

Consensus Building and Peace Regime Building on the Korean Peninsula

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Abstract

The pendulum of peace building on the Korean peninsula has swung back-and-forth many times, and in early 2010 North Korea placed renewed emphasis on a peace treaty with the United States as a means to deal with (eventually) denuclearization issues. However, few policy makers in Seoul, Washington, or even Beijing believe that Pyongyang is sincere when it says that it wants to establish a Korean peace regime in a way that would be even remotely acceptable to the allies. It seems that once again we are experiencing a peace building mirage. The difference this time, however, is the potential for greater consensus among South Korea, the United States, and China when it comes to potential peace talks. Beijing does not view the peace issue the same way as Seoul or Washington, but their approaches are beginning to converge, and the potential to develop a regional consensus for Korean peace building (and to influence Pyongyang's thinking in this regard) has perhaps never been greater. This article will explore this opportunity based on recent events and on research by the authors.

Key Words: Korea, peace, armistice, alliance, China

Introduction

The pendulum of peace building on the Korean peninsula has swung back-and-forth many times since the Armistice Agreement was signed in 1953. An initial round of talks aimed at “the peaceful settlement of the Korean question” broke down in 1954. In 1972, allusions to a final Korean political settlement resurfaced with the release of the North-South Joint Communiqué, but North Korea (Democratic People’s Republic of Korea, or DPRK) circumvented the Republic of Korea (ROK or South Korea) just two years later by appealing directly to the Americans for peace talks. Hope for moving past the armistice was renewed in 1991, when top officials from Seoul and Pyongyang signed the South-North Joint Agreement on Reconciliation, Nonaggression, and Cooperation and Exchange (the so-called Basic Agreement), but due largely to North Korea’s ambivalence regarding implementation, that agreement has remained an unfulfilled promise. Throughout the late 1990s and the 2000s there have been other attempts to officially end the Korean War and introduce various confidence building measures (CBMs), but the few gains they achieved have been scaled back significantly in recent years to leave just the joint industrial zone at Gaesong and a handful of cultural exchanges. Most recently, North Korea’s attack on the ROK Navy frigate Cheonan in 2010 has pushed inter-Korean relations as far away from true peace as they have been in over fifteen years.

If North and South Korea can avoid further escalation in the near term, however, the chances are good that they can move the pendulum back in a peaceful direction in the medium to longer term, not only because this has been the pattern in the past, but also because both

countries recognize that it is in their nations' best interest. The problem has been that they approach the peace issue in fundamentally different ways, with Seoul calling for an inter-Korean peace regime based on the principles of the Basic Agreement, and Pyongyang prioritizing a separate peace deal with the United States. North Korea's foreign ministry in early 2010, for example, emphasized that "if confidence is to be built between the DPRK and the US, it is essential to conclude a peace treaty for terminating the state of war, a root cause of hostile relations."¹ This sentiment was echoed by the North's ruling Workers' Party as recently as April 2010.² In this regard, it seems as if little has changed since the 1970s, and it offers scant hope for the future.

The major difference this time around, however, is the potential for greater consensus among South Korea, the United States, and China when it comes to possibly restarting some version of the Four-Party peace talks that collapsed in 1999. By carrying out nuclear weapon and additional long-range missile tests in the last few years, North Korea has isolated itself regionally and internationally far beyond where it was in the late 1990s. North Korea's sinking of the Cheonan further cemented its isolation. Even though China still supports North Korea and it is more powerful and influential than it was a decade ago, China's interest in protecting the North is increasingly equivocal, and there is a growing debate in the Chinese government about how long to continue protecting and supporting Pyongyang.³ China's economic and geopolitical interests align

¹—"DPRK Proposes to Start of Peace Talks," *Korean Central News Agency of DPRK*, January 11, 2010 available at <http://www.kcna.co.jp/item/2010/201001/news11/20100111-03ee.html>.

²—"North Korea Renews Call for Peace Treaty with U.S. Before Denuclearizing," *Yonhap News Agency*, April 14, 2010.

³—For a discussion of this debate between so-called Strategists and Traditionalists, see *Shades*

more closely with other regional powers and Group of Seven (G7) nations compared to two or three decades ago, and its relationship with South Korea is widening and deepening in both economic and political terms.

Beijing does not view the peace regime issue in the same way as Seoul or Washington, to be sure, but in some respects their approaches are beginning to converge, and with Pyongyang likely facing a leadership transition within the next few years, the potential to develop a regional consensus for Korean peace building (and to influence Pyongyang's thinking in this regard) has perhaps never been greater. The challenge is to move deliberately toward such a consensus by expanding regional dialogue regarding how each nation views the peace regime issue and how we define our respective priorities and preconditions. At the very least, this approach should raise the cost to North Korea of future armistice violations (and therefore limit their occurrence, which is also in China's interest). This article will explore relevant issues behind this approach based on recent events and on research and interviews carried out by the authors.

Closing the Six-Party Door

President Barack Obama's first year in office began with North Korean claims that it had "weaponized" plutonium for four or five nuclear bombs and was taking an "all-out confrontational posture" against South Korea.⁴ This was followed quickly by preparations for a missile/rocket test

of Red: China's Debate over North Korea, International Crisis Group, Asia Report No. 179, November 2, 2009.

⁴-Choe Sang-Hun, "North Korea Says It Has 'Weaponized' Plutonium," *New York Times*, January 18, 2009.

in violation of UN Security Council (UNSC) resolution 1718. When the UNSC condemned that test in April 2009, North Korea's foreign ministry said that it "will never participate in such Six-Party Talks nor will it be bound any longer to any agreement of the talks."⁵ Shortly thereafter, Pyongyang also stated that nuclear war with South Korea and the United States was just "a matter of time," given what it called the "war chariot" of the U.S.-ROK alliance.⁶

North Korean border closings with the South, a second nuclear test, and claims that Pyongyang was no longer bound by the armistice or inter-Korean agreements soon followed. All of this happened before the new U.S. Assistant Secretary of State for East Asia, Kurt Campbell, was confirmed by the Senate in 2009. While President Obama's appointees were taking their seats, in essence, North Korea was wiping the Six-Party slate clean, apparently anxious to start a new administration with a blank chalkboard. By summertime, it began promoting bilateral dialogue with the United States to replace the Six-Party Talks.⁷ Given Pyongyang's repudiation of all that it had agreed to before, many in Washington wondered what there was to talk about. Predictably, U.S. and ROK officials sought to preserve the Six-Party Talks by rallying the UNSC and the other four parties to condemn North Korea's actions and pressure the regime, all the while developing an incentive for Pyongyang to return to previous agreements. Washington and Seoul embarked on a two-pronged approach to "impose meaningful pressure to force changes in [North

⁵- Kim Hyun, "North Korea to Quit Six-Party Talks in Protest over UNSC Statement," *Yonhap News Agency*, April 14, 2009.

⁶- "North Korea Says Nuclear War Only Matter of Time," *Yonhap News Agency*, April 17, 2009.

⁷- "North Korea 'Ready for Dialogue with U.S. Any Time,'" *Chosun Ilbo*, July 27, 2009.

Korea's] behavior, and provide an alternative path.”⁸ Sanctions were stepped up with unanimous UNSC support, but at the same time the United States and South Korea discussed the offer of a “comprehensive package” or a “grand bargain,” as a way to illuminate this alternative path. U.S. officials ruled out any rewards to North Korea “just for returning to the table,” but they reiterated that “full normalization of relationships, a permanent peace regime, and significant economic and energy assistance are all possible in the context of full and verifiable denuclearization.”⁹ For its part, North Korea professes to agree that a “peace accord” with the United States is “one of the most reasonable and practical ways” to rid the peninsula of nuclear weapons, provided it leads to the end of America’s so-called hostile policy and replaces the armistice.¹⁰ So despite the animosity of the past, the stage appears to be set (rhetorically, at least) for an initial peace regime dialogue...except that no one really knows what this means.¹¹

Opening the Peace Regime Door

The term “peace regime” made its Six-Party debut in the September 2005 Joint Statement from the fourth round of those negotiations, when the participating nations pledged to initiate a separate negotiation for a

⁸-Hillary Rodham Clinton, Remarks at the ASEAN Regional Forum, Laguna Phuket, Thailand, July 23, 2009.

⁹- Ibid.

¹⁰-“North Korea Sees Peace Pact with U.S. as Key to Disarmament,” *AFP*, October 14, 2009.

¹¹-For a longer discussion of current peace regime issues and historical references, see James L. Schoff and Yaron Eisenberg, “Peace Regime Building on the Korean Peninsula: What Next?” Institute for Foreign Policy Analysis, May 2009. Available at http://www.ifpa.org/currentResearch/researchPages/peace_regime2009.htm.

“permanent peace regime on the Korean peninsula” at an appropriate time. Although the Six-Party Talks are primarily focused on denuclearizing North Korea, the mention of a separate peace regime dialogue by “the directly related parties” acknowledged the many unresolved political, diplomatic, and national security issues in Korea that contribute to North Korea’s nuclear ambitions. After all, North and South Korea are still technically at war with one another, and the armistice that has governed the cease-fire for over fifty-five years was never intended as a long-term solution to the Korean War.

Despite this acknowledgement of the importance of establishing a Korean peninsula peace regime (KPPR), no KPPR talks have occurred and no one can identify a probable start date or even a likely agenda for those negotiations. Analysts and policy makers differ on their assessments of the potential impact of pursuing peace regime negotiations. On the one hand, efforts to better manage the armistice and to think concretely about peace regime options could have a positive influence on the atmosphere for Six-Party Talks and lead to useful CBMs for the future. The Cheonan attack and other West Sea conflict over the years clearly show that there is a cost to ignoring these underlying, unresolved security issues. On the other hand, independent (uncoordinated) attempts by the United States or South Korea to improve their political relationships with the North could undermine denuclearization, erode regional confidence, and strain U.S. alliances in the region. In addition, China’s re-invigorated economic and political commitment to North Korea (highlighted by Premier Wen Jiabao’s October 2009 visit to Pyongyang and its apparent indifference over the Cheonan attack) threatens to disrupt regional policy coordination vis-à-vis the North.

This lack of consensus regarding how to conceptualize a KPPR and what should be its relationship to the Six-Party Talks could undermine what little progress we have made in recent years toward limiting the growth of North Korea's nuclear programs. In the absence of Six-Party meetings since December 2008, for example, ad hoc shuttle diplomacy has continued in the region including some U.S.-DPRK bilateral meetings. Precisely because the definition of an acceptable peace regime is so subjective and ambiguous, extra care is needed to ensure that U.S. officials do not make promises to their North Korean counterparts that South Korea is not prepared to endorse (e.g., regarding liaison offices or certain commercial ties). Similarly, infinite Chinese patience with the status quo could, over time, allow North Korea to continue to postpone difficult decisions about its future, even though Pyongyang's failure to address them will likely lead to larger and more dangerous problems down the road.

Cognizant of these dangers, however, U.S. and ROK officials have stepped up their consultations and policy coordination not only on defense and nuclear issues, but also concerning KPPR-related issues. In addition, Beijing has noticeably avoided lining up behind North Korea's stated objective to engage the United States bilaterally regarding a peace treaty or to position such peace negotiations as a sort of precondition for resuming denuclearization talks in the Six-Party framework. Beijing is still trying to remain impartial as chair of the Six-Party Talks, but through its actions and based on conversations with Chinese officials and specialists at Track 2 policy forums, China seems to agree with the allies that peace talks on the Korean peninsula are first and foremost a matter for the two Koreas. Given North Korea's "legitimate security concerns," most Chinese point out that a companion U.S.-DPRK peace agreement might be

necessary, but this does not replace the primacy of the North-South role. China also generally agrees that North Korean denuclearization is an integral part of peace making on the peninsula, so it is not quite as sequential as North Korea would propose (i.e., first establishment of a KPPR and later verifiable denuclearization). These are simple, but still important, first steps toward regional consensus building for Korean peace regime development.

The truth is, however, that few experts can adequately define the KPPR concept, let alone specify its likely components. Academics and policy makers often think of regimes as sets of norms, rules, patterns, and principles of behavior guiding the pursuit of interests, around which actors converge.¹² Regimes usually are not as formal as institutions (with a specific address or staff), and they can often be quite expansive (such as the nuclear non-proliferation regime based on bilateral and multilateral treaties and involving supplemental supplier initiatives). Although scholars have been studying and writing about various KPPR schemes for years, it has remained largely an academic exercise.

There are two principal debates regarding the nature of a KPPR, and they are interconnected. The first revolves around what a peace regime is supposed to produce (that is, how we describe its purpose and the desired end state). At its most basic level, the KPPR could be an updated version of the armistice, with an added political agreement to end the war and endorse a framework for reconciliation and dispute resolution along the lines of the Basic Agreement. A more ambitious view links a KPPR directly to the process of confederation, to settling tough issues like the West Sea

¹²-Stephen D. Krasner (ed.), *International Regimes* (Ithaca, NY: Cornell University Press, 1983).

Northern Limit Line (NLL) and property or missing person claims, to facilitating cross-border traffic, trade, and communication, and to meaningful military CBMs that reduce military forces along the demilitarized zone (DMZ). Within South Korea's concept of progressing toward peaceful reunification (sometimes called Step 3), the KPPR is essentially a bridge between reconciliation and cooperation (Step 1) and confederation (Step 2). Related to this, the second debate focuses on whether a peace regime is primarily a process (or even just the trigger for a process) that might eventually lead to a desired end state, or instead more of a destination that will codify or institutionalize a particular outcome.

A peace regime has alternatively been described as “a mechanism to create peace”; “a framework for ameliorating the mutual distrust...[and] a foundation for peaceful coexistence and mutual prosperity”; “an institutional device for legal termination and prevention of wars and maintenance of peace”; and “a process of building peace, not the ultimate state of peace.”¹³ Alexander Vershbow, then-U.S. ambassador to South Korea, described the U.S. attitude in late 2007: “We agree that, in addition to the core commitments [of formally ending the war and establishing a normal boundary between the two Koreas], a permanent peace agreement would also include military CBMs that would defuse some of the military tensions that today cut across the DMZ.”¹⁴

¹³-See, respectively, O Tara, “Building a Peace Regime on the Korean Peninsula and in Northeast Asia,” *Korea and World Affairs* 31, no. 4 (Winter), 2007; Lee Sanghee, “Toward a Peace Regime on the Korean Peninsula,” The Brookings Institution, May 2, 2007; Lee In Ho, “The Establishment of a Peace Regime on the Korean Peninsula and the Future of the ROK-U.S. Alliance,” *East Asian Review* 20, no. 2 (Summer), 2008; and Cho Min, “Establishment of a Peace Regime on the Korean Peninsula: A ROK Perspective,” *Korea and World Affairs* 31, no. 3 (Fall) 2007.

¹⁴-Alexander Vershbow, “A Peace Regime on the Korean Peninsula: The Way Ahead,” Remarks to the IFANS special seminar, “Peace Regime on the Korean Peninsula: Visions

There is also an overarching question of whether the KPPR ends up facilitating Korean reconciliation and unification, or in fact serves to solidify the division of Korea by allowing North Korea to strengthen its economy through more normalized external relations while its leadership remains focused on maintaining internal control. Put another way, is a prerequisite for a KPPR essentially a North Korean political decision to seek unification on terms acceptable to the South, or can a KPPR be realized even if North Korea just wants to be left alone? If we maintain that a KPPR is a bridge to confederation, then this answer will depend to some extent on the political context of that step, but clearly a more stable and friendly North-South relationship is required. The peace regime will not help create peace where none exists.

South Korea and the United States believe that a peace regime should accompany some form of reconciliation (or at least a major change in North Korean behavior), and the two presidents specifically called for “a durable peace on the peninsula and leading to peaceful reunification on the principles of free democracy and a market economy” in their June 2009 Joint Vision statement. Still, policy makers in both countries argue internally about how clear a linkage between a peace regime and reunification is necessary in the near term. China would prefer to see North Korea survive as an independent entity for the foreseeable future, slowly modernizing its economy and strengthening its governing capabilities to enhance stability and economic opportunity.¹⁵ In North Korea’s mind, a peace treaty is a way to end the Korean War with the United States and to weaken the

and Tasks,” October 26, 2007.

¹⁵-See, for example, “Chaoxian Weihe Da Hepai [Why North Korea is Playing the Nuclear Card, in Chinese],” *Shijie Zhishi* [World Affairs], April 14, 2005.

U.S.-ROK alliance, which will put it in a better position to maintain its independence and seek low-level federation with the South over time, consistent with Pyongyang's policies.

It is likely that U.S.-ROK discussions about the conditions necessary for peace on the peninsula will end up describing a peace regime more as a destination rather than a process. In other words, the conditions acceptable to the allies are not something that North Korea will agree to in advance, in such areas as verifiable denuclearization, reducing the forward-deployed nature of the DPRK forces along the DMZ, or scaling back the DPRK's missile programs (let alone addressing ROK Korean War claims). Similarly, the allies are not yet ready to meet North Korea's likely early conditions for shaping a peaceful environment, such as limiting US-ROK military exercises, cutting U.S. forces or military investment on the peninsula, avoiding any sanction or criticism of DPRK illicit activity or human rights violations, and many other possible conditions. China is more sympathetic to Pyongyang's sense of isolation and vulnerability, and it too would expect some substantive changes to the peninsular role of the U.S.-ROK alliance in the context of a KPPR, but Beijing also understands that the current security environment does not allow for bold gestures by either side. This will take a long time, but we can start by incrementally fostering an environment conducive to peace.

Developing a Peace Regime Consensus: Themes and Perspectives

A long journey begins with a single step, and although there have been many false starts in the past, it is possible that North-South or U.S.-DPRK bilateral meetings in the future could begin again to outline

ways to develop the conditions necessary for peace on the peninsula. If the next attempt at peace building is to have any substance to it, however, greater mutual understanding and solidarity on key issues among South Korea, the United States, and China will be necessary to move North Korea into a potentially more flexible position under a new regime in the future. This will likely require some compromise by the allies and by China as well.

First, Do No Harm: Armistice and OPCON

Any roadmap for a KPPR or U.S.-DPRK normalization dialogue must keep in mind the delicate balance between fostering a peaceful atmosphere and reassuring South Korea of the U.S. security commitment. Any U.S.-DPRK rapprochement that causes Seoul to lose confidence in the alliance and seek such things as new longer range missiles or nuclear reprocessing capabilities will do nothing to help create conditions necessary for peace, and it could in fact undermine stability. China understands this too, and the slow and steady plan underway to transfer wartime leadership for South Korea's defense to ROK forces is a good way to strike this balance. Regular military exercises are required to complete this transition confidently, and the U.S. support role (and nuclear umbrella) will remain indefinitely. These are not negotiable in a peace regime, but there are ways to begin to address each side's legitimate security concerns (such as through traditional CBMs and certain security assurances), as long as North Korea is truly interested in enhancing transparency and mil-to-mil communication and exchanges.

Since 2004, South Korea has been taking over a number of missions

directly associated with maintaining the armistice, including security of the DMZ and counter-fire command and control, among others.¹⁶ In addition, the alliance is preparing to transfer wartime operational control (OPCON) of ROK forces from the combined forces commander, a U.S. general, to the ROK military leadership, a change scheduled to take effect in 2012 (although some are hoping for a longer transition period). In 2012, U.S. Forces Korea (USFK) should become U.S. Korea Command (KORCOM), after which KORCOM and ROK Joint Forces Command will become “complementary, independent commands in a supporting-to-supported relationship.”¹⁷ In other words, the ROK commander will indicate what U.S. support he needs, and KORCOM will be responsible for carrying out those activities. Of course, any campaign will be closely coordinated and planned together.

OPCON transfer has the potential to be an important factor in the KPPR debate. Discussions about armistice maintenance will increasingly be inter-Korean matters, and although this might not please Pyongyang, it is altogether appropriate and will eventually leave North Korea with no choice but to engage with the South on security matters. This should also please Beijing in the long run, as it could lead to a less prominent U.S. military role on the peninsula in the future. Putting the leadership for South Korea’s defense in the hands of South Korea is a potential point of consensus for the United States, ROK, and China, which would put additional pressure on North Korea to change its outdated perspective on the regional security landscape.

¹⁶-B.B. Bell and Sonya L. Finley, “South Korea Leads the Warfight,” *Joint Forces Quarterly*, issue 47, 4th qtr., 2007.

¹⁷-Ibid.

North Korea's sinking of the frigate Cheonan has led to renewed calls in the South and the United States for a postponement of OPCON transfer, but this might actually play into North Korea's strategy, because North Korea derives benefit from U.S. wartime OPCON. Pyongyang needs the appearance of what it calls a "puppet" ROK military and government to justify the delusion that the North represents all of Korea and to validate its insistence on negotiating directly with the United States. In fact, far from being a "hostile" presence on the peninsula, the United States has traditionally restrained South Korea from retaliating against the North for various aggressions including a ROK Navy patrol boat sinking in 1967, the North's attempted assassination of president Park Chung-hee in 1968, the 1983 assassination attempt of president Chun Doo-hwan, and the bombing of South Korean passenger jet in 1987.¹⁸ Seen in this light, North Korea's attack on the Cheonan might very well have been as much to slow momentum behind OPCON transfer as it was to retaliate for a November 2009 North-South naval clash in the West Sea or to undermine the Six-Party Talks. The allies should not give the North that satisfaction.

The United Nations Command (UNC) will also step back into a supporting role with OPCON transfer, and under a KPPR it could eventually transform into a neutral forum to assist with monitoring and dispute resolution (though it would have to undergo some change to accommodate certain DPRK objections). This is also consistent with thinking among many policy specialists in China that while the UN could have an important role to play in a KPPR, the legacy of the UN in Korea

¹⁸-Lee Tae-hoon, "No Tit-for-Tat over Cheonan?" *Korea Times*, April 16, 2010.

is that of a warring party, and the roots of that legacy should be essentially ripped out in order to allow for a new, untainted UN role. This new role, in the words of one Chinese scholar, would take advantage of the UN's contemporary peacekeeping and peacebuilding expertise, and it would also "reflect better the current balance of power within the UNSC."¹⁹

Longer term, Beijing is also looking for more substantive changes to the fundamental role of the U.S.-ROK alliance than the allies are willing to consider at the moment. Although China does not anticipate (or push for) a weaker U.S.-ROK alliance in the same way as North Korea (which is seeking *de facto* U.S. political neutrality on the peninsula), some Chinese scholars have pointed out that Beijing would expect a "reclassification or redefinition" of alliance roles and missions as part of a KPPR in a way that dilutes the U.S. presence, commensurate with North Korean tension reduction steps.²⁰ From the allies' point of view, while they have stated an interest in pursuing reciprocal threat reduction policies and CBMs with the North, the core of their mutual security commitments contributes significantly to peace on the peninsula and is not up for negotiation. Whether or not a "redefinition" of certain alliance roles and missions can be reconciled with threat reduction and CBMs to yield a result that can satisfy the "interested parties" is something that will take them many years to sort out and will require more mutual confidence than currently exists.

¹⁹ - Comments by a Chinese scholar at a trilateral (U.S.-ROK-China) workshop organized by the Institute for Foreign Policy Analysis in Washington, DC, on February 3, 2010 (IFPA 2010 workshop).

²⁰ - *Ibid.*

Basic Agreement as a Foundation

Many in Seoul, Washington, and Beijing agree that the 1991 Basic Agreement remains the most promising document in terms of establishing concrete measures and mechanisms to improve conditions for peace regime building. These go beyond mere pledges to refrain from aggression or interfering in each other's internal affairs. The Basic Agreement authorized the establishment of a Korean joint military committee to oversee the implementation of CBMs including, among other measures, notification of troop movements, exchange of military personnel and information, and phased and verifiable arms reductions. It also paved the way for various economic, social, and cultural exchanges, also managed by different joint committees. The Basic Agreement is a template for improving inter-Korean relations and a way to help bring about the conditions necessary for peace. It is also something that Pyongyang consented to at one point in its history (even if it seems completely uninterested in it today). If a KPPR is truly a destination, then perhaps the best way to know that we have started on the path toward that goal is when we see some concrete movement toward implementing the Basic Agreement.

Parties to a Peace Regime

At first glance, identifying the so-called directly related parties to a KPPR seems quite obvious, namely the two Koreas, the United States, and China (given their central involvement in the Korean War and the precedent of the Four-Party Talks). Scratch the surface, however, and some important differences of opinion and caveats begin to emerge. Fortunately for the U.S.-ROK alliance, there is unanimous agreement

that a KPPR is first and foremost a Korean (that is, inter-Korean) initiative. Pyongyang professes to agree. The first principle for reunification in the 1972 North-South Joint Communiqué, for example, is that it “should be achieved independently, without reliance upon outside force or its interference.” This point has been reiterated in every important inter-Korean agreement since.

DPRK leaders, however, seem to view ending the Korean War and working toward unification as two separate activities, because in many ways they always saw themselves as legitimately representing all of Korea and the war as one of self-defense against the Americans (and their “traitorous puppet lackeys” in the South). Over the years, North Korea has persistently tried to isolate South Korea at multilateral talks and seek direct bilateral negotiations with the United States regarding a peace treaty. Many Koreans worry that at some point Washington might consider obliging Pyongyang, if only to try to move the diplomatic process along.

U.S. officials, however, have consistently supported the idea that South Korea is central to any agreement ending the war. They often counter North Korea’s arguments by pointing out that the United States was not a signatory to the armistice either; rather, it was the UNC commander who signed on behalf of all UNC members (including the ROK, which contributed the most UNC troops). Moreover, when the armistice was signed, the North Korean and Chinese commanders made a point of confirming this fact, because they wanted to make sure that ROK forces would abide by the terms of the agreement.²¹ So, if North Korea and China were satisfied in 1953 that the armistice was binding on

²¹-United Nations, *1994 Report of the Activities of the United Nations Command*, UN Doc. S/1995/378, May 11, 1995, p. 6.

ROK forces, they cannot now claim that Seoul was never a party to that agreement. China's current stance seems to accept the fact that the armistice can only be replaced with a permanent peace via a North-South agreement, but it would be worth trying to clarify this point more publicly in order to dispel any illusions in Pyongyang.

Since the introduction of the term "peace regime" in the Six-Party Talks in 2005, Seoul and Pyongyang did manage to agree that there were "three or four parties directly concerned," when President Roh Moo-hyun met with Kim Jong-il in October 2007 (i.e., the two Koreas plus the United States, with China as the fourth). Moreover, in January 2010 the DPRK foreign ministry proposed "to the parties of the Armistice Agreement an early start for the talks for replacing the Armistice Agreement by the peace treaty this year," so perhaps this is a North Korean opening to include South Korea as a formal partner for peace.²² Subsequent North-South meetings in 2010 exploring the potential for another inter-Korean summit failed to clarify this point, but this is an issue that should be revisited if the pendulum for peace swings forward.

China also has a vested interest in the peace regime process, and in many ways the United States and China could act as endorsers or guarantors of what would primarily be an inter-Korean agreement. The main area where Chinese and American involvement is qualitatively different, of course, is the fact that U.S. troops are forward deployed on ROK soil, and thus conceivably there are some military CBM issues that

²² "DPRK Proposes to Start of Peace Talks," *Korean Central News Agency* of DPRK, January 11, 2010. The foreign ministry's mention that this proposal was made "upon authorization" also led many observers to believe that this proposal, in essence, came from Kim Jong-il himself.

only need to be discussed amongst the two Koreas and the United States. Finally, the UN system can play a useful support role in a KPPR (endorsing the parties' agreements in the UNSC, coordinating development assistance in North Korea, verifying denuclearization, and possibly facilitating dispute resolution later on), but no one involved (including UN officials) wants the UN to become a central player in this process.²³

The Six-Party/KPPR Linkage

Ever since North Korea stepped up its nuclear program in the 1980s, U.S. policy has been to make verifiable denuclearization a *sine qua non* of any discussion about formally ending the Korean War. For U.S. policy makers, it is a fundamental component of the "conditions necessary for peace." As President Bush stated in September 2007, "We look forward to the day when we can end the Korean War. That will happen when Kim Jong-il verifiably gets rid of his weapons programs and his weapons."²⁴ U.S. Special Representative for North Korea Policy, Stephen Bosworth, made this point to DPRK officials in late 2009 during a trip to Pyongyang, where he explained that peace treaty negotiations could not even begin until there was concrete progress on denuclearization in the Six-Party Talks.²⁵

South Korea's position on this issue has been more flexible over the years, most dramatically under the liberal Roh administration, which

²³- Schoff and Eisenberg, 13.

²⁴- *Chosun Ilbo*, "Bush Favors Denuclearization First, Peace Later," September 10, 2007.

²⁵- Ambassador Stephen W. Bosworth, "Briefing on Recent Travel to North Korea," U.S. Department of State (Washington, DC), December 16, 2009 available at <http://www.state.gov/p/eap/rls/rm/2009/12/133718.htm>.

promoted the idea of declaring an end to the war first, and then working toward denuclearization. The conservative Lee Myung-bak government, however, sees denuclearization more similarly to the current U.S. view, and it has insisted that the nuclear issue be on the agenda of any North-South summit involving President Lee. As one ROK diplomat described it, “An important strategy of the [South] Korean government is to create a new peace structure on the Korean peninsula. This structure can be based on two pillars, first, the denuclearization of North Korea, and the second is the establishment of a peace regime on the peninsula.”²⁶ So, even if Seoul sees these as separate issues, they are certainly complementary components of peace on the peninsula.

Much to the chagrin of allied negotiators, however, North Korea continuously interweaves denuclearization with U.S. troop withdrawal from the peninsula and places it after a peace agreement. North Korean officials emphasize that Pyongyang seeks “the complete denuclearization of the Korean peninsula,” which they describe as the elimination of the threat posed by U.S. troops on the peninsula and its alliance with the South.²⁷ For North Korea, a peace treaty with the United States to end the Korean War comes first, followed by an inter-Korean dialogue on peace regime development. When the U.S. threat is gone, Pyongyang will consider denuclearization. Although the Chinese government does not agree with sequencing denuclearization so late in the process, it generally concurs that Washington and Seoul must give due consideration to North Korea’s security concerns, and it is reluctant to push a settlement that requires too much from the North up front. Such differing perspectives

²⁶ - Schoff and Eisenberg, 14.

²⁷ - Ibid.

on what denuclearization would entail (and when) cloud the peace regime building process by making denuclearization an endless cycle of trying to build a bridge that is two short to reach both sides.

The near-term challenge is to develop a consensus regarding the linkage between the Six-Party Talks and companion peace negotiations, even if the initial consensus is only among the United States, South Korea, and China. It is a classic “chicken-and-egg” question in the sense that some believe peace talks can stimulate constructive denuclearization negotiations, while others think that the only way peace talks can be productive is if they are preceded by some success at denuclearization. As one Chinese former diplomat put it, “Denuclearization and a peace regime are two sides of the same coin. Take away one side, and there is no coin.”²⁸ A South Korean former government official countered, “The peace issue is not a way to solve the nuclear issue. Nuclear weapons are part of the overall Korean problem. We should focus on improving the conditions necessary for peace over the long term, and the 2005 Six-Party agreement is the best way forward on this front.”²⁹

It is possible to carry on these two tracks of dialogue and negotiation simultaneously, of course, but practically speaking one track must take precedence or be weighted more heavily than the other (i.e., at some point the chicken must either hatch or lay an egg). Currently, the general consensus is to resume the Six-Party Talks first, and based on progress Seoul and Washington have said that they would be willing to participate in peace talks. The question is, how much progress in the Six-Party Talks is necessary to begin a KPPR discussion? Most would respond “a little,”

²⁸ - IFPA 2010 workshop.

²⁹ - Ibid.

“some,” or “picking up where we left off in December 2008,” but others emphasize that “significant” progress is needed, or else we could doom the Six-Party Talks by getting bogged down in hopeless peace negotiations. Negotiators could do more damage if they try too early and fail on this issue. Moreover, rather than queuing peace talks behind a resumption of the Six-Party process, some suggest it might be better to link peace talks more closely with a North-South summit meeting or some other progress in the inter-Korean dialogue. A separate argument in favor of starting peace talks earlier (rather than later), however, takes into consideration the likelihood that North Korea will experience some sort of leadership transition in the next few years, as current leader Kim Jong-il is apparently suffering from health problems and is preparing to pass the reins of government to his third son. Whoever succeeds Kim will inherit an isolated and economically weak country amidst potential domestic competition for power. The DPRK military will be very influential and could end up running the country, but regardless who the next North Korean leader is, he will be in a poor political position to initiate peace talks from scratch, given the military’s traditional hard line. It might be easier for him, however, to “resume” negotiations that were already started (and sanctioned) by the “dear leader” himself, if the new ruler ever sees fit to pursue a new course for the sake of his nation and his regime. There could be some value, therefore, in setting a precedent for peace talks. North Korea has offered to begin peace talks “in the framework of the Six-Party Talks,” so this could possibly be a way to facilitate de-escalation and develop common terms of reference for peace building, if Pyongyang does not attach too many conditions to its offer.

Korean Peace Regime Consensus Building in Support of Denuclearization

There are some points on which South Korea, the United States, and China appear to agree regarding developing a peace regime on the Korean peninsula. First, the core of a KPPR is a North-South peace agreement (be it a treaty, reaffirming the Basic Agreement, or something else). Neither China nor the United States will interfere with a North-South agreement. Second, the United States and China should be involved in KPPR development, and they will likely play a role of endorser and/or guarantor of some kind. The U.S.-DPRK dialogue is another important component, so this would be essentially a four-party discussion with North-South and U.S.-DPRK components. Third, verifiable North Korean denuclearization is another core component of a KPPR, and it is appropriate to link peace talks to denuclearization *at some level*. We might disagree regarding how early or how much to link a KPPR to the Six-Party Talks, but we recognize that an effort will be required to try to address North Korean concerns on this front. Finally, we all seem to agree that, at the moment, North Korea is not sincere when it says that it wants to negotiate a peace treaty or peace regime to end the war, at least not in the sense that it would approach such talks with any flexibility or seriously consider what it knows are non-negotiable positions of the United States and South Korea. At this point, the onus is on North Korea to prove us wrong.

There are areas of disagreement amongst the three as well. Notwithstanding the last point mentioned above, for example, many in China (and some in the United States and South Korea) believe that it is worthwhile attempting to start the KPPR talks relatively early in the

Six-Party process (even as a precursor), since it could help to further the goal of denuclearization. Others see no point in starting early and fear that by doing so we could endanger the Six-Party Talks. In addition, although we agree to some extent that North Korea has its own security concerns, we disagree about the true depth of those concerns and their legitimacy. South Korea in particular is worried that we could inadvertently consent to North Korea's longstanding assertion that U.S. "hostile policy" and military postures *caused* the North's nuclear development, and some believe that this could unintentionally accept North Korea's argument that it and the United States were the main parties in the Korean War. In addition, we have already noted China's interest in a downgraded U.S.-ROK alliance as an incentive to change North Korean behavior and support KPPR development, as well as its desire to uproot the UNC and the legacy of UN involvement on the peninsula.

Thus, despite some encouraging signs of agreement (at least among South Korea, the United States, and China), it seems clear that the timing is not right for serious KPPR negotiations. The prospects for progress are too remote and the danger to the Six-Party process and the U.S.-ROK alliance is too great. The best we can do is to initiate KPPR "preliminary discussions" or pre-negotiation consultations of some kind, in parallel to renewed Six-Party Talks (if they restart). These could address overall parameters of future KPPR negotiations, expected outcomes or potential key milestones, options for dispute resolution, or developing agreed upon terms of reference so that we can clarify the precise meaning of terms such as "interested parties," "denuclearization," "hostile policy," and "confidence building." The allies should enter these talks sincerely and with an open mind, but they should also go in with low expectations.

Until North Korea truly accepts the South as its primary partner for peace, there can be little progress except for some forging of a consensus among the other three nations.

Even if we believe that a peace regime is not possible without the collapse of the North Korean political system, this cannot be our only policy approach, that is, to simply wait for North Korea to collapse or for some kind of external change. South Korea and the United States should work proactively with China and regional partners in the region to envision a framework for building a KPPR, which in turn may help improve the conditions for peace regime building and denuclearization. Even negotiating with the North Korean regime in its current form can be beneficial in terms of keeping open lines of communication and sustaining the dialogue, which might yield at least smoother implementation of the armistice arrangements. If North Korea is unresponsive, it will only compound its isolation. For the United States and South Korea, being flexible without abandoning their friends or their principles is the only way forward. If this is not enough for North Korea, then at least we will have both intact (our friends and our principles) as we rise to meet whatever challenges await us.

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