


## Non-Hostile Intent

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### Non-Hostile Intent

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University

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## **I. Introduction**

Robert Carlin explores the effort to deal with "North [Korea's] constant refrain that what stood in the way of a breakthrough in progress between the two nations was US hostility." He brings the reader from the 1990s through the current regime, "in early 2012, soon after Kim took power, DPRK officials conveyed to Americans that the new leader did not want to continue hostile relations with the US." As Carlin discusses the back-and-forth between the two countries, he leaves us with an invaluable estimation on non-hostility: "The best way to move toward an effective application of the concept with Pyongyang may be not through isolated symbolic acts but steady, consistent pragmatic practice."

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## **II. Policy Forum by Robert Carlin**

*"As the first important step both sides declared that neither government would have hostile intent toward the other and affirmed the commitment of both governments to make every effort in the future to build a new relationship free from past enmity."*

That formulation, from the October 2000 joint communiqué, is probably the pinnacle of what the US has so far been able to work out with the North Koreans on this tangled issue of "hostility." We put it in the October 2000 joint communiqué because we hoped to produce a document that would provide a plateau, a realistic, stable platform for continuing slow but steady progress in relations in a way that would meet US national interests. The specific formulation was an effort to deal with the North's constant refrain that what stood in the way of a breakthrough in progress between the two nations was US hostility. It was also a useful acknowledgement of the obvious -- that both sides had in the past harbored "enmity" against the other.

If the formulation does represent a high-water mark, there might be value in looking at it more closely to see how or whether there might be a chance in the future to replicate it. In large part, my own approach to the question at the time was based on an understanding of the central importance of a Kim Jong Il work in 1997 asserting that the US and the DPRK need not remain eternal enemies. When it first appeared, we read that as a potent formulation, but one without immediate application. When DPRK officials subsequently told us it was, indeed, crucial, and when it reappeared at key junctures over the next several years in interactions with the North, we realized its full importance as a sustained underpinning for DPRK policy toward the US. By late 1999, after the release of the Perry report—something which gave us firmer ground to stand on both within the USG and with Pyongyang -- I had a feeling that the North would -- and we might have a chance to codify -- something that caught the spirit of Kim's formulation in a joint document.

During the months when we were drafting the document's language within the USG, we fussed with the phraseology on hostility. Eventually, what had been in the original draft -- something along the lines that the two sides would have no "hostile policy" -- was changed to would have no "hostile intent." As I recall, we deliberately avoided saying the US "did not have" hostile policies toward the North, because that would have been an empty assertion and manifestly untrue. Moreover, we wanted to make this into a bilateral pledge and future oriented -- "neither government would have." Making it specific to "policies," however, would have opened the door to endless, and essentially meaningless, challenges about this or that piece of legislation or activity. "Intent" (as opposed to "policies") was admittedly vague, but it seemed to leave breathing space for the two sides to deal with an expected range of ruts and bumps in the road as relations, hopefully, inched ahead.

During the first years of the Bush Administration, when things were obviously going badly and showed signs of getting worse, the North Koreans constantly asked us to reaffirm, in some way, shape, or form, the October 2000 communiqué. They were not so much interested in the detailed steps outlined in the latter part of the document as they were in the opening paragraphs that provided the philosophical basis for moving ahead. In fact, in 2001 wording was worked out with a DPRK official that would have satisfied what Pyongyang needed without committing Washington whole hog to reaffirming the communiqué. Even if that had been tried (the idea died in the State Department without explanation), given the realities in the Bush Administration, one has to doubt if it would have made much difference. From the beginning senior members of the Administration advocated what can only be called a hostile policy toward the North, and they were determined to have their way.

In other words, the key pillars for the no hostile intent formulation of October 2000 had, by 2001 under the Bush Administration, already disappeared.

There were two such key pillars, one each in Washington and Pyongyang. The first was that the formulation was not pulled out of thin air but firmly based on the assertion in the report issued after the policy reevaluation conducted by former Secretary of Defense William Perry that we must "deal with the DPRK regime as it is, not as we would wish it to be." DPRK officials found that an exceedingly powerful statement on the part of Washington, and -- against the background of the Agreed Framework and especially the US-DPRK negotiations that got under way beginning in 1999, after Perry's trip to Pyongyang -- it was something that appeared to them to be substantive rather than simply rhetorical. The second pillar, equally important, was the strategic decision in Pyongyang in the early 1990s to improve relations with the US, as reflected in Kim Jong Il's later public assertion that the two countries did not have to remain enemies.

Both pillars were crucial, and both -- or something very much like them -- will probably be necessary again for any formulation on "non-hostility" to get traction in Pyongyang.

### **DPRK complaints about "US hostility"**

Dealing with the idea of "non hostility" was not easy for Washington in the 1990s, and because of events of the past 14 years, it will probably be even more difficult in the future. Especially after Pyongyang's experience with the US from 2001-2014, simply stating that the US "has no hostile intent" toward the DPRK (i.e., the US language used in connection with the February 2012 so-called Leap Day agreement) is an empty assertion. Language on "non-hostility" can easily be put on paper, but it will have no meaning and, more important, no influence with the North Koreans if it simply hangs in the breeze.

Whether giving life and substance to "non-hostility" can come from, in the first instance, trying to address what the North Koreans say are their specific concerns is a good question. During 1993-

2000, we could never pin down what specific actions would really deal with the North's constant complaints about a US "hostile policy." DPRK negotiators would cite a variety of examples (joint US-ROK military exercises, sanctions, visa problems, prohibitions on Americans using credit cards in North Korea) from time to time as examples of what the phrase meant, but they never seemed to want negotiations to go onto a track of dealing with their complaints one by one. Eventually, I concluded that the North actually did not really have a list or even a series of categories that, if addressed in detail, would deal with the issue of "hostility." More and more, it seemed that the constant refrain was, at its core, primarily considered by the North to be a useful negotiating cudgel, something meant to keep Washington off balance and totally exasperated. It was meant to be vague and undefined because Pyongyang had a different sense of how things might eventually move ahead.

This raises a key point. What may actually be most critical in grappling with the notion of "hostility" are not specific US policies but rather the strategic map in the minds of the DPRK leadership. As noted above, in the 1990s, Kim Il Sung and Kim Jong Il afterwards had already decided that their overriding strategic goal was to forge normal relations with the US. It wasn't the case that we had to convince them to strike out on that path. As a consequence, US "hostility" was not really the barrier to convincing the North to accommodate US concerns but was, instead, better seen as a series of switches that Pyongyang could flip off and on as it moved, largely at a pace of its choosing, down an already considered path.

To outsiders, the most obvious symbol of US hostility in those years would logically have been the presence of US troops in South Korea. Early on, however, (specifically, in the January 1992 meeting with Under Secretary of State Kanter in New York) Pyongyang signaled that the withdrawal of the American troops was not a requirement for improving relations. More to the point, the North signaled/implies/hinted/and finally stated clearly not only that US troops could remain, but also that Pyongyang would welcome their continued presence *under the right circumstances*.

Even the US alliances were not considered, by their very essence, a symbol of hostility. The original draft of the October 2000 joint communiqué, given to the North Koreans in January 2000, contained a formulation along the lines that the US assured the North, and the DPRK acknowledged, that the US alliances with the ROK and Japan did not pose a threat to anyone in the region. The North Koreans, with a smile, said it was "too soon" for them to accept such language - very clearly implying it was not out of the question.

What were the "right circumstances?" Along the way, the North Koreans gave us several suggestions for how the continuing presence of US troops on the peninsula would be acceptable - ranging from the simple (the troops should no longer be "pointed at" the DPRK) to the sublime (US forces should take up positions between the North and South to act as a neutral buffer.) Reinforcing the conclusion that the troop presence was not, in itself, considered evidence of "hostility," at no point during the Agreed Framework negotiations or the implementation years that followed was the question of US troops in the South brought up by the North in a major way. It was often the initial, set-piece presentations, but then always fell away.

A similar situation existed on the question of replacing the 1953 Armistice Agreement with some sort of permanent peace arrangements. Although this idea came up numerous times in the form of high-profile DPRK proposals during the 1990s, it was never actually a central element in the negotiations leading up to the exchange of high-level visits in October 2000 or in the discussions about the October 2000 joint communiqué. The goal of replacing the Armistice was given passing reference in the communiqué as a nod toward that moribund Four Party talks and as a way, in broad-brush strokes, of suggesting next steps. It was not then, and is probably not now, central to the North's push for a change in what it portrays as US hostility.

Indeed, it was a US suggestion (something that came at ROK, not DPRK, urging) in 1996 that the Four Party talks be organized to pursue the goal of replacing the armistice with a peace regime. Whether because of the times (they were in the middle of a famine) or the inclusion of the Chinese (whom Pyongyang saw no reason to include) the North Koreans never pursued Four Party talks with much interest.

### **That was then, this is now.**

With the collapse of the Agreed Framework in early 2001 (the death certificate might read December 2002, but the last breaths were drawn not long after the Bush Administration took office in 2001); subsequent maturation of the North's nuclear weapons program, including at least three nuclear tests; NATO's air campaign against and subsequent murder of Mummar Gaddafi; the death of Kim Jong Il and transition to a somewhat less confident DPRK under Kim Jong Un; the deterioration of PRC-DPRK relations; ROK President Park Geun-hye's formulation of unification that is clearly premised on absorption; and, most recently, international discussion of human rights that includes referral of the North's human rights situation to the International Criminal Court, there does not seem much room left for Pyongyang to view with much interest the likelihood of anything really useful (much less credible) coming from discussions on the concept of "non-hostility."

The absolutely crucial concept included in the Perry Report, that the US would have to "deal with the DPRK regime as it is, not as we would wish it to be," has been thrown overboard by the US. Yet it was that very formulation that was critical in allowing the North finally to treat most, if not all, US policies and actions in a less threatening light.

While the idea may someday be reborn, for at least the past decade up to the present, Pyongyang appears to have abandoned the notion that its strategic priority must be to work toward normal relations with the US. For whatever reason, the North seems to have concluded that the US political system (e.g., holding presidential elections every four years), makes it impossible for the US to sustain a policy over time. This, in turn, has probably undermined arguments in Pyongyang for making necessary concessions to Washington. That does not mean the North Koreans will not continue to play with the idea of better relations with the US (as a cat might play with a dead mouse), but it no longer seems to be the engine at the heart of Pyongyang's strategic view of the world.

In these circumstances, the North's focus on "hostile policy" has likely become a shield and, wherever it can, a tool to extract changes in American policy. One can argue that it is not impossible that bold and sustained (neither a hallmark of US policy toward North Korea) American action could eventually convince Pyongyang that the US had dropped its "hostile intent," but those actions would have to be so bold and sustained for so long that they hardly seem likely in present day Washington.

### **What the future holds.**

Under current circumstances, the best way to deal with the issue of 'non-hostility' may be to reverse our traditional approach. In the past, we tried to figure out what the North Koreans see (or say) is evidence of hostility, and then noodled among ourselves over what might be done to change their perceptions or lessen their concerns.

The fact is, however, that in the right circumstances, the North Koreans broadly comprehend strategic and political factors of concern in Washington, and can - again under the right circumstances - accept many US policies and positions which, under different circumstances, they will cite as evidence of hostility.

At the moment, we may have an additional cache of problems that will make even the bravest soul in Pyongyang think twice before advocating that Washington receive a passing grade on the “hostility” front. US backing for the recent UN resolution calling for the human rights situation in North Korea to be referred to the ICC for what the UN Committee on Inquiry called its “crimes against humanity” is going to make it extremely difficult for the US to claim that it does not have a “hostile policy” toward the North.

In fact, Washington’s decision over the past 8 or 9 years to take North Korean issues to the United Nations (e.g., nuclear and missile tests) for UNSC condemnation and action— however strong the arguments for such a course may seem — has probably also made it more difficult for the US to deal with the question of hostility. UN Security Council resolutions may not be insurmountable, but they do provide more boulders on an already rocky road.

What has also changed, and this may be a cause for optimism, is the appearance of Kim Jong Un on the stage as the new paramount leader in North Korea. Personality only goes so far in shaping national behavior, but so far everything we have observed about Kim suggests that he differs in significant ways from his father. How that is going to translate into policy, no one knows and — other than the Chinese — no one has yet really tested the proposition. ROK efforts to date to probe North Korea under new leadership have been flatfooted or, at best, half-hearted.

The North Koreans have, despite their rhetoric, historically been essentially pragmatic. They have never gone to the extremes that shook Russia under Stalin or China under Mao. We can anticipate (though at this point it is still only a hope) that in large part Kim Jong Un will fit the mold, although both his age, relative lack of experience, and personality may mean that it will take time for the outside world to learn how to read him.

Whether under Kim Jong Un the North Koreans will either use or define the issue of US “hostile policy” in ways similar to what they did in the past may be something we don’t yet know, but there is one, lingering data point to keep in mind. In early 2012, soon after Kim took power, DPRK officials conveyed to Americans that the new leader did not want to continue hostile relations with the US. It was somewhat surprising to hear North Korean officials speaking in the name of the leader, especially so soon after he took power and even though there was as yet no public record of his advocating such a position, but when asked, the answer was quite firm — yes, this was the will of the new leader. If it turns out that this position reflects a longer-term commitment, then it still may be possible to deal with “hostility” in ways that make it part of the path forward rather than an excuse for sinking further into the bog.

Given Kim’s public emphasis on the future instead of the past, and specifically his focus on improving the economy, one can imagine that the US (in concert with the countries in northeast Asia) could demonstrate support and actively encourage some of his new economic policies in ways that would buoy efforts to integrate the North into the region and modify some of its provocative behavior. Rather than looking first to remove vestiges of “hostility,” it might be better to take actions that suggest a new direction. Negative leverage tends not to be effective in inducing change in North Korea’s policies, and usually ends up enlarging the basket of examples of “hostility.” Positive leverage, however, has a somewhat better (if still inconclusive) record.

For example, Kim Jong Un has advocated the establishment of special economic zones in each of North Korea’s provinces. Small but significant steps from Washington, Seoul, and Tokyo to help develop at least a couple of these zones in ways compatible with Western business and labor practices would almost certainly register in Pyongyang, and give the regime more confidence of its ability to interact with the outside world. Indeed, one of the conclusions the North reached from dealing with KEDO was that it could, in fact, withstand large numbers of foreigners working in the

country, and that the regime could negotiate complex agreements and regulations (e.g., legal guarantees for foreign workers, transportation and supply arrangements, communications facilities) with outsiders that would serve to set hostility aside and establish room for an uneasy pursuit of commonly agreed to goals.

The practice of “non-hostility,” certainly as it pertains to North Korea, comes with a learning curve for all sides. The best way to move toward an effective application of the concept with Pyongyang may be not through isolated symbolic acts but steady, consistent pragmatic practice. Yet such a course is unlikely to get very far on its own, in the absence of fundamental, strategic decisions on both sides. Absent the pillars, there will be nothing to hold the structure up, no matter how high one piles the bricks.

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