

**Broaching Peace Regime Concepts to Support  
North Korean Denuclearization**

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## Peace Regime Concepts to Support North Korean Denuclearization

### Introduction and Summary

As the clock winds down on the first year of Barak Obama's presidency, U.S. policy makers are once again scratching their heads, trying to devise a policy toward North Korea that can contribute to that country's denuclearization without diminishing Washington's close alliance relationships with South Korea and Japan. Optimism that the advent of a new U.S. administration in 2009 could rejuvenate Six-Party Talks faded quickly, as Pyongyang made clear through various statements and actions that it sought a fundamentally different approach to addressing the nuclear question on the peninsula.<sup>1</sup>

North Korea (Democratic People's Republic of Korea, or DPRK) moved systematically to extract itself from the Six-Party Talks, consolidate its missile and nuclear capabilities, establish itself as a nuclear power, and then set new terms for denuclearization to include removal of the U.S. threat and the U.S. nuclear umbrella over South Korea (Republic of Korea, or ROK).<sup>2</sup> This has turned what once was a fairly technical and methodical process for denuclearization managed by the bureaucracy into a high-stakes game of political deal making. Sensitive issues previously "kicked down the road" are moving back to the fore, most prominently the issue of formally ending the Korean War, U.S.-DPRK normalization, and the future U.S.-ROK security relationship. The concept of peace regime building on the Korean Peninsula, which before seemed ancillary to the Six-Party Talks, now appears to be taking over center stage. Handled effectively and in close coordination with Seoul and Beijing, this could be an opportunity to enhance stability and begin to rollback Pyongyang's nuclear program.

It is appropriate for the United States to take the initiative in bilateral talks and explain to North Korea what it is prepared to do in support of peace, because this is a chance to demonstrate that Washington is making sincere efforts to reach a peaceful settlement through dialogue. This must be coordinated carefully with Seoul. It would not constitute a reward for bad behavior or "buying the same horse twice" (e.g., no relaxation of UN sanctions or large-scale economic investment until denuclearization is well underway). U.S. officials can explain what their government is prepared to do bilaterally to improve the U.S.-DPRK political relationship over time (since this was not well defined by earlier Six-Party agreements). This would be consistent with Washington's policy not to negotiate Six-Party issues in a bilateral format.

Certain bilateral actions can be taken regardless of Six-Party progress (such as promoting bilateral exchanges and supporting DPRK observer status in international financial institutions), while other actions require some progress in peace regime/Six-Party negotiations (including establishment of U.S. and DPRK liaison offices, promotion of commercially viable and legal trade with North Korea, and discussion of certain security confidence-building measures). Final actions would combine North Korea's reentry into the Nuclear Non-proliferation Treaty, the lifting of UN sanctions, and full DPRK normalization with the United States, South Korea, and Japan (essentially as a package deal). *[see full list of policy recommendations at the end of this paper]* The number of steps in this process would be minimized, and there could be several

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<sup>1</sup> The Six-Party Talks consist of delegations sent by China, Japan, North Korea, South Korea, Russia, and the United States. For a detailed discussion about the Talks, see James L. Schoff, Charles M. Perry, and Jacquelyn K. Davis, *Nuclear Matters in North Korea*. Herndon, VA: Potomac Books, 2008.

<sup>2</sup> Jean H. Lee, "North Korea: U.S. Must Alter 'Hostile' Policy," *Houston Chronicle*, January 14, 2009. See also, Jung Ha-won, "North Wants Others to Reduce Nukes," *JoongAng Daily*, February 3, 2009.

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years between steps. A key point is that bilateral talks should support multilateral approaches and not replace them (e.g., harmonizing sanctions rules, coordinating economic and political engagement, and applying international standards for verification). North Korea might reject reasonable U.S. proposals, but then the onus will be on Pyongyang to explain precisely what it believes constitutes a U.S. hostile policy and how it would remedy the situation, or else face continued multilateral pressure.

### Closing the Six-Party Door

This year 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.<sup>3</sup> This was followed quickly by preparations for a missile/rocket test in violation of UN Security Council (UNSC) resolution 1718. When the UNSC condemned that test in April, 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.”<sup>4</sup> 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.<sup>5</sup>

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. 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.<sup>6</sup> 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. officials sought to preserve 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 embarked on a two-pronged approach to “impose meaningful pressure to force changes in [North Korea’s] behavior, and provide an alternative path.”<sup>7</sup> 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 have 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.”<sup>8</sup> 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

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<sup>3</sup> Choe Sang-Hun, “North Korea Says It Has ‘Weaponized’ Plutonium,” *New York Times*, January 18, 2009.

<sup>4</sup> Kim Hyun, “North Korea to Quit Six-Party Talks in Protest over UNSC Statement,” Yonhap News Agency, April 14, 2009.

<sup>5</sup> Yonhap News Agency, “North Korea Says Nuclear War Only Matter of Time,” April 17, 2009.

<sup>6</sup> *Chosun Ilbo*, “North Korea ‘Ready for Dialogue with U.S. Any Time,’” July 27, 2009.

<sup>7</sup> Hillary Rodham Clinton, Remarks at the ASEAN Regional Forum, Laguna Phuket, Thailand, July 23, 2009.

<sup>8</sup> *Ibid.*

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the end of America's so-called hostile policy and replaces the armistice.<sup>9</sup> So the stage is set for an initial peace regime dialogue, except that no one really knows what this means.<sup>10</sup>

### Opening the Peace Regime Door

The term "peace regime" officially 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 "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 agreement 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 ultimate 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 confidence-building measures (CBMs) for the future. 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. China's reinvigorated economic and political commitment to North Korea (highlighted by Premier Wen Jiabao's October 2009 visit to Pyongyang), for example, has already disrupted regional policy coordination vis-à-vis the North.

Before trying to define what a peace regime means and what a KPPR might look like, it is useful to review a bit of history behind the Korean War and attempts to settle it, because fundamentally different perceptions about these issues have persisted for decades. To the extent that peace regime-related issues are raised early in some initial U.S.-DPRK bilateral discussions, any miscommunication between Washington and Seoul could result in U.S. offers to North Korea that might prejudice later ROK goals for peace regime building. 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 the U.S.-ROK alliance is not prepared to endorse.

### *War and Armistice*

North Korea invaded South Korea in June 1950, and shortly thereafter the newly established United Nations passed resolution UNSC 84 establishing the U.S.-led United Nations Command (UNC) to help South Korea defend itself. One year into the conflict, the Soviet delegation to the UN approached the UNC to initiate negotiations for ending the war. Although the parties agreed

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<sup>9</sup> AFP, "North Korea Sees Peace Pact with U.S. as Key to Disarmament," October 14, 2009.

<sup>10</sup> 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](http://www.ifpa.org/currentResearch/researchPages/peace_regime2009.htm)

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in principle that the 38<sup>th</sup> parallel should serve as a guide for a demarcation line, talks continued for two years as disagreements over prisoner exchanges and the final demarcation line intensified. Finally, the UNC commander, the commander of Chinese “volunteer” forces, and North Korea’s supreme commander signed the Armistice Agreement on July 27, 1953. Despite its utility, the armistice failed to construct an effective means by which to adjudicate armistice violations, and each side has accused the other of hundreds of thousands of violations, while only admitting to a small number itself.<sup>11</sup> North Korea also rejects the West Sea demarcation line drawn by the UNC (known as the Northern Limit Line or NLL).

The armistice was supposed to segue from a military settlement to a political one, but scheduled talks on this issue were eventually abandoned in 1954. Allusions to a final Korean political settlement did not resurface until 1972 with the release of the North-South Joint Communiqué. At that time, the two Koreas agreed in principle to threat reduction and recognized their mutual desire for reunification and a peaceful conclusion to the Korean War. North Korea circumvented the South Koreans just two years later, however, by appealing directly to the Americans for peace talks. The DPRK peace proposal sought the dissolution of the UNC and the withdrawal of all foreign troops from Korea, but the United States and South Korea were opposed.

Hope for introducing a KPPR was renewed in 1991, when top officials from Seoul and Pyongyang signed the North-South Joint Agreement on Reconciliation, Nonaggression, and Cooperation and Exchange (the so-called Basic Agreement). This was a comprehensive document in which the two parties pledged to “exert joint efforts to achieve peaceful unification,” including various CBMs such as the establishment of a South-North liaison office at Panmunjom and a plan to reconnect railways, roads, and many Korean families separated for decades since the war. The two parties described their relationship not as one between states, but instead as a “special interim relationship stemming from the process toward unification.”

In addition, the agreement pledged recognition and respect for each other’s system of government, non-interference in each other’s internal affairs, no slander or vilification, and no actions of sabotage or attempts to overthrow the opposing regime. These are key principles for the North Koreans, who regularly insist that they be included in such documents. Indicative of the problem, however, is that three North Korean soldiers (dressed in South Korean uniforms) were intercepted south of the DMZ just five months after the Basic Agreement was signed, and there have been many other transgressions.<sup>12</sup> Pyongyang seemed ambivalent about implementing the Basic Agreement with any vigor, and it has remained an unfulfilled promise.

Throughout the 1990s and the 2000s there have been other attempts to officially end the Korean War and introduce CBMs, but the only (minor) lasting results have been on the economic front. In the 1990s, the United States, the two Koreas, and China convened Four-Party Talks on what we are now calling a peace regime, but they went nowhere. The first-ever inter-Korean leadership summit in 2000 led to several projects including the joint industrial zone at Gaesong and a series of family and cultural exchanges. At the summit, Kim Dae-jung and Kim Jong-il

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<sup>11</sup> Lee Sanghee, “Toward a Peace Regime on the Korean Peninsula,” The Brookings Institution, May 2, 2007.

<sup>12</sup> Dick K. Nanto, “North Korea: Chronology of Provocations 1950-2003,” Congressional Research Service, Report for Congress, March 18, 2003.

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also “agreed that there is a common element in the South’s concept of a confederation and the North’s formula for a loose form of federation,” but very little was sustained.

### *Conceptualizing a Peace Regime*

The 2005 Joint Statement may have officially linked a peace regime to the Six-Party Talks, but few experts can adequately define the KPPR concept, let alone specify its 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.<sup>13</sup> 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 many scholars have been studying and writing about various KPPR schemes for years, there is still no consensus.

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 along the lines of the Basic Agreement. A more ambitious view links a KPPR directly to the process of reconciliation and confederation, to settling tough issues like the West Sea 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 DMZ. 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 leads 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.”<sup>14</sup> 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.”<sup>15</sup>

Others point out that despite all its shortcomings, the armistice has been a relatively successful peace regime unto itself. Rather than replace it, we are better off trying to improve it and focus on issues that the armistice fails to deal with, such as the process of unification or confederation.

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<sup>13</sup> Stephen D. Krasner, ed. *International Regimes*. Ithaca, NY: Cornell University Press. 1983.

<sup>14</sup> 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.

<sup>15</sup> 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 and Tasks,” October 26, 2007.

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This might seem a bit like splitting hairs—whether or not the armistice is “replaced” or “built upon”—but it should at least prompt us to consider the specific day-to-day (and extraordinary) responsibilities of the current armistice infrastructure so that key duties are addressed and capabilities maintained or enhanced. For the sake of security and peace, it is important to strike the right balance between building confidence and maintaining deterrence.

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? South Korea and the United States believe that a peace regime should lead to some form of reconciliation (or at least a major change in North Korean behavior), but policy makers in both countries argue internally about how clear a linkage 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.

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. Similarly, the allies are probably 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 generally supports Pyongyang’s position by consistently emphasizing the need to duly consider North Korea’s “legitimate” security concerns.<sup>16</sup> Simply agreeing to a peace regime will not alleviate long-held suspicion or fear. This will take a long time, but we can start by incrementally fostering an environment conducive to peace. The question is: how do we begin this process?

### **Developing a Peace Regime: 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 a U.S.-DPRK bilateral meeting in the near term could begin again to outline ways to develop the conditions necessary for peace on the peninsula. U.S. officials must be mindful of history, however, and keep in mind the slightly different perspectives and positions of the ROK and China in order to avoid later complications or misunderstandings. It is appropriate for the United States to take the initiative and explain to North Korea what it is prepared to do in support of peace, not because it is obliged to do so, but because there is a chance to demonstrate to China and the ROK public that the United States is making sincere

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<sup>16</sup> Anne Wu, “What China Whispers to North Korea,” *The Washington Quarterly* 28:2, pp. 35-48, Spring 2005. See also “China and the North Korean Nuclear and Missile Issues: Statements and Developments,” (especially 1999 and 2003), The Nuclear Threat Initiative web site, available at <http://www.nti.org/db/china/koreachr.htm>

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efforts to reach a peaceful settlement through dialogue. If U.S. proposals lead to something constructive, then the allies and the region will benefit. If North Korea rejects reasonable proposals, then it will only serve to further isolate the regime in Pyongyang and pave the way for applying additional pressure multilaterally.

The United States has an opportunity to take leadership in the Six-Party process and clarify its proposal of an alternative path for North Korea, the so-called comprehensive package or grand bargain. As noted above, this would not constitute a reward for bad behavior or “buying the same horse twice” (e.g., no relaxation of UN sanctions or large-scale economic investment until denuclearization is well underway), but U.S. officials can explain what their government is prepared to do bilaterally to improve the U.S.-DPRK political relationship. After all, the road map for U.S.-DPRK normalization was one of the least defined components of the Six-Party agreements, so there is room for the Obama administration to flesh out what it considers to be a reasonable path toward normalization. There is much that Washington can offer Pyongyang, but it must be a plus sum arrangement. The United States can make political concessions to North Korea (in return for denuclearization), as long as it does not diminish the U.S.-ROK alliance in any way. Here are some themes to consider before the United States presents a normalization proposal (and for many of these themes the perspectives in Seoul, Washington, and Beijing overlap):

### *First, Do No Harm: Armistice and OPCON*

Any roadmap for U.S.-DPRK normalization or KPPR 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 leadership for South Korea’s defense to ROK forces is the best way to strike this balance. Regular military exercises are required to complete this transition confidently, and the U.S. support role 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.

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.<sup>17</sup> In addition, the alliance is preparing to transfer wartime operational control (OPCON) of ROK forces from the CFC commander, a U.S. general, to the ROK military leadership, a change scheduled to take effect in 2012 (although some in Seoul are hoping for a longer transition period). In 2012, USFK will become U.S. Korea Command (KORCOM), and together with ROK Joint Forces Command they will become “complementary, independent commands in a supporting-to-supported relationship.”<sup>18</sup> 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.

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<sup>17</sup> B.B. Bell and Sonya L. Finley, “South Korea Leads the Warfight,” *Joint Forces Quarterly*, issue 47, 4<sup>th</sup> qtr., 2007.

<sup>18</sup> *Ibid.*

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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 should facilitate North-South coordination of expanding cross-border economic activity (such as rail and road links) and the maintenance of security. The UNC will step back into a supporting role, 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).

### *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, phased and verifiable arms reductions, and direct telephone links. 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.

### *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, caveats, and qualifications 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 integral 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

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abide by the terms of the agreement.<sup>19</sup> So, if North Korea and China were satisfied in 1953 that the armistice was binding on ROK forces, they cannot now claim that Seoul was never a party to that agreement.

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). But given the vagueness of what KPPR actually means, this still does not clarify that the North would accept South Korea as a signatory to a formal peace treaty to end the war. Pyongyang instead might view a KPPR as a collection of agreements and arrangements, including a U.S.-DPRK peace treaty.

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. A few roles for the United States and China in the KPPR might mirror each other, perhaps including some involvement in dispute resolution. 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 it seems that this point was instrumental behind the mention of “three or four parties” at the second inter-Korean summit. There are some military CBM issues that 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 through the newly opened UN Development Programme office in Pyongyang, verifying denuclearization, and possibly facilitating dispute resolution later on), but no one involved (including UN officials) wants the UN to become a primary player in this process.<sup>20</sup>

### *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.”<sup>21</sup> The South Korean position on this issue has been more flexible, most dramatically under the liberal Roh administration, which promoted the idea of declaring an end to the war first, and then working toward denuclearization. Even the conservative Lee Myung-bak government sees a KPPR and denuclearization as separate, if complementary, components. As one ROK diplomat described it, “An important strategy of the [South] Korean government is to create a new peace structure, what we call 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.”<sup>22</sup>

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<sup>19</sup> United Nations, *1994 Report of the Activities of the United Nations Command*, UN Doc. S/1995/378, May 11, 1995, p. 6.

<sup>20</sup> Schoff and Eisenberg, 13.

<sup>21</sup> *Chosun Ilbo*, “Bush Favors Denuclearization First, Peace Later,” September 10, 2007.

<sup>22</sup> Schoff and Eisenberg, 14.

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Much to the chagrin of allied negotiators, however, North Korea continuously interweaves denuclearization with U.S. troop withdrawal from the peninsula. North Korean officials emphasize that Pyongyang seeks the “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.<sup>23</sup> 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 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 too short to reach both sides.

### Recommendations for Broaching a Peace Regime in Support of Denuclearization

Although a KPPR is primarily an inter-Korean process, the U.S.-DPRK normalization track is still an important component of that regime (especially from North Korea’s perspective), and it is an integral part of the Six-Party agreements. The United States cannot use bilateral talks with North Korea to determine what a peace regime would look like, but it can address normalization scenarios and conditions, and it can explain what Washington would be willing to support in other multilateral talks. Below is a list of what the United States can and cannot do in bilateral talks, as it makes a sincere attempt to address North Korean security concerns with reasonable proposals. The “can do” list is divided into three parts: 1) actions that can be taken regardless of Six-Party progress; 2) actions that require a certain degree of progress in the Six-Party talks (defined through negotiation); and 3) actions conditional on North Korean reentry into the Nuclear Non-proliferation Treaty (NPT), an inter-Korean agreement to replace the armistice, and an agreement on Japan-DPRK normalization.<sup>24</sup> The purpose is for the United States to do its part in support of developing the conditions necessary for peace on the peninsula and to facilitate multilateral pressure on North Korea if it is unresponsive.

#### Actions not necessarily dependent on the Six-Party Talks

The net effect of these steps will likely be limited, due primarily to a lack of interest in Pyongyang to open up the country, but Washington can gain leverage by demonstrating its sincere interest in a deeper and more productive relationship with a more cooperative North Korea. Adhering to international standards on these issues should mitigate criticism from allies, though the last recommendation will require careful consultations with Seoul and Tokyo.

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<sup>23</sup> Ibid.

<sup>24</sup> This list is illustrative, not exhaustive. It draws on ideas presented in Schoff et. al., *Nuclear Matters*; “North Korea Inside Out: The Case for Economic Engagement,” Asia Society Independent Task Force, October 2009; Karin Lee, “Working at the People-to-People Level: Recommendations for United States Government Involvement,” October 2009; and Park Sun-won, “A Proposal for a ‘Bosworth Process’ with North Korea: Denuclearization and Beyond,” Brookings Institution, October 2009.

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- Resume U.S. humanitarian aid; *Should be need based and conducted in accordance with monitoring protocols previously agreed to by the DPRK before it suspended the program in March 2009.*<sup>25</sup>
- Increase bilateral exchanges (official, academic, and cultural): *This was agreed to by both sides in the second-phase actions for implementation of the 2005 joint statement in the six-party talks, and there is no need to link to Six-Party progress as long as it does not provide any unreasonable cash payments to the DPRK. DPRK officials indicated their interest in academic and technological exchanges in particular, during recent Track 2 discussions.*
- Support DPRK observer status in international financial institutions (IFIs): *Could allow IFI economists to discuss economic reform strategies with DPRK counterparts and develop a path for future DPRK membership.*<sup>26</sup>
- Allow commercially viable, legal trade with North Korea consistent with UN sanctions: *Japan has the most to lose on this issue, given its restrictive unilateral sanctions imposed on North Korea resulting from the past abduction of Japanese citizens. If possible, this should be synchronized with Japan to avoid undermining Japanese leverage, and there are signs the government in Tokyo is willing to consider relaxing certain sanctions. The goal here is to multilateralize (harmonize) the sanctions regime so that North Korea cannot play one country off the other. Non-subsidized, legal trade consistent with UN sanctions and allied export controls is still a very restrictive standard, but North Korea will likely pursue a few select projects if only to diversify away from an overreliance on Chinese firms.*

### Actions that require some progress in the Six-Party Talks

Obviously, much depends on the definition of “some progress,” but in general this could be broken down into two steps: 1) simple resumption of Six-Party Talks and a DPRK moratorium on nuclear development and long-range missile/rocket testing (i.e., consistent with UNSC requirements); and 2) certification by the International Atomic Energy Agency (IAEA) that it has sufficient knowledge of the DPRK nuclear programs to be able to accept DPRK reentry to the NPT once identified fissile material is removed from the country. Some actions listed below could be initiated during step one, and the rest after step two. Step two is important because it puts much of the onus of verification on the DPRK and the IAEA, not just the United States. The allies and the Six-Party talks will still be an important part of that process, and a KPPR cannot be consummated without allied confidence in the verification protocols, but this should make it difficult for North Korea to blame the United States for delays due to “unreasonable” demands on verification. The time lag between steps one and two could be several years.

- Exchange of high-level cross visits
- Reiteration of negative security assurances
- Support three-or-four party peace regime negotiations
- Establishment of a U.S. liaison office in Pyongyang (and DPRK office in Washington)
- Discussion regarding the exchange of interest sections and limited normalized relations: *some form of limited normalization might be possible in step two.*

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<sup>25</sup> It should be stressed that the decision to halt U.S. humanitarian aid in 2009 was made by North Korea, which decided that it could no longer support the aid monitoring protocols it agreed to previously. Still, it is worth emphasizing that the United States supports resumption of humanitarian aid regardless of Six-Party progress.

<sup>26</sup> Asia Society Independent Task Force, “North Korea Inside Out,” p. 35.

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- Support resumption of energy assistance programs to DPRK (including discussion of proliferation-resistant nuclear reactor development)
- Initiate U.S.-DPRK peace treaty negotiations
- Promote commercially viable, legal trade with North Korea consistent with UN sanctions
- In cooperation with the ROK, discussion of security CBMs: *related to military exercises, missile/rocket development, and modernizing armistice mechanisms regarding dispute resolution, troop and equipment movements, possible shared use around the NLL, and transparency/intelligence gathering.*<sup>27</sup>

### Actions that require DPRK NPT reentry and reconciliation with South Korea and Japan

It could be several more years in between preparing for NPT reentry and actually moving fissile material out of North Korea. Inter-Korean and Japan-DPRK negotiations could also take several years.

- Support lifting of UN sanctions: *Requires NPT reentry only. Missile sanctions might need some additional missile-specific discussions, though these could be linked with North-South and Japan-DPRK bilateral talks.*
- U.S.-DPRK peace treaty as companion to Korean-led KPPR: *This might include a reduced U.S. military presence on the Korean Peninsula as long as the ROK supports it (including the removal of all U.S. ground forces, except those training on a rotational basis).*
- Full diplomatic normalization
- Support delivery of key components for DPRK nuclear reactor development
- Support DPRK IFI membership

### Actions that the United States should **NOT** take

- Support lifting of UN sanctions before North Korea complies with relevant international regimes on missiles and the NPT (these were, after all, adopted unanimously by the UNSC).
- Support subsidized trade with North Korea or large-scale aid programs that are not properly monitored.<sup>28</sup>
- Suggest that full U.S.-DPRK normalization is possible before NPT reentry, a Korean-led KPPR, and Japan-DPRK normalization (the United States can give politically to North Korea along the way, but the allies should cross the full normalization “finish line” together)
- Allow North Korea to divorce itself from its previous Six-Party commitments (North Korea entered into those agreements freely, and all other parties remain committed).
- Lower its guard with respect to DPRK proliferation networks or other illegal trafficking, counterfeiting, or money laundering actions. Illegal is illegal.
- Refrain from standing up for human rights in North Korea.

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<sup>27</sup> For a detailed look at CBM options, see Vannoni, Olsen, Koelm, Littlefield, Kim, Shin, Kim, and Kim “Inter-Korean Military Confidence Building after 2003,” Sandia National Laboratories, SAND2003-2892, August 2003.

<sup>28</sup> “Subsidized trade” refers to commercial deals with North Korea that are politically motivated and use government subsidies to compensate private firms for loss making ventures or provide unusual guarantees against default or downside risk. There is a level of normal, acceptable government support for commercial investments in developing economies (e.g., low interest loans or certain default guarantees provided during early U.S. trade with Vietnam or other nations), and these standards and procedures should be applied to North Korea. If North Korea cannot comply, then technical assistance programs could be developed to help make North Korea eligible.

## Peace Regime Concepts to Support North Korean Denuclearization

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. The United States should work proactively with its allies 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. Perhaps if North Korea came to believe that the survivability of its regime would not be at stake in a peace regime, it might enter negotiations with some flexibility. For the United States, being flexible without abandoning its friends or its 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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## Peace Regime Concepts to Support North Korean Denuclearization

### Appendix: Trail of Documents Related to Korean Peace Regime Development

Date	Title	Parties	Highlights
July 27, 1953	The Korean War Armistice Agreement	<ul style="list-style-type: none"> <li>• Chinese People's Volunteers</li> <li>• Korean People's Army</li> <li>• United Nations Command</li> </ul>	<ul style="list-style-type: none"> <li>• Codified the ceasefire</li> <li>• Established 38<sup>th</sup> parallel as Military Demarcation Line</li> <li>• Instituted special commissions to oversee terms</li> </ul>
July 4, 1972	North-South Joint Communiqué	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• South Korea</li> </ul>	<ul style="list-style-type: none"> <li>• The first official joint statement agreeing to principles of independent and peaceful reconciliation</li> </ul>
December 13, 1991	Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation between the South and the North (Basic Agreement)	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• South Korea</li> </ul>	<ul style="list-style-type: none"> <li>• Created foundation for future discussions regarding peaceful reconciliation</li> <li>• Detailed several CBMs</li> </ul>
January 20, 1992	Joint Declaration of the Denuclearization of the Korean Peninsula	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• South Korea</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed not to test, manufacture, produce, possess, store, deploy, or use nuclear weapons</li> <li>• Agreed not to possess uranium enrichment facilities</li> </ul>
June 11, 1993	Joint Statement of the DPRK and the United States	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• United States</li> </ul>	<ul style="list-style-type: none"> <li>• Recognized each country's sovereignty</li> <li>• Pledged non-interference in domestic affairs</li> </ul>
October 21, 1994	Agreed Framework between the United States and the DPRK	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• United States</li> </ul>	<ul style="list-style-type: none"> <li>• First official mention of moving toward "full normalization" of U.S.-DPRK relations</li> <li>• U.S. assurances against the threat or use of nukes against the North</li> </ul>
June 15, 2000	South-North Joint Statement	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• South Korea</li> </ul>	<ul style="list-style-type: none"> <li>• Sought common ground between the South's concept of confederation and the North's formula for loose federation</li> <li>• Promoted balanced development of the national economy</li> </ul>
September 19, 2005	Joint Statement of the Fourth Round of the Six-Party Talks	<ul style="list-style-type: none"> <li>• China</li> <li>• Japan</li> <li>• North Korea</li> <li>• Russia</li> <li>• South Korea</li> <li>• United States</li> </ul>	<ul style="list-style-type: none"> <li>• DPRK committed to abandoning nuclear weapons and programs, and U.S. affirmed no-attack pledge</li> <li>• Agreed that the "directly related parties will negotiate a permanent peace regime on the Korean Peninsula at an appropriate separate forum."</li> </ul>
November 17, 2005	Joint Declaration on the ROK-U.S. Alliance and Peace on the Korean Peninsula	<ul style="list-style-type: none"> <li>• South Korea</li> <li>• United States</li> </ul>	<ul style="list-style-type: none"> <li>• The "two leaders shared a common understanding that the process of resolving the North Korean nuclear issue will provide an important basis to build a durable peace regime on the Korean Peninsula."</li> </ul>
February 13, 2007	The Initial Actions for the Implementation of the Joint Statement	<ul style="list-style-type: none"> <li>• China</li> <li>• Japan</li> <li>• North Korea</li> <li>• Russia</li> <li>• South Korea</li> <li>• United States</li> </ul>	<ul style="list-style-type: none"> <li>• Established five working groups to deal with core issues including U.S.-DPRK normalization and NE Asian regional security</li> <li>• Reiterated plan for directly related parties to negotiate a KPPR</li> </ul>
October 4, 2007	Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity	<ul style="list-style-type: none"> <li>• North Korea</li> <li>• South Korea</li> </ul>	<ul style="list-style-type: none"> <li>• Reaffirmed principles in the June 15 Joint Declaration</li> <li>• Recognized the need to end the armistice and build a permanent peace regime</li> <li>• Agreed to work together to have the "leaders of the three or four parties directly concerned" to declare an end to the war</li> </ul>