAL TERRITORIES WITHIN A STATE: KASHMIR

See also: Inter-state relations: India-Pakistan

Lessening of tensions

India announced on 16 October 2002 that it would withdraw some of its troops deployed on its border with Pakistan in December 2001 because of the tensions resulting from the attack on the Indian Parliament of 13 December 2001 (*see* 10 Asian YIL 393). However, the Defence Minister ruled out any resumption of dialogue "until cross-border terrorism stops completely".

De-escalation of the tension had already started earlier with the withdrawal in May 2002 of Indian warships from forward locations in the Arabian Sea, and the lifting of a ban on Pakistani planes flying over Indian territory.

In response to the Indian move Pakistan announced the following day that it would similarly withdraw its forces from its border with India to peacetime locations. (IHT 17-10, 18-10-02)

TERRITORIAL CLAIMS AND DISPUTES

See also: Association of South East Asian Nations; Inter-state relations: Cambodia-Thailand, China-India, Japan-Russia

Malaysia – Singapore: Batu Puteh / Pedra Branca Island

The two countries were involved in a territorial dispute concerning the Island of *Batu Puteh* (or: *Pedra Branca*), fifteen kilometres off the coast of Johor (the most southern state of the West-Malaysian peninsula), and the waters around it. Singapore based its claim on occupation and the exercise of sovereignty by itself and its predecessors since the 1840s, including the administration of the “Horsburgh” Lighthouse on the island. This sovereignty was never challenged until 1979, when Malaysia put forward its claim on the premise that the Johor Sultanate had exercised complete jurisdiction and sovereignty over the island from 1513. Malaysia also claims support from the 1824 Anglo-Dutch treaty which drew a line dividing the respective spheres of influence on either side of the Straits of Malacca and south of Singapore, placing the island within the British sphere of influence and within the territory of Johor.

In late 2002 Malaysia accused Singapore of putting up structures, while the two parties had agreed in principle in 1998 to refer the dispute to the International Court of Justice. In early January 2003 Malaysia through its foreign minister claimed a right to conduct surveillance in the area around the island because it considered these waters part of its territory (ST 23-12-02, 06-01-03)

On 24 July 2003 the two countries jointly, by Special Agreement, submitted their dispute concerning sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge to the International Court of Justice.

Japan – South Korea: Takeshima / Tokdo Islands

South Korea had issued postage stamps featuring the disputed islands of Tokdo (Korean) or Takeshima (Japan) (see Asian YIL Vol.6: 460, Vol.7: 482).

Japan protested over the issuance and its foreign minister said that the Japanese government would notify members of the Universal Postal Union that South Korea’s move was against the spirit of the Organization. The notification was later followed by a statement of 26 February 2004 claiming that South Korea was guilty of reproachable behaviour by going ahead with production of the stamps and that this would harm friendly bilateral relations while having no impact on the Japanese view of the islands.

South Korea rejected the Japanese protest. It sent a statement to the hundred and ninety UPU member states, claiming that the Japanese protest violated the South Korean right to sovereignty.

North Korea later also issued similar postage stamps featuring the islands in question. (JT 17-01, 01-03, 19-04-04)

China – Japan: Diaoyu / Senkaku Islands

Chinese activists approached the islands by boat on 24 March 2004 and seven persons landed, despite warnings from the Japanese coast guard to leave. They were the first Chinese activists to land on the main island since October 1996 (see Asian YIL Vol.2: 377, Vol.4: 516, Vol.7: 479). They were arrested by the Okinawa Prefectural Police for violating Japanese immigration rules and deported on 26 March.

Not long afterwards Japanese activists in early April 2004 planned similarly to go to the islands, but the coast guard said it would prevent them from leaving their port of departure at Ishigaki. (JT 25-03, 26-03, 27-03, 08-04-04)

Spratly Islands

See: Association of South East Asian Nations

TERRORISM

See also: Asia-Pacific Economic Cooperation; Association of South East Asian Nations; Central Asia; Dissidents; Embargo; Insurgents; Inter-state relations: Asia-Australia, India-Israel, India-Pakistan, Iran-US, Thailand-US; Judicial assistance; Military cooperation: Indonesia-US; Regional security; Shanghai Cooperation Organization

Liberation Tigers of Tamil Eelam

The organization which had since the early 1980s led a Tamil insurgence in Sri Lanka (*see supra*) was listed as a terrorist organization by the US, the UK, and Malaysia. It was also banned by India; after the 11 September 2001 attack in the US, Canada and Australia curtailed the activities of groups linked to the Tigers in those countries. (IHT 23-07-02)

East Turkestan Islamic Movement

As a counter-gesture to the Chinese regulation on the restriction of missile exports (*see supra*) the US announced on 26 August 2002 that it had listed the East Turkestan Islamic Movement, a grouping of Uighur Muslims in China, as a terrorist organization. The group was seen by China as being linked to Al Qaeda, with members being trained in Afghanistan. (IHT 27-08-02)

Permissibility of use of force

In connection with a controversial CIA-led missile strike early November 2002 against suspected Al-Qaeda members in Yemen, the US State Department coordinator for counter-terrorism said that such strikes were “legal and necessary” and that the US would keep its options open in launching a similar strike against terror groups in Southeast Asia. In the Yemeni case a missile was launched from a remote-controlled CIA “Predator” aircraft as the suspected persons rode in a vehicle. Under US law assassination is banned by a presidential executive order. (Straits Times 11-11-02)

Mujahidin Khalq

See also: Iraq War

Mujahidin Khalq, the main armed Iranian opposition group, was formed in the 1960s and expelled from Iran after the Islamic Revolution in 1979. Its primary financial support came from the Iraqi government, but it was also supported by

political circles in Europe and the US. It had its principal base within Iraq and had been carrying out cross-border attacks in Iran, while Iranian forces occasionally carried out attacks against them on Iraqi territory. It was labelled a terrorist organization by the US in 1997. At the time, this was widely interpreted as a goodwill gesture to the Iranian government.

On 16 April 2003 US forces which were part of the so-called Coalition Forces in Iraq bombed Mujahidin Khalq bases. The underlying reasons of this specific case of military activity were unclear. Meanwhile, it was believed that US officials had met Iranian officials in the months before the Iraq War to urge Iran to maintain its neutrality. (IHT 17-04-03)

Thailand – US

See: Inter-state relations

TREATIES (LAW ON)

See also: Inter-state relations: Japan-Russia

Publicity of international treaties

Negotiations between Japan and Qatar for a Status of Forces Agreement (to cover Japanese military forces to be dispatched to Qatar to support the Japanese military contingent in Iraq) broke down in October 2003 as Qatar wished to keep the contents of the agreement confidential. The Japanese foreign ministry said there was no precedent for Japan to conclude with a foreign country an agreement the details of which could not be revealed. (JT 25-11-03)

UNITED NATIONS

Asian nomination for Security Council seat

See also: Inter-state relations: Japan-Russia

The 53-member Asian group in the UN on 24 October 2003 chose Japan as its candidate for a non-permanent seat on the UN Security Council for 2005-2006, succeeding Pakistan. There were no other countries intended to run for the annual one-seat quota for Asia. It would be Japan's ninth appointment as a non-permanent member on the Council.

The Asia Group holds two of the ten non-permanent seats; one of the two Asia seats is replaced every year. (The non-permanent seats are allocated to three countries in Africa, two in Asia, two in Latin America, two in "western Europe and others", and one in eastern Europe.) (JT 27-10-03)

Japanese contribution to UN budget

It was reported in early 2003 that Japan considered cutting the size of its contribution to the UN. Japan's gross domestic product accounted for 14.4 per cent of the global economy, yet Japan paid 19.5 per cent of the UN budget (past its peak of 20.5 per cent in 2000), or almost \$1 billion a year, more than the combined payments of four out of five of the permanent members of the UN Security Council. [See 5 Asian YIL 502-503 for table on status of Asian contributions to the UN regular budget for 1995, when Japan was listed at 13.95 per cent.] (IHT 22-01-03)

UNIVERSAL POSTAL UNION

See: Territorial claims and disputes

USE OF FORCE, DOCTRINE OF PRE-EMPTIVE STRIKE

See: Embargo; Inter-state relations: Asia-Australia, Japan-North Korea, South Korea-US; Iraq war; Japan's military role; Terrorism

VIETNAM WAR

Explosives left over from the war

A group of American veterans, the "*Vietnam Veterans of America Foundation*", organized the first survey of unexploded bombs and other explosives still littering Vietnam. An agreement with the Vietnamese authorities for the purpose was signed in February 2004. The US government endorsed the efforts and would underwrite much of the survey. (IHT 23-02-04)

WAR AND NEUTRALITY

See also: Iraq war; World War II

Iran affected by the Iraq War

On 22 March 2003 a US cruise missile, presumably aimed at the Iraqi port of Basra, missed its target and hit the nearby Iranian port of Abadan. Iran filed a protest against the incident, in which two Iranians were killed.

In order to prevent Iraqi military personnel seeking shelter across the border, Iran decided to close its borders although declaring its readiness to help Iraqi refugees fleeing war-affected areas. (ATol 25-03-03)

WEAPONS

See: Nuclear energy matters, World War II

WORLD TRADE ORGANIZATION

Iranian membership

Iran's application for accession dated from 1996; it was backed by the EU and many other countries, but had always been barred by Israel and the US who accused Iran of supporting terrorist groups and building nuclear weapons. (IHT 12-02-04)

Japanese complaint over anti-dumping

The WTO issued a final report of a dispute settlement panel on 14 August 2003 rejecting a Japanese claim that US anti-dumping duties on corrosion-resistant carbon steel flat products violated WTO rules. (JT 16-08-03)

WORLD WAR II

See also: Inter-state relations: Japan-North Korea

Germ warfare conducted by Japan

A Japanese District Court ruled on 27 August 2002 that Japan did conduct germ warfare during the Second World War, contrary to the applicable law on warfare and contradicting insistence by the government that there was no proof to support the claim. It was considered proven that, in particular, the Japanese army, "under the order of the Imperial Japanese Army's headquarters" had spread fleas infected with bubonic plague over the Chinese countryside and had infected food with cholera. Nevertheless, the court dismissed the claim of wartime victims for compensation from the Japanese state, thus following a familiar pattern of Japanese case law. The court held the opinion that "no international law that enables individuals to sue for war damages was established at the time or has been now".

It was revealed in 1981 that after the war the US made a secret deal with Japan to exclude the accusations of biological warfare from the Tokyo war crimes trials in return for the acquisition of the reports on the results of the experiments. The Soviet Union tried a number of captured members of the military unit ("Unit 731") in question, but their testimony was dismissed by the US as Cold War propaganda. (IHT 28-08-02)

Abandoned chemical weapons

A Japanese investigation in August 2003 in a city in north-eastern China revealed that the sickness of tens of people had been caused by chemical weapons abandoned there by Japanese troops at the end of World War II. The Japanese foreign ministry expressed its sympathy to the victims and offered apologies.

Japan had acknowledged that it had left (700,000 according to Japanese estimates, and two million according to Chinese estimates) chemical weapons behind in China, and under a Sino-Japanese Memorandum of Understanding of 1999 it has been looking for and disposing of such armaments in accordance with the 1997 Chemical Weapons Convention. (IHT 14-08-03; JT 14-08, 19-08, 04-09-03)

Claim for compensation for leakage of poisonous gas

The municipal government of a town in the Chinese province of Heilongjiang asked Japan in early August 2003 for compensation for expenses resulting from a leakage of poisonous gas from chemical weapons buried by the Japanese army during the war. The expenses related to the disinfecting of affected areas, medical treatment of and disability payments to victims, and damages resulting from the suspension of construction work in the area. Although China had given up claims to wartime reparations there was a possibility that Japan would consider the case differently as the damage had occurred just recently. (JT 19-08-03)

When one of the victims later died, the Chinese government demanded compensation, while the Japanese government expressed its condolences. The position of Japan was, however, not to comply with such demands because of China's waiver (*see supra*) of claims to wartime reparations when the two countries normalized their relations in 1972. (JT 23-08-03)

It was reported that Japan was nevertheless prepared to pay 100 million Yen to cover hospital fees and to provide a token of sympathy. Consequently, the compensation issue became the subject of negotiations both on the amount and in view of the Japanese reference to the 1972 Joint Communiqué provision referred to earlier. In October 2003 a settlement was reached by payment of 300 million Yen to China by way of "fees for operations to dispose of abandoned chemical weapons", while China committed itself to "appropriately distribute" the funds to the victims and their families. (JT 20-10-03)

The Japanese government's insistence on the 1972 arrangement was also caused by its wariness of possible inconsistency with its attitude at a different front, *viz.* in a court case instituted by residents of Heilongjiang Province before the *Tokyo District Court*, demanding compensation for damage to their health caused by alleged injurious poisonous gas leaks. The Court dismissed the claim in May 2003, ruling that it was difficult for Japan to survey and collect poisonous gas by the time of the exposure to the abandoned chemical weapons. The claimants appealed against the decision. (JT 15-09-03)

Meanwhile, however, the same *Tokyo District Court* had given a decision in 1996 in a similar case filed by thirteen other Chinese victims in 1996 relating to three incidents in Heilongjiang Province in 1974, 1982 and 1995, in which the Japanese state was, for the first time, convicted and ordered to pay compensation. The Court said the (Japanese) government could have predicted the dangers if it had examined documents left by the military or asked for information from former soldiers who had returned from China, and that the government could have prevented the accidents by providing China with relevant information or by offering to search for and recover the weapons. With regard to the argument of China's renunciation of war reparation the Court held, *inter alia*: "What is at question is the government's inaction, which has continued after each incident since the Joint Communiqué. As this inaction was not a wartime act, the plaintiffs retain the right to claim damages." The Court also rejected the applicability of the 20-year statute of limitations to the 1974 incident as such application in the case in question "runs against the principle of justice and fairness". (JT 30-09-03)

Forced labourers

The US Supreme Court on 6 October 2003 turned down appeals in four cases concerning persons who had claimed compensation from Japanese companies for being forced to work for these companies during World War II. The plaintiffs included Chinese, Korean, and Philippine nationals. The lawsuits were filed under a 1999 California State law entitling former prisoners of war to file lawsuits over their suffering. The Supreme Court rejected the appeals and upheld an earlier Appeals Court ruling that treaties to which the US were a party barred the plaintiffs from bringing the lawsuits, thus supporting the Japanese rejection of comparable demands on grounds of the settlement of all war claims by the 1951 San Francisco Peace Treaty. (JT 08-10-03)

In a lawsuit filed in 1999, the *Sapporo District Court* in its decision of 23 March 2004 accepted the defendant's exception of expiry of the statute of limitations; it referred to the non-retroactive applicability of the 1947 State Redress Law under which the claim might have succeeded. Under the (pre-war) Meiji Constitution, which applied until replaced by the post-war Constitution, the government was exempt from liability to compensate those harmed by the exercise of state power. The Court held the statute of limitations also applicable to the defendant companies, citing relevant provisions of the Civil Code. The decision differed from that given by the *Fukuoka District Court* of 2002 when the Court ruled in a similar case, for the first time, that the government and the companies both had committed a crime in using wartime slave labour, although it only ordered the defendant company to pay compensation. (JT 24-03-04) This ruling was in fact followed by the *Niigata District Court* in a landmark decision of 26 March 2004. The plaintiffs had claimed that being forcibly taken from China to Japan was "an illegal act conducted jointly by Japan and the company". The Court ordered the state as well as the defendant company to pay compensation. The Court dismissed the defendants' argument of the expiration of the statute of limitations. It also held that the state's argument of being exempted from liability at the time concerned were, from the standpoint of justice and fairness, inappropriate. The government appealed against the decision. (JT 27-03, 01-04-04)

A 1997 lawsuit of Koreans for forced labour in a spinning factory was rejected by the *Shizuoka District Court*, whose decision was upheld by the Supreme Court in 2003. (JT 20-05-04)

No compensation for suffering inflicted during internment

The Japanese Supreme Court on 30 March 2004 decided to reject two appeals by former Allied prisoners of war who had claimed compensation from Japan for suffering inflicted during internment during the war. It was the first Supreme Court ruling in such a suit. The District and High Courts had ruled earlier that under international law individuals had no right to sue a (foreign) government for compensation. (JT 31-03-04)

"Comfort women"

The Japanese Supreme Court on 25 December 2003 turned down a 1993 suit for damages by [the relatives of] 81 Filipino women who had been forced into sexual

slavery for the Japanese military during the war. It thereby upheld the decisions of the Tokyo District Court and the Tokyo High Court. These lower courts ruled that international law does not allow individuals directly to sue a foreign country for damages. Two earlier decisions in similar cases equally rejected the plaintiffs' claim. Seven other cases were still on the docket of Japanese courts. (JT 26-12-03)

The Tokyo High (Appeal) Court on 9 February 2004 rejected a claim by seven Taiwanese women for an official apology from the Japanese state and damages for forced "comfort women" services for the Japanese army before and during World War II. It thereby upheld a ruling of the Tokyo District Court of 15 October 2002. The High Court held that "Individuals do not qualify to directly claim the fulfilment of international responsibilities by a victimizer state". (JT 10-02-04)