

PEACEWORKS



A Peace Regime for the Korean Peninsula

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ABOUT THE REPORT

This report examines the issues and challenges related to establishing a peace regime—a framework of declarations, agreements, norms, rules, processes, and institutions aimed at building and sustaining peace—on the Korean Peninsula. Supported by the Asia Center at the United States Institute of Peace, the report also addresses how US administrations can strategically and realistically approach these issues.

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Cover photo: South Korean soldiers, front, and North Korean soldiers, rear, stand guard on either side of the Military Demarcation Line of the Demilitarized Zone dividing the two nations. (Photo by Korea Summit Press Pool via New York Times)

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Summary



Since the end of the Korean War in 1953, few serious efforts have been made to achieve a comprehensive peace on the Korean Peninsula. The unique aspects of the diplomatic engagement between Washington and Pyongyang in 2018 and 2019, however, presented a situation that warranted both greater preparation for a potential peace process and greater vigilance about the potential obstacles and risks. Today, with the collapse of negotiations threatening to further strain US-North Korea relations and increase tensions on the Korean Peninsula, a more earnest and sober discussion about how to build mutual confidence, enhance stability, and strengthen peace is all the more important.

Peace is a process, not an event. A peace regime thus represents a comprehensive framework of declarations, agreements, norms, rules, processes, and institutions aimed at building and sustaining peace.

Six countries—North Korea, South Korea, the United States, China, Japan, and Russia—have substantial interests in a peace regime for the Korean Peninsula. Some of these interests are arguably compatible, including the desire for a stable and nuclear-free Peninsula. Others, such as North Korean human rights and the status of US forces, seem intractable but may present potential for progress. Understanding these interests can shed light on how to approach areas of consensus and divergence during the peacebuilding process.

Certain diplomatic, security, and economic components are necessary for a comprehensive peace on the Korean Peninsula. Denuclearization, sanctions relief, and the US military presence have drawn the most attention, but a peace regime would also need to address other matters—from procedural aspects such as which countries participate and whether a treaty or an executive agreement should be used, to sensitive topics such as human rights, economic assistance, and humanitarian aid, to far-reaching considerations such as the Northern Limit Line, conventional force reductions, and the future of the United Nations Command. This report addresses how US administrations can strategically and realistically approach the challenges and opportunities these issues present, and then offers general principles for incorporating them into a peacebuilding process.



President Moon Jae-in of South Korea, right, and North Korea's leader, Kim Jong Un, shake hands in the truce village of Panmunjom on April 27, 2018. At center is the border between the two Koreas. (Photo by Korea Summit Press Pool via New York Times)

Background

Achieving peace on the Korean Peninsula is possible but it will be a long and arduous process. The first step is elevating peace as a priority.

Since the signing of the 1953 Armistice Agreement established a military truce on the Korean Peninsula, few serious endeavors have been undertaken to realize a “final peaceful settlement” to the Korean War.¹ A variety of factors, including geopolitical tensions, deep mistrust, poor mutual understanding, political expediency, and myopic policymaking, have prevented diplomatic negotiations among the four major countries involved—the Democratic People’s Republic of Korea (DPRK, or North Korea), the Republic of Korea (ROK, or South Korea), the United States, and China—from advancing to the formal peacemaking stage.

To be sure, many limited efforts have been made to reach a peace settlement. The first attempt, the 1954 Geneva Conference, reached potential agreement on the issues of foreign troop withdrawal and the scope of elections for the Peninsula.² However, the conference ultimately foundered after two months over the question of who would supervise these issues—the communist side favoring Korea-only or neutral nations supervision and the US-led side supporting UN oversight.

Later, despite the grip of Cold War tensions on the Peninsula—China and the Soviet Union backing the North and the United States supporting the South—the

Peace on the Korean Peninsula will require far more than a simple agreement, however. A comprehensive regime consisting of declarations, agreements, norms, rules, processes, and institutions will be necessary to build and sustain peace.

two Koreas took sporadic, incremental steps toward peaceful coexistence and long-term reunification. They achieved significant breakthroughs in diplomatic relations and tension reduction, including the 1972 joint North-South Statement on reunification, the 1991 Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation (Basic Agreement), and the 1992 Joint Declaration on the Denuclearization of the Korean Peninsula.

These achievements, however, proved largely aspirational because they could not resolve three fundamental issues. First, North Korea desired direct negotiations and normalization with the United States, often sidelining South Korea in the process. Second, North Korea continued to conduct violent acts against South Korea (such as the 1983 assassination attempt of President Chun Doo-hwan in Burma, the 1987 bombing of a Korean Air flight, and the 2010 sinking of the ROK ship *Cheonan* and shelling of Yeonpyeong Island), partly because of its own insecurity about the South's growing political and economic legitimacy. Third, it was unclear how the two Koreas would accommodate mutually contradictory conceptions of reunification following peace.

Advances in North Korea's nuclear and ballistic missile program in the 1990s finally drew Washington into negotiations with Pyongyang but further complicated the prospects for peace discussions. Successive US administrations prioritized denuclearization as the primary objective in negotiations and made it a precondition for discussing peace and diplomatic normalization. After the 1994 Agreed Framework deal froze North Korea's nuclear facility at Yongbyon, US President Bill Clinton and South Korean President Kim Young-sam proposed Four-Party Talks with North Korea and China in April 1996, the first major effort at peace negotiations since the 1954 Geneva Conference. Unsure about US

intentions for the endgame, North Korea took more than a year to respond.³ When it finally engaged, discussions about peace quickly collapsed because of its insistence that US troop presence on the Korean Peninsula be on the agenda.⁴ A North Korea review process led by former US Secretary of Defense William Perry (but conducted separately from the Four-Party Talks and ongoing US-DPRK missile talks) pushed the two sides "tantalizingly close" to a deal that would have banned North Korea's production and testing of long-range missiles in exchange for potential normalization steps.⁵ Because time was running out for his administration, however, President Clinton chose to prioritize promising Israeli-Palestinian talks rather than making a trip to Pyongyang, believing that the next administration would consummate a deal with North Korea.⁶

In the mid-2000s, the Six-Party Talks chaired by China represented another attempt to address peace and denuclearization under a "commitment for commitment, action for action" approach.⁷ Despite some confidence-building measures, including North Korea's shutting down the five-megawatt reactor at its Yongbyon facility, the United States' removing North Korea from its state sponsors of terrorism list and Trading with the Enemy Act provisions, and the creation of working groups focused on normalization, the talks again fell apart in December 2008 when the two sides could not agree on a formal protocol for verifying North Korea's nuclear activities. In the absence of a written protocol, Washington, along with new, right-of-center governments in Seoul and Tokyo, insisted on suspending energy assistance; Pyongyang responded by expelling international inspectors.⁸

The landmark June 2018 agreement reached in Singapore between President Donald J. Trump and Chairman Kim Jong Un—the first signed between the

United States and North Korea at the leader level—was the latest effort at forging a peace regime on the Korean Peninsula. Under the agreement, the two sides committed to “establish new US-DPRK relations” and “build a lasting and stable peace regime on the Korean Peninsula.” In addition, North Korea promised to “work toward the complete denuclearization of the Korean Peninsula.”⁹ The inability of the two countries to negotiate a more comprehensive agreement at a second summit in Hanoi in February 2019, or since then, underscores their entrenched positions and the long-standing chasm that lies between.

Nevertheless, the Singapore agreement’s call for a peace regime reinforced the need to examine this issue in a thorough and timely manner. Also, the unique aspects of this period of diplomacy—including President Trump’s unconventional willingness to meet with Kim Jong Un directly and to discuss peace and denuclearization simultaneously, the severity of the global pressure campaign against North Korea, the Kim regime’s purported desire to shift from nuclear to economic development, and the ostensibly cordial relationship between the two leaders—presented a potentially radical disjuncture from past negotiation scenarios.¹⁰ Although the considerable obstacles were clear, the moment warranted greater preparation for a potential peace. As this latest effort at diplomacy appears to have failed and US-North Korea relations seem on the brink of another downward turn, it is just as—if not more—important to think through how to enhance stability, build mutual confidence, and strengthen peace on the Peninsula without a formal peace agreement.

The limited number of official, multilateral efforts to pursue a comprehensive peace regime has meant equally few examinations of what it entails, how the relevant countries view such an initiative, and what issues and risks it involves. The focus of most parties on the immediate challenges of North Korean denuclearization has further detracted from assessing the long-term challenge of structuring peace on the Korean Peninsula. The rapid development of North Korea’s nuclear weapons and ballistic missile programs and the corresponding intensifying of the global sanctions regime against North Korea significantly complicate a potential peace process.

All parties interested in Korean Peninsula security accept in principle the necessity of a peace regime to ensure a permanent end to conflict. Peace will require far more than a simple agreement, however. A comprehensive regime consisting of declarations, agreements, norms, rules, processes, and institutions—spanning the diplomatic, security, economic, and social spheres—will be necessary to build and sustain peace. Furthermore, the process will raise challenging questions about the future of the US-ROK Alliance, the strategic orientation of and relations between the two Koreas, the role of the United States and China on the Korean Peninsula, and the overall security architecture in the Northeast Asian region.

Achieving peace on the Korean Peninsula is possible, but it will be a long and arduous process. The first step is elevating peace as a priority.

Perspectives



Six countries—North Korea, South Korea, the United States, China, Japan, and Russia—have substantial interests in how peace unfolds on the Korean Peninsula and the implications for Northeast Asia. Many of these interests are arguably compatible. For example, all six parties support the goal of denuclearization of the Peninsula, though following different definitions and timelines; even North Korea has committed to this goal, at least nominally, despite actions to the contrary. Some disputes, such as the presence of US forces on the Korean Peninsula or the human rights situation in North Korea, seem nonnegotiable but may present areas for progress after greater dialogue and trust building. Other interests present challenges because they are at direct odds (such as the sequencing of denuclearization and reciprocal confidence-building measures) or particular to just one country (such as Japanese abductees). Understanding these interests can help accentuate consensus areas while mitigating divergences during the peacebuilding process.

NORTH KOREA

Since at least the 1991 collapse of the Soviet Union, North Korea's approach to peace has been rooted in its pursuit of regime security. To this end, the Kim regime has focused on ending what it perceives as a "hostile" US policy and transforming its overall relationship with the United States. The North has also engaged with liberal South Korean governments to reduce tensions and gain benefits, but it has long perceived the United States as the paramount threat to its security and the principal impediment to attaining comprehensive, sustainable peace.

During periods of negotiations with the United States, the regime has pursued this approach by securing US

commitments to move toward full normalization of political and economic relations, provide formal assurances against the threat or use of conventional and nuclear weapons, ease economic and financial sanctions, and respect North Korea's sovereignty. The most recent articulation of this goal was described in the June 2018 US-DPRK Joint Statement in Singapore, which committed the two countries to "establish new US-DPRK relations" and "build a lasting and stable peace regime on the Korean Peninsula."

North Korea believes that denuclearization should be the result, rather than the cause, of improved bilateral relations between Pyongyang and Washington. The regime insists, with China's endorsement, that a transformed relationship can only occur by both sides taking "phased and synchronous measures" to build trust slowly rather than Pyongyang being required to denuclearize unilaterally and comprehensively up front under a "Libya model" as suggested by then National Security Advisor John Bolton.¹¹

For North Korea, measures for ending the "hostile" US policy can be described under three categories: diplomatic, military, and economic.

For Pyongyang, an important demonstration of improved US-DPRK ties is the normalization of relations. North Korea believes that peace and security starts with a mutual recognition of each country's sovereignty and parity, which can be accorded through normalization. Normalized relations would also facilitate regime legitimacy in other ways, including through enhanced economic and trade relations, greater academic, scientific, and technical exchanges, and improved standing in the international community.



Map 1. The Korean Peninsula
 Artwork by Lucidity Information Design

North Korea has sought to coerce the United States into ending its “hostile” policy through nuclear and long-range missile testing, heightened tensions on the Korean Peninsula, and improved relations with China, Russia, and other countries.

North Korea views the US military presence in South Korea and its joint exercises as a direct threat to the regime’s security and a constant manifestation of Washington’s hostility. To mitigate this threat, the regime has sought military security guarantees from the United States, which include not only assurances against an attack but also an end to joint US-South Korea military exercises and a reduction in—if not complete withdrawal of—US forces on the Peninsula. The regime has also made its own varying demands for the denuclearization of the entire Peninsula, including the removal of US nuclear and strategic assets from South Korea and even in the region.

Despite its public emphasis on diplomatic normalization and security guarantees, North Korea has consistently demanded economic concessions in previous bilateral and multilateral negotiations. Since 2018, it has focused on gaining relief from the robust UN sanctions targeting the civilian economy that started with the adoption of UN Security Council Resolution (UNSCR) 2270 in March 2016. This effort also coincided with a shift in the country’s strategy to prioritize economic development rather than simultaneous development of nuclear weapons and the economy (*byungjin*).¹² Experts disagree on whether the move was a natural progression in national priorities after the successful completion of its nuclear force development, as North Korea claims, or a response to the crippling effects of economic pressure, as sanctions advocates argue.

North Korea has been equivocal and inconsistent about how it prioritizes potential US and international concessions. For example, at different points throughout the 1990s, North Korean officials both expressed a willingness to set aside the issue of US troops on the Peninsula (such as during the 1994 Agreed Framework negotiations and the 2000 inter-Korean summit) and demanded that

the issue be on the negotiating agenda (for example, during the late-1990s four-party peace talks).¹³ Former US official Robert Gallucci, who negotiated the 1994 Agreed Framework, noted that “from time to time there have been indications that the North would like more political freedom and less economic dependence on China and is not so enthusiastic about an American departure from the region.”¹⁴ Similarly, North Korea has sometimes underscored its desire for sanctions relief, including making it its highest priority during the February 2019 Hanoi summit negotiations, but in other instances has dismissed its importance and instead emphasized the primacy of security guarantees.¹⁵ This equivocation may be an effort to downplay the effect of sanctions and save face while seeking economic relief. Ultimately, Pyongyang seeks comprehensive security across the diplomatic, military, and economic dimensions, but has demonstrated flexibility in its demands, depending on the circumstances and potential corresponding concessions.

In the absence of diplomatic progress, North Korea has sought to coerce the United States into ending its “hostile” policy by increasing its leverage through nuclear and long-range missile testing, heightened tensions on the Korean Peninsula, and improved relations with China, Russia, and other countries. After the collapse of negotiations in December 2019, Chairman Kim stated that North Korea would revert back to “taking offensive measures to reliably ensure the sovereignty and security of our state.”¹⁶ Many experts argue that even an end to US enmity will not persuade North Korea to abandon its nuclear weapons. Becoming a nuclear power has been its highest security goal (if not national ambition) for several decades. North Korean officials have wondered in various settings why their country was not treated like India and Pakistan, which each possess nuclear weapons and have normal diplomatic relations with other countries but are not considered nuclear-weapon states

under the Non-Proliferation Treaty.¹⁷ Given North Korea's claim that it has "finally realized the great historic cause of completing the state nuclear force" with the successful launch of its Hwasong-15 intercontinental ballistic missile in November 2017, many US experts believe that North Korea will likely continue to maintain its nuclear deterrent because it is the best guarantee of regime security and national sovereignty.¹⁸ Accordingly, security guarantees and promises of brighter economic futures will not be enough to get significant traction on denuclearization because North Koreans view the US domestic political landscape as unpredictable and changes in administrations triggering swings in Washington's North Korea policy.

SOUTH KOREA

Given the proximate security risk from North Korea and the fundamental yearning for reconciliation (and even reunification), both liberal and conservative South Korean administrations since the democratization period of the late 1980s have generally pursued a policy of engagement with the North. President Roh Tae-woo (1988–93), inspired by West Germany's Ostpolitik engagement with Eastern Europe and the Soviet Union's adoption of glasnost, implemented a Nordpolitik policy in 1988 that strengthened political and economic ties with communist countries to help draw the North out of isolation. The inter-Korean détente continued under President Kim Young-sam (1993–98) and intensified under the sunshine policies of Presidents Kim Dae-jung (1998–2003) and Roh Moo-hyun (2003–8), leading to several breakthroughs, including the Mount Kumgang tourism project in 1998, the Kaesong joint industrial complex in 2004, and the first two North-South summits in 2000 and 2007. Critics have argued, however, that the sunshine policy achieved temporary rapprochement at the expense of enabling and even funding the North's nuclear program and illicit behavior.

Subsequent conservative administrations adopted a tougher, more reciprocal approach in engaging with North Korea. President Lee Myung-bak (2008–13) conditioned dialogue and humanitarian assistance on North Korean steps toward denuclearization and openness;

President Park Geun-hye (2013–17) sought a middle ground that emphasized mutual trust building as the foundation for peace and denuclearization. These engagement efforts, however, were undermined by North Korean provocations, which included four nuclear tests between 2009 and 2017, the sinking of the *Cheonan* and shelling of Yeonpyeong Island in 2010, and a 2015 landmine explosion in the Demilitarized Zone (DMZ). Both administrations implemented a "proactive deterrence" policy that aimed to thwart provocations by highlighting disproportionate retaliation, offensive capabilities, and preemption. Pyongyang rejected this less accommodating approach and viewed the conservative governments' emphasis on reunification as a hostile regime-change strategy.

The current Moon Jae-in administration reinvigorated the sunshine policy of its liberal predecessors, highlighting three main principles for a peaceful Korean Peninsula. The first involves the renunciation of all military action and armed conflict, whether it is a North Korean provocation or a US preventive strike. A military clash would not only undermine peace efforts but could also potentially lead to dangerous escalation. Second, President Moon has emphasized the importance of denuclearization of the Korean Peninsula. This point not only recognizes that North Korea's denuclearization is a prerequisite for peace, but also rejects arguments by South Korea's conservatives in support of indigenous nuclear weapons or the redeployment of US tactical nuclear weapons.

The third principle stresses that the two Koreas must play the primary roles in leading the peace process. This principle stems from a strong desire for national self-determination born out of decades of colonial occupation, foreign intervention, great power influence, and North Korean refusals to engage with South Korea. In his first meeting with President Trump in June 2017, President Moon quickly secured US support for "the ROK's leading role in fostering an environment for peaceful unification of the Korean Peninsula."¹⁹ A week later, in a speech outlining his North Korea policy delivered in Berlin, he declared that South Korea would be "in the driver's seat"



North Korea's Hwang Chung Gum and South Korea's Won Yun-jong carry the unification flag during the February 9 opening ceremony of the 2018 Winter Olympics in Pyeongchang, South Korea. (Photo by Jae C. Hong/AP)

of the Korean Peninsula. Nevertheless, South Korea recognizes that the United States will play a leading role on the basis of its authority over nuclear issues and the North's preoccupation with US enmity. Consistent with the concept of self-determination, President Moon has also adopted from previous sunshine policies the principle of "no regime change" to allay Pyongyang's fear that greater engagement could lead to forced integration, absorption by South Korea, or an end to the Kim regime.

With these three principles in mind, the Moon administration has pushed for a step-by-step, comprehensive approach to building and maintaining peace with North Korea. The South's invitation of a senior North Korean delegation to the February 2018 Winter Olympics in Pyeongchang began an inter-Korean thaw that led to three North-South summits and a comprehensive military agreement on tension reduction. Seoul also envisioned a

peace process beginning with an end-of-war declaration by the end of 2018 and then subsequent steps toward a peace treaty. Further, Seoul has pursued economic cooperation and nonpolitical exchanges with the North, promoting potential inter-Korean railway and energy projects for mutual prosperity and seeking the reunion of separate families to encourage reconciliation. At the same time, the Moon administration has supported the US-led "maximum pressure" sanctions campaign, including sustaining the unilateral May 2010 sanctions adopted by previous conservative governments, and maintained a policy of robust deterrence to urge the North to return to talks and stay on the path toward peace.

Despite these successes, South Korea has run out of road for advancing inter-Korean cooperation. Seoul will have a difficult time moving forward on joint inter-Korean economic ventures absent a US-DPRK agreement that allows

for at least partial relief from economic sanctions, including those against joint ventures with North Korea. The Moon government will also need to address North Korea's concern about Seoul's ongoing military buildup, including its acquisition of US F-35 stealth fighters. Moreover, Pyongyang has grown weary of Seoul's role as an "official" mediator, arguing that it should instead support the interests of the Peninsula.²⁰ For his part, President Moon recognizes the limitations of his five-year, single-term presidency and has begun efforts to institutionalize the Panmunjom Declaration reached during the April 2018 inter-Korean summit by ratifying it in the National Assembly so that it is binding on future administrations.²¹

UNITED STATES

The US perspective on a Korean peace regime is driven by its broader national security interests, primarily the elimination of North Korea's weapons of mass destruction and the need to maintain US strategic presence and influence in the Asia-Pacific region. Washington maintains a laser focus on ending North Korea's nuclear program and considers denuclearization the linchpin of any improvements to the security situation on the Peninsula. Indeed, for many US analysts, a peace regime would flow naturally from ending Pyongyang's nuclear weapons program—and remain out of reach without it.

A minority of US analysts have broached the potential for a peace regime under an arms control model that reframes denuclearization as an ambiguous or long-term goal and focuses on managing the growth of North Korea's nuclear program in the short term.²² Believing that North Korea will not denuclearize anytime soon, they advocate taking more realistic steps focused on capping Pyongyang's nuclear arsenal, locking in a nuclear and missile testing freeze, cultivating crisis stability and controlling military escalation, and advancing a political framework for peace based on deterrence and arms control. That view, however, currently stands outside the mainstream of official thinking because it could require a tacit acceptance of North Korea as a nuclear power if an arms control agreement were construed as the endpoint rather than

starting point for a process aimed at full denuclearization. Relatedly, many Washington analysts worry about permitting conditions that could induce South Korea and Japan to acquire their own nuclear weapons. Some believe that North Korea could conceivably threaten to use its nuclear weapons to deter the United States from intervening to stop North Korean aggression against the South.

A potential peace regime raises difficult security questions for Washington about the US-ROK Alliance, American military presence in South Korea, and US strategic posture in Northeast Asia. Any moves within a peace process that undermine the pillars of the existing US-led regional security architecture would encounter significant opposition. The United States would in theory welcome a peace regime whose principal effects were the consolidation of North Korean steps to end its nuclear program and curtail its human rights abuses, and a reduction of the potential for war between North and South. Washington would also be amenable to a peace regime nested within a wider, US-backed regional political and security order. Therefore, a central question for the United States in evaluating a potential peace regime is whether it would require Washington to accept a reduction to its desired force posture and level of influence in the region. North Korea, China, and Russia would welcome an outcome that diminishes US influence, but the United States wants to avoid weakening its strategic position in Asia—especially if the promises of a peace regime prove illusory.

Given these considerations, Washington has historically favored incremental over sweeping changes on the Korean Peninsula, thereby upholding the status quo. US policymakers tend to dismiss North Korean, Chinese, and Russian arguments about US regional military posture being excessively threatening toward Pyongyang. From Washington's perspective, the only credible threat to peace and security on the Peninsula is the Kim regime. Therefore, although the United States wants North Korea to move as rapidly as possible to dismantle its nuclear and missile arsenals, it prefers to move slowly and methodically on the other components of a peace regime.

Box 1.

THE RELATIONSHIPS BETWEEN PEACE, DIVISION, AND REUNIFICATION

The relationships between Korean peace, division, and reunification have been in tension since 1945. Both Koreas were unhappy with the division and actively sought to reunify the Peninsula by force. Kim Il Sung attacked South Korea in 1950 with the aim of reunification. Three years later, South Korean President Syngman Rhee refused to sign the armistice because he wanted the war to continue until reunification was achieved. The notion of peaceful coexistence was unthinkable to both leaders.^a

By the early 1970s, as Washington signaled a desire to reduce tensions with China and the Soviet Union and to decrease its defense burden in the region, the two Koreas took steps toward rapprochement. North Korea viewed North-South dialogue as a way to decouple Seoul from Washington and Tokyo and hasten the withdrawal of US troops; South Korea saw engagement with the North as a hedge against US abandonment.^b In 1972, the two countries signed a joint statement to promote the unification

of the Peninsula through nonviolent means and independent Korean efforts. Later, the 1991 Basic Agreement signaled an implicit understanding that peaceful coexistence was a precursor to reunification.

Since 2000, the two Koreas have recognized that their respective approaches to reunification have elements in common.^c The North Korean proposal for a Democratic Federal Republic of Koryo envisions reunification under a one-state, two-system approach in which the two governments maintain autonomy in managing diplomatic, military, and economic affairs. This system would be a transitional phase for the ultimate end state of a single-system country. Similarly, South Korea's National Community Unification Formula uses a three-stage approach that would begin with a period of reconciliation and cooperation, followed by the formation of an economic and social commonwealth (like the European Union), and then the final realization of a unified state.^d These positions are not static, how-

ever, and have evolved with changes in the security environment and each country's security interests.

Fundamental differences in the two plans will make a unified state difficult to operationalize. South Korea's constitution calls for a unified Korea based on a "free and basic democratic order." North Korea's approach seeks to preserve its socialist system and requires the removal of US forces, which it believes contributed to the division in the first place.

Analysts generally view the prospect of a democratic South Korea and an authoritarian North Korea living in peace as a waypoint to eventual unification. Nevertheless, whether a peace regime would extend or shorten the timeline for unification is not agreed. The Moon administration and other engagement advocates believe that a peace process, by encouraging cooperation and the exchange of ideas, goods, and people, can build mutual trust and facilitate the path to not only denuclearization but also

Notes

- a. "The idea that Korea could be separated into Northern and Southern parts and that the parts should coexist is very dangerous," Kim said in November 1954. "It is a view obstructing our efforts for unification" (Chong-Sik Lee, "Korean Partition and Unification," *Journal of International Affairs* 18, no. 2 (1964): 230–31).
- b. Don Oberdorfer, *The Two Koreas: A Contemporary History*, rev. ed. (New York: Basic Books, 2013), 25–26.
- c. Dae-jung Kim, "North and South Korea Find Common Ground," *New York Times*, November 28, 2000, www.nytimes.com/2000/11/28/opinion/IHT-north-and-south-korea-find-common-ground.html.
- d. South Korean Ministry of Unification, "National Community Unification Plan" [in Korean], www.unikorea.go.kr/unikorea/policy/plan.
- e. During the Cold War, Finland maintained a realist strategy of neutrality between the West and the Soviet Union and "neighborly" relations with the latter to coexist as a free and democratic country. The original use of the term Finlandization, however, suggested pejoratively that the country relinquished some aspects of its national sovereignty as a part of this arrangement. See James Kirchick, "Finlandization Is Not a Solution for Ukraine," *The American Interest*, July 27, 2014, www.the-american-interest.com/2014/07/27/finlandization-is-not-a-solution-for-ukraine.

a mutually agreeable, soft-landing unification. Other experts argue that a peace regime process would prematurely relieve pressure on the Kim regime to denuclearize and conduct reforms, thereby extending it. From this perspective, a peace regime creates a strategic dilemma with no clear resolution.

Assuming reunification is possible, what a unified Korea might mean for regional stability is also a matter of concern. Washington supports the peaceful reunification of Korea based on the principles of free democracy and a market economy. Yet some Washington analysts believe that South Korea, in its pursuit of reunification, may be willing to abandon the US-ROK Alliance and assume neutrality or, even worse, accommodate China's foreign policy preferences under a Finlandization model.^e Such concerns are even greater in Tokyo, which worries that a neutral unified Korea would be anti-Japan, tilt toward China, reduce US influence and presence in the region, and degrade Japan's security vis-à-vis China. For its part, Beijing could accept a peacefully reunified Korea but would oppose the continuation of the Alliance and any effort to draw Korea into a US containment strategy against China. Mitigating these concerns about the future orientation of a reunified Korea will be an important aspect of the peace process.

Previous US policy toward North Korea may have also been influenced by the belief that the Kim regime would not endure indefinitely. The potential for regime collapse or change was a consideration, albeit small, for the Clinton, George W. Bush, and Obama administrations that may have contributed to an unwillingness to consider the regime as a truly permanent entity requiring long-term relations and peaceful coexistence.

The Trump administration has prioritized North Korea as a top security concern and adopted a more aggressive and urgent approach to peace and denuclearization than those of previous administrations. Under the first prong of its "maximum pressure and engagement" policy, the administration threatened military action against North Korea through "fire and fury" and "bloody nose strikes," and significantly increased the number of North Korean sanctions designations in an effort to increase leverage.²³

By the June 2018 Singapore Summit, however, President Trump shifted toward an accelerated engagement approach. He minimized preconditions for talks, met directly with Chairman Kim (three times in thirteen months) despite the lack of regular working-level meetings, exchanged letters with him, provided significant concessions up front with little deliberation (such as suspending the August 2018 joint military exercise), and demonstrated a willingness to pursue peace and denuclearization simultaneously rather than sequentially. These steps have put North Korea's sincerity about denuclearization to the test.

At the same time, other aspects of the administration's policy implementation, including uneven Alliance coordination, internal disunity, and disjointed messaging, warrant significant concern and may be offsetting any potential gains. In particular, the insistence by high-ranking officials that North Korea disarm unilaterally before Washington provides any sanctions relief continues to hinder US-DPRK negotiations.

CHINA

China's approach toward a peace regime is grounded in its core priorities for the Korean Peninsula, which Chinese officials have described as no war, no instability, and no nuclear weapons. Beijing seeks first to avoid military escalation on the Korean Peninsula as well as regime collapse in North Korea, both of which would destabilize its immediate neighborhood. To a lesser extent and as a longer-term goal, it also seeks North Korea's denuclearization to reduce proliferation and contamination risks, curtail the rationale for US force presence and military buildup in the region, and prevent South Korea and Japan from seeking their own nuclear weapons. It supports peace negotiations because they would advance each of these three priorities.

It is also driven by its desire to maintain and project influence on the Korean Peninsula. Beijing expects to be involved as a major player in any peace process, not only because of China's role in the Korean War but also because of the geostrategic implications for the future of the region. In particular, Beijing seeks to take part in both an end-of-war declaration and a formal peace treaty, but especially the latter given that China was an original signatory to the Armistice Agreement and wants to be involved in shaping any final, legally binding agreement that affects the future of the Korean Peninsula.

China has made this position clear not only in words but also in its actions. Despite years of frosty relations and no contact between President Xi Jinping and Chairman Kim, bilateral ties warmed up quickly as North Korea announced a strategic shift from nuclear to economic development and began engaging with the United States and South Korea to coordinate summit-level meetings. The unprecedented number of strategically timed meetings between Kim and Xi since 2018 signals China's determination not to be left out.

Beijing has encouraged bilateral negotiations first between Pyongyang and Washington, with each side making reciprocal concessions. It supports the idea of a

dual suspension (that is, a freeze in major US-ROK military exercises in exchange for a freeze in North Korean nuclear and missile tests) to reduce tensions and has called for parallel track negotiations to advance denuclearization and peace simultaneously. This position is consistent with Pyongyang's preference for a "phased and synchronous" process with Washington. However, if US-DPRK negotiations progress to a broader discussion about a future security arrangement for the Korean Peninsula, including a peace agreement, China would seek to participate.

As China advocates for North Korea's demands for security concessions from the United States and South Korea, it will try to shift the balance of regional power in ways that are favorable to its interests. It is likely to leverage the peace regime process to advance its strategic aim of eroding the US presence in the region. For example, Beijing has endorsed Pyongyang's broad call to "denuclearize the Korean Peninsula."²⁴ Although neither North Korea nor China has clearly defined the specific US-ROK actions required to create a "nuclear-free zone" on the Peninsula, it may include demands that Washington retract its nuclear umbrella over South Korea, end the deployment of US nuclear and strategic assets to the Korean Peninsula, roll back any missile defense cooperation with Seoul, and reduce or withdraw US troops from the Peninsula. If North Korea (and voices in South Korea) push for the "neutralization" of the Korean Peninsula, and thus the abrogation of the US-ROK Alliance, China is likely to support this position given its desire to reduce the US presence and alliance network in Asia.²⁵

Beijing will reject a peace regime that it perceives as harming its own security interests or places the burden of providing security for the Korean Peninsula on China. It is also likely to reject any security arrangement that it perceives as tilting the region toward Washington. It will likely oppose any US positive security guarantees to North Korea or any efforts to integrate North Korea or a unified Korean Peninsula into the US-led alliance network. At the same time, Beijing is also unlikely to extend its own positive security guarantees to the



Commuters in the Seoul Railway Station watch a television showing North Korean leader Kim Jong Un, left, welcoming Chinese President Xi Jinping to Pyongyang on June 21, 2019. (Photo by Lee Jin-man/AP)

Korean Peninsula beyond the strictly defensive terms enumerated in China’s bilateral treaty with North Korea.²⁶ Chinese leaders insist that China is a “new type of great power” uninterested in formal alliances. China has never extended its nuclear umbrella over another country thus far, and the provision of extended deterrence guarantees to North Korea or other partners would require a fundamental shift in China’s strategic thinking.

China, however, would likely support any economic dimensions of a peace regime. Beijing views economic engagement and partnerships as its primary way to expand its relationships and influence with partners. Beijing has long desired that Pyongyang follow in China’s footsteps by opening up economically while preserving its political system. Chinese leaders believe North Korea’s economic development and regional integration are key to stabilizing its immediate

neighborhood. They have therefore vowed to support Kim’s strategic shift toward economic development, including by proposing with Russia a plan for lifting UN sanctions on North Korea related to exporting statues, seafood, textiles, and labor as well as exempting inter-Korean railway projects from UN sanctions.²⁷

JAPAN

In the post–Cold War era, Japan’s relations with North Korea have reflected Tokyo’s interest in increasing its regional leverage relative to Beijing and Moscow while enhancing its ability to act independently of Washington and Seoul.²⁸ Japan has typically engaged in normalization talks with North Korea during periods of inter-Korean and US-DPRK rapprochement to avoid losing influence and to ensure that its interests are being served. Between 1991 and 1992, it conducted eight rounds of normalization talks with Pyongyang to establish ties

Tokyo wants to have a role in shaping security discussions rather than being asked to simply provide a blank check. Japan may have to shed its spoiler role if it is to have a greater role in a peace regime process.

and resolve outstanding claims from colonial Japanese rule. These talks failed, however, over the issues of international inspections of North Korea's nuclear sites, Japanese citizens abducted by North Korea during the 1970s and 1980s, and compensation for post–World War II claims.²⁹ After North Korea conducted a Taepodong missile launch over Japanese territory in 1998 and appeared to be making diplomatic progress with Washington and Seoul in 2000, Tokyo held additional rounds of normalization discussions in 2000 and 2002. Although these talks did not yield significant results, the two sides agreed on a joint declaration in 2002 in which North Korea admitted to abducting Japanese nationals and Japan expressed remorse for its colonial past.³⁰

Since the 2002 declaration, successive Japanese administrations have prioritized two goals under its North Korea policy: the elimination of North Korea's weapons of mass destruction, including its nuclear and ballistic missile programs, and the resolution of the abductee issue. The first goal overlaps with US objectives, though Tokyo is concerned that Washington is overlooking Pyongyang's shorter-range missile capabilities while focusing on the longer-range threat. In response to domestic public opinion, Japan is also continuing to seek a full accounting of the remaining twelve Japanese abductees. In recent years, the Shinzo Abe government has insisted on a "comprehensive resolution" of these two issues as the conditions for normalization of bilateral relations.³¹

Japan's rigid position on these issues, particularly abductees, may stem from a desire to influence the agenda despite its limited role in nuclear negotiations. Some experts have argued that stalled denuclearization negotiations prolong the North Korean threat, which provides Japan additional justification to enhance its military capabilities, particularly in the context of a stronger China.³² During the Six-Party Talks, Japan was criticized for obstructing progress by making stringent denuclearization demands

and conditioning its provision of economic and energy assistance on a full resolution of the abductee issue.³³

During Pyongyang's recent spate of diplomatic outreach, Tokyo has been relegated to indirect involvement in the form of consultations with Washington. Japan remains the only country with significant interests on the Korean Peninsula that has not had a leader-level meeting with North Korea during this period. The Abe administration has been willing to let President Trump lead the denuclearization negotiations given their aligned position on North Korea policy, but in May 2019 began proposing an unconditional bilateral summit with Kim to ensure that its interests are not neglected.

Japan wants to be included in multilateral negotiations that involve serious discussions about a future regional security architecture. It also wants a security framework that reduces the North Korean threat so that it can focus resources on China, which it views as its primary long-term strategic threat.³⁴ This view supports the continuation of a robust US presence on the Korean Peninsula and in the region. Some Japanese experts are concerned, however, that efforts to reduce this posture, including modifications to US-ROK military exercises, would not only undermine military readiness and deterrence but also elicit domestic complaints about why similar measures could not be taken to decrease US forces in Japan.

Japan's ability to provide economic assistance can be useful in peace and denuclearization discussions. Tokyo continues to adhere to the understanding in the 2002 declaration that Japan will provide grant aid, low interest loans, and humanitarian assistance to North Korea as part of the normalization process, similar to the compensation given to the South as part of the 1965 Japan-ROK normalization treaty. Estimates of the compensation amount, adjusted for inflation and accrued interest, range from \$10 to \$20 billion.³⁵ However, Tokyo wants to

have a role in shaping security discussions rather than being asked to simply provide a blank check.

Japan may have to shed its spoiler role if it is to have a greater role in a peace regime process. In addition, its current dispute with South Korea regarding historical, export control, and security issues, if not resolved, could complicate future multilateral negotiations as well as Japan-DPRK normalization efforts. If US-DPRK and inter-Korean negotiations advance in the future without acceptable resolutions to the abductee and ballistic missile issues, Japan will need to decide whether it can maintain its long-standing position or risk losing leverage on the Peninsula and in bilateral Japan-DPRK negotiations.

RUSSIA

Like Beijing, Moscow favors North Korea's denuclearization and the de-escalation of tensions through political dialogue but is skeptical about the Kim regime's willingness to give up its nuclear weapons.³⁶ Russia also worries that North Korea's nuclear program heightens a multitude of risks, including military conflict, regime instability, the erosion of the global nonproliferation regime, contamination from nuclear accidents, and US military expansion in the region. Based on these concerns, its historical ties with North Korea, and its limited leverage in the region, Moscow has typically mirrored Pyongyang's and Beijing's prescriptions—such as the “dual freeze” proposal—and their criticisms of US demands for North Korea's immediate and unilateral denuclearization. In October 2018, at a trilateral vice foreign ministers meeting in Moscow, Russia joined China and North Korea in supporting a negotiations process that includes step-by-step, reciprocal measures, a peace mechanism based on bilateral and multilateral cooperation, and an easing of the sanctions regime against North Korea.

From a broader perspective, Russia's Korea policy reflects its geopolitical strategy for relations with other major powers and sustaining its claim to great power status in the region. Cooperation on North Korea policy is a key issue for the deepening Sino-Russian “comprehensive

strategic partnership of coordination.”³⁷ Both powers hope to use the peace and denuclearization process to weaken the US-ROK Alliance and undermine the US-led regional security architecture. At the same time, Moscow recognizes that China's stake in Korea is bigger than Russia's, and therefore shows a certain deference to Beijing in dealing with Korea.

Russia also seeks, however, to maintain regional influence and avoid acquiescing to China in Peninsula diplomacy. The April 2019 Putin-Kim summit demonstrated Moscow's ability to engage North Korea directly as a way of gaining strategic leverage vis-à-vis the United States.³⁸ President Putin has also called for Russia to “turn to the East” and deepen its involvement in the Asia-Pacific overall.³⁹ Staying involved in Korea, even if not decisively, supports Moscow's regional goals. It also envisions itself playing a helpful role in a broader discussion about security mechanisms in Northeast Asia. It expects a peace regime to include a series of bilateral and multilateral security guarantees covering the entire Peninsula, which would then form the foundation for a new regional security mechanism—presumably one with a diminished US role. In addition, experts note that, in the context of the collapse of the Intermediate-Range Nuclear Forces Treaty and the potential for a regional missile arms race, Russia could facilitate discussions among regional actors on strategic missile systems.⁴⁰

Economics and trade are also major drivers of Russia's Korea policy. Moscow wants to develop the Russian Far East, link South Korean railroads to the Trans-Siberian Railway, and grow demand for its energy exports to Asia by connecting pipelines and electricity systems with the Peninsula. These interests align well with President Moon's hopes of using regional economic cooperation to persuade North Korea to intensify its shift from nuclear to economic development. Easing sanctions on North Korea—which Russia helped adopt as a permanent member of the UN Security Council but has only selectively enforced—would remove an economic constraint for both countries.

Structure of a Peace Regime



Various terms have been used to describe a complete and enduring settlement of the Korean War, but official bilateral and multilateral statements since the September 2005 Joint Statement of the Six-Party Talks have explicitly articulated a peace regime as a primary goal. Recognizing that peace is not a singular event that can be achieved by one accord, the South Korean government offered the concept of a peace regime as an organizing structure. The concept has since developed to encompass a comprehensive framework of declarations, agreements, norms, rules, processes, and institutions—spanning the diplomatic, security, economic, and social spheres—aimed at building and sustaining peace on the Korean Peninsula (see table 1). Under this broad definition, a peace regime would encompass previous inter-Korean, US-DPRK, and multilateral declarations as well as any future measures, including an end-of-war declaration, any bilateral or multilateral peace processes designed to achieve a final agreement, the peace agreement itself, and any subsequent organizations, mechanisms, or frameworks designed to maintain the peace.

Two important components of a peace regime—an end-of-war declaration and a peace treaty—are often conflated. The Moon Jae-in administration envisions an end-of-war declaration as a symbolic, nonbinding, political statement that proclaims the Korean War to be over and that marks the beginning of a new era of peaceful relations.⁴¹ These new relations could also be demonstrated through security guarantees, partial sanctions relief, the exchange of liaison offices, reduced military tensions, and people-to-people exchanges. To reinforce the lack of any legal effect, the statement would underscore that existing arrangements that maintain the peace, such as the UN Command, the Armistice Agreement, and the Military Demarcation Line, would remain in place until

the parties negotiate a more comprehensive peace settlement.⁴² The broader settlement, achieved under a formal peace treaty, would require extensive negotiations to replace the Armistice Agreement, formally end the Korean War, complete the process of denuclearization, and create a binding set of obligations for maintaining peace and security on the Peninsula. In this sense, an end-of-war declaration would essentially serve as a preamble to a peace agreement.

A comprehensive peace regime should address three separate, but interrelated, sets of unresolved issues from the Korean War: the multilateral nature of that war and a long-term security architecture for the Korean Peninsula and the region; the civil war and reconciliation between the two Koreas; and the normalization of relations between the United States and North Korea and between Japan and North Korea.

First, an umbrella peace agreement could be used to settle the wider multilateral issues related to formally ending the Korean War and establishing peace on the Korean Peninsula. These issues would include the cessation of hostilities, the status of foreign conventional and strategic forces on the Peninsula, North Korea's weapons of mass destruction programs, the replacement of the Armistice Agreement, human rights, the role of the United Nations, and the establishment of both transitional and permanent systems for managing the peace on the Peninsula and in the region. The multilateral dimension of a peace agreement should also lay the foundation for regional stability by securing buy-in and support for a permanent Korean peace from the United States and China.

Second, a separate process—perhaps annexed under the umbrella agreement—would formally end the war

Table 1. Conceptual Framework of a Korean Peninsula Peace Regime

	Examples
Declarations, Agreements, and Statements (past and future)	<ul style="list-style-type: none"> • July 1972 South-North Joint Communiqué • December 1991 Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation between the South and North • January 1992 Joint Declaration of the Denuclearization of the Korean Peninsula • June 2000 North-South Joint Declaration • October 2000 US-DPRK Joint Communiqué • October 2007 Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity • June 2018 Singapore Statement • Potential end-of-war declaration • Potential peace agreement or treaty
Norms, Rules, and Processes	<ul style="list-style-type: none"> • Secretary Tillerson “Four No’s” (no regime change, no regime collapse, no accelerated reunification of the Korean Peninsula, and no US forces north of the 38th parallel) • Four pillars of Singapore Statement (new US-DPRK relations, lasting and stable peace regime on the Korean Peninsula, complete denuclearization of the Korean Peninsula, commitment to recovering POW/MIA remains) • President Moon Sunshine Policy (two Koreas must play leading role on Peninsula and unification issues, peaceful coexistence of two Koreas, no intent for collapse or absorption of North Korea, denuclearization of the Peninsula, permanent peace regime, inter-Korean economic cooperation, nonpolitical exchange and cooperation separate from political matters) • Chairman Kim-President Xi policy (“phased and synchronous measures” that would “eventually achieve denuclearization and lasting peace on the peninsula”) • China’s support for “dual freeze” on North Korean nuclear and missile tests and US-ROK joint military exercises and parallel track negotiations on peace and denuclearization • Japan’s policy (resolution of North Korea’s nuclear weapons and ballistic missiles and Japanese abductee issue) • Potential institutionalized peace process
Institutions	<ul style="list-style-type: none"> • Potential peace management organization (to replace Military Armistice Commission) • Inter-Korean joint military committee • Potential US-DPRK senior-level military-to-military dialogue • Potential bilateral, four-party, and six-party working groups • Potential regional security mechanisms (for example, Northeast Asia Peace and Security Mechanism)

between the two Koreas and resolve additional inter-Korean issues, including outstanding border and territorial matters, such as the Northern Limit Line (NLL) and the Northwest Islands; military tension reduction; economic cooperation; the movement of people, goods, and services across the border; and any guidelines for future confederation or reunification. The United States will likely play a role given its combined defense posture with

South Korea and its role through the UN Command in establishing the NLL and controlling the Northwest Islands. Previous inter-Korean agreements, such as the 1972 North-South Joint Statement, the 1991 Basic Agreement, and the 2018 Comprehensive Military Agreement, have already delineated principles and steps for reconciliation and tension reduction that can serve as a foundation for the new inter-Korean agreement.

Finally, separate tracks would be needed to normalize Pyongyang's relations with both Washington and Tokyo. Establishing US-DPRK diplomatic relations could be relatively quick and simple once major issues such as denuclearization, sanctions relief, and human rights were resolved in multilateral discussions. Also, although Japan was not a belligerent in the Korean War, its role as a base for US and multinational forces during the conflict and as a major power in the region makes Japan-DPRK normalization an important part of the peace regime process. Other bilateral aspects of the Korean War, such as the prior state of conflict between the United States and China, and between the ROK and China, have already been resolved through the normalization of diplomatic relations in 1979 and 1992, respectively.

A Korean Peninsula peace regime comprises a broad set of interrelated diplomatic, security, and economic challenges (see table 2). Certain sensitive issues (such as denuclearization and sanctions relief) are linchpins to the entire endeavor; others would be important confidence-building measures (an end-of-war declaration, humanitarian assistance, and so on). Similarly, some measures are better suited to the front end of the process. Others would come only later, as the process ripens. Ultimately, as the perspectives of the involved countries make clear, most if not all of these issues must be addressed at some point in the peace regime process.

Table 2.

POTENTIAL MEASURES UNDER A PEACE REGIME

SHORT TERM (temporary or reversible measures)

DIPLOMATIC

- Establishment of working groups on peace and normalization (US-DPRK, JPN-DPRK), setting of diplomatic end states
- End-of-war declaration
- Liaison offices
- End of travel ban to and from North Korea
- People-to-people exchanges (POW/MIA remains recovery operations, reunion of divided families, cultural exchanges)
- Intermittent head-of-state meetings for progress updates
- Broad DPRK commitment to engage on human rights, initial human rights measures, meetings with UN special rapporteur and US special envoy

ECONOMIC

- Partial sanctions relief, with snapback provisions and focus on inter-Korean projects or limited sectors (such as Kaesong Industrial Complex, Mount Geumgang tourism, coal and textile)
- Support for technical assistance related to economic reform and international financial institution (IFI) requirements
- Humanitarian assistance
- Commitment to discuss economic and energy assistance
- DPRK commitment to address counterfeiting and money laundering

SECURITY

- Establishment of four-party working group on denuclearization and security (US-DPRK-ROK-PRC), definition of denuclearization of Korean Peninsula
- Mutual negative security assurances
- Moratorium on nuclear and ballistic missile tests
- Freeze on all nuclear and ballistic missile activities
- Declaration of nuclear activities related to Yongbyon
- Yongbyon shutdown and return of monitors and inspectors
- Engagement on cooperative threat reduction measures
- Development of inter-Korean joint military committee
- Development of additional arms control, military tension reduction measures
- Suspension or modification of large US-ROK military exercises and Korean People's Army (KPA) exercises
- Halt to deployment of US strategic and nuclear assets on or near Korean Peninsula
- Establishment of US-DPRK military-to-military dialogue

● MEDIUM TERM

DIPLOMATIC

- Regular working-level meetings on peace and normalization, including human rights norms
- Continued people-to-people exchanges
- Intermittent head-of-state meetings for progress updates
- Continued DPRK engagement on human rights measures and periodic reviews

ECONOMIC

- Additional sanctions relief with snapback provisions, commensurate with DPRK actions
- Removal from state sponsor of terrorism list
- Continued humanitarian assistance
- Discussion of energy assistance

SECURITY

- Regular four-party working-level meetings on denuclearization and security
- Complete and verifiable dismantlement of Yongbyon facility, partial verification of halt to uranium enrichment activities
- Declaration of all nuclear and missile activities
- North Korea accedes to the Chemical Weapons Convention
- Continued engagement on cooperative threat reduction measures
- Proportional US-ROK and DPRK conventional force reduction measures
- Suspension or modification of large US-ROK military exercises and KPA exercises
- Continued halt to deployment of US strategic and nuclear assets on or near Korean Peninsula
- US force presence commensurate with security environment
- Begin six-party working group on regional security (US-DPRK-ROK-PRC-JPN-RUS)

● LONG TERM

DIPLOMATIC

- Signing of four-party peace agreement, including DPRK human rights commitments
- Normalization of relations
- Establishment of embassies
- Continued review of peace agreement implementation
- Increased people-to-people exchanges
- Intermittent head-of-state meetings for progress updates
- Continued implementation of DPRK human rights commitments and periodic reviews, including termination of gross violations

ECONOMIC

- Complete sanctions relief commensurate with denuclearization, with snapback provisions
- Continued support for economic reform and international financial institutions membership
- Continued economic and energy assistance
- Continued humanitarian assistance

SECURITY

- Continued verification of halt to all uranium enrichment
- Verified dismantlement of all nuclear weapons
- Verified dismantlement of intermediate-range and long-range ballistic missiles
- Elimination of DPRK chemical weapons
- Continued engagement on cooperative threat reduction
- Disestablishment of United Nations Command
- Establishment of new peace management organization
- Resolution of NLL and Northwest Islands issues
- Proportional US-ROK and DPRK conventional force reduction measures
- Suspension or modification of large US-ROK military exercises and KPA exercises
- Continued halt to deployment of US strategic and nuclear assets on or near Korean Peninsula
- US force presence commensurate with security environment
- Establishment of six-party regional security mechanism



President Moon Jae-in of South Korea and Kim Jong Un of North Korea, flanked by their spouses, during a luncheon in Pyongyang during their September 2018 summit. (Photo by Pyongyang Press Corps Pool via New York Times)

Diplomatic Issues

Constructing a peace regime on the Korean Peninsula would require a series of diplomatic actions from several parties. In particular, Washington and Pyongyang would need to transform their ties from near-total estrangement into normalized relations. This would need to begin with ending the state of conflict that has existed since the beginning of the Korean War in 1950 and was frozen in place by the 1953 Armistice Agreement.

One approach, which South Korea has suggested, would be for the parties to formally conclude fighting in two steps. First, the United States, South Korea, North Korea, and potentially China could issue an end-of-war declaration, which would amount to a political rather than legal statement that all the parties consider hostilities terminated. The second step would create a process to replace the armistice with a peace agreement.

Such a process would be much more difficult given the large set of issues involved and the potential legal consequences of terminating the armistice. It would likely entail various interim steps or agreements that achieve prerequisite confidence-building measures prior to a final settlement (for example, an interim deal that freezes North Korea's nuclear and missile activities in exchange for security guarantees and economic assistance).

The normalization of diplomatic relations by itself could potentially come before a final peace agreement and be relatively easy to achieve if the countries involved agree to it. For example, Japan and Russia share diplomatic and economic ties despite the lack of a formal peace treaty after World War II. However, that sequence would be politically difficult for the United States unless significant progress is made on North Korean denuclearization

and human rights. A process that addresses denuclearization and peace in parallel would have the best chance of maintaining political support from all sides.

Questions about which parties have the authority to act on behalf of the belligerents remain. The armistice was signed by the UN Command; the Korean People's Army (KPA), North Korea's military; and the People's Volunteer Army, a now-defunct military force Beijing created solely to fight in Korea. It is therefore unclear whether the United States can sign on behalf of the United Nations, whether South Korea can sign at all, and whether the unofficial status of the former People's Volunteer Army allows Beijing to sign a subsequent agreement on its behalf.⁴³ Legal analyses have argued that both Koreas, the United States, and China could justifiably sign an agreement to replace the armistice.⁴⁴ None of the parties would likely contest this legal interpretation given their de facto roles in the conflict.

Creating venues for diplomatic representation is another critical part of the normalization process. Currently, the United States and North Korea communicate primarily through the unofficial "New York Channel" at the DPRK Permanent Mission to the United Nations for working-level interactions. The next level of diplomatic presence would be for each side to set up mutual liaison offices or "interests sections"—essentially, bare-bones unofficial embassies—in each other's capitals (an example is the US interests section in Cuba before the embassy was established in 2015). The Swedish Embassy in Pyongyang reserves space to host a US liaison office should one need to be set up quickly. For their part, the two Koreas opened liaison offices in the North Korean border town of Kaesong in September 2018, although North Korea (to signal displeasure) has at times recalled staff from the office.

The United States has a history of setting up liaison offices as a precursor to full-fledged embassies within the context of diplomatic normalization processes. Washington and Beijing established them in 1973 following President Nixon's visit in 1972, for example.

Embassies were eventually opened in 1979 after the United States officially recognized the People's Republic of China. In Vietnam, the process moved much more quickly. Washington and Hanoi established liaison offices in January 1995 and official embassies that August. Similar processes could unfold for the United States and North Korea as well as for Japan and North Korea.

PROCESS, PARTICIPANTS, FORMAT

The process of developing a peace regime on the Korean Peninsula will be long and complicated. Devising an effective framework that addresses the central concerns of each party and carrying that arrangement through to implementation will be difficult. Decades of negotiations on the Korean Peninsula have seen a range of formats, from bilateral talks between the United States and North Korea in the early 1990s to the Four-Party Talks in the late 1990s that included South Korea and China to the Six-Party Talks in the mid-2000s that added Japan and Russia.

The latest negotiations, initiated in early 2018, were mostly bilateral meetings between North Korea and a rotating cast of South Korea, the United States, China, and Russia. Japanese leaders were also eager to be involved. At some point, however, the parties might see value in transitioning the process into a multilateral format given the far-reaching interests and implications for regional powers related to the Korean Peninsula. Ensuring all the relevant countries have a seat at the table can help mitigate incentives for any party to act as a spoiler, build in support for an agreement up front, and spread out responsibilities and costs. Those rationales propelled the Six-Party Talks. At the same time, adding parties can make the process substantively, procedurally, and logistically more difficult, so a balance must be struck.

The parties could opt for one of several negotiating formats. The guiding principle should be the inclusion of parties on all issues for which they have substantial interests, yet keeping the overall process as nimble, focused, and results-oriented as possible. The first option would be for negotiations to move forward on a four-party basis: North

Korea, South Korea, the United States, and China. Such a format would involve the modern representatives of the Korean War belligerents. It would also allow each Korea's major-power backer to be directly involved in talks, and for US negotiators to act as proxy for Japanese interests and Chinese negotiators for Russian interests.

A second option would be for talks to continue as a series of bilateral meetings, possibly complemented by a few trilateral or quadrilateral meetings to address strategic issues related to the Korean Peninsula. In addition, a consultative mechanism could be set up that includes all six parties to tackle issues that have broader regional implications.

A third option would be to bring in parties from outside the region to act as neutral intermediaries for the regional states and to provide nuclear expertise and economic assistance. One possible arrangement along these lines would be to reassemble the P5+1 grouping (the permanent five members of the UN Security Council—plus Germany) that negotiated the Iran deal. This time it would include both Koreas, the P5+1, and perhaps Japan as well. Another possibility would be to involve the UN Secretary-General's office as an independent mediator as the peace process moves toward a final agreement.⁴⁵ However, given the two Koreas' desire to limit foreign influence in peninsular affairs and the ability of relevant major powers to act as proxies for multilateral interests, it is unlikely that outside actors beyond the six parties would play a major role except in narrowly defined, supplementary capacities (such as nuclear dismantlement verification and facilitation) or to serve a procedural function (such as Security Council sanctions waivers and UN resolutions supporting a peace agreement).

REPLACING THE ARMISTICE AGREEMENT

A peace treaty is generally considered the appropriate instrument for replacing the 1953 Armistice Agreement and codifying a permanent peace on the Korean Peninsula. This emphasis stems from the conventional approach under customary international law in which

wars were first terminated by military cease-fires and then permanently settled by peace treaties.⁴⁶ Reinforcing this approach was the basic understanding of the most fundamental principle under international law, *pacta sunt servanda* ("treaties must be complied with").

However, the word *treaty* has different meanings under international and US law. In the context of international law, specifically Article 2(1) of the Vienna Convention, any agreement between states, however designated, constitutes a treaty if it is intended to be binding on the parties. Although none of the major agreements and statements regarding the Korean Peninsula have explicitly articulated a peace treaty, their references to a peace settlement, mechanism, arrangement, or regime should all be construed as a treaty (or a broader framework that includes a treaty) that is intended to be binding on the relevant parties.

From the US perspective, a treaty is a narrower subcategory of binding international agreements. An agreement could take two principal forms under US law. The first is a treaty, an agreement negotiated and signed by a member of the executive branch that enters into force if approved by a two-thirds majority of the Senate. Although the president maintains the constitutional power to make treaties, the Senate has the authority to condition its consent on reservations, declarations, understandings, and provisos concerning the treaty's application.⁴⁷

The second form, known as an executive agreement, does not require the Senate's advice and consent but is equally binding on the United States. Since the end of World War II, the challenge of securing a two-thirds majority in the Senate has led to the growth of executive agreements. That trend has continued at a rapid pace in more recent years due to the heavy workload of the Senate and the volume of business conducted between the United States and other countries. Between 1977 and 1996, 93 percent of the more than four thousand US international agreements, including the 1994 US-DPRK Agreed Framework, were executive agreements.⁴⁸



US Army General William K. Harrison, left, and North Korean General Nam Il sign armistice documents ending the three-year-old Korean conflict on July 27, 1953. (Photo by Alpha Stock/Alamy Stock Photo)

The type of instrument used to codify the final peace settlement could have important implications for diplomatic negotiations, long-term sustainability, and congressional-executive relations. The State Department's Office of the Legal Adviser is responsible for deciding how an international agreement should be classified based on criteria outlined under the Circular 175 procedure.⁴⁹ In practice, however, the decision is often a political matter, taking into account the likelihood of Senate approval.⁵⁰

An executive agreement offers a more expedient path to a peace settlement than a treaty but may not be as sustainable. A future president can terminate such an agreement without congressional approval, which is what happened when President Trump withdrew from his predecessor's 2015 nuclear agreement with Iran.⁵¹ Also, Congress could use its power of the purse to withhold funds for commitments that have not received the Senate's advice and

consent or broader congressional input. This is what occurred when the Republican Party took control of the House of Representatives two weeks after the Clinton administration signed the Agreed Framework in October 1994, turning the agreement into a "political orphan."⁵²

A treaty can help ensure congressional support in ratifying and implementing the agreement, but also has disadvantages. If Senate consent depends on North Korea's acceptance of an exacting list of requirements related to denuclearization, human rights, financial transparency, and other good behavior, then a potential deal might not be reached in the first place. Furthermore, a treaty does not guarantee durability, even with initial Senate support. Despite an ongoing legal debate about the constitutional requirements for the termination of Senate-approved treaties, the president's ability to withdraw unilaterally from such

treaties is the accepted norm.⁵³ Recent examples of US treaty withdrawals, including from the Mutual Defense Treaty with Taiwan, the Anti-Ballistic Missile Treaty, and the Intermediate-Range Nuclear Forces Treaty, demonstrate that treaties, although enjoying broader legitimacy and support than executive agreements, are not necessarily permanent or binding on future presidents.

Administration officials have, at times, conveyed that the White House's intent is to seek Senate approval of a North Korea deal.⁵⁴ However, the White House Office of Legal Counsel has also reportedly advised senators that ratification may not be necessary.⁵⁵ In any case, US Secretary of State Mike Pompeo has signaled in testimony before the House Foreign Affairs Committee that a deal with North Korea would be submitted to the Senate as a treaty.⁵⁶ Current Senate Majority Leader Mitch McConnell has expressed hope that any agreement with North Korea would take the form of a treaty.⁵⁷ Meanwhile, the current Republican chairman of the Senate Foreign Relations Committee, James Risch, has stated that the Senate will assert its right to approve such an accord.⁵⁸ Ultimately, the White House will need to strike a balance between what is acceptable to the parties to an agreement, especially North Korea, and what is acceptable to Congress.

TERRITORIAL AND BORDER ISSUES

Replacing the Armistice Agreement will require the resolution of thorny territorial and border disputes that have been potential flashpoints for a broader conflict on the Korean Peninsula. Under the Armistice Agreement, the US-led UN Command maintains military control of five islands in the Yellow Sea off North Korea's southwest coast (the Northwest Islands).⁵⁹ Although North Korea has not actively contested the UN Command's ongoing control over this territory, it does claim ultimate sovereignty—as does South Korea—over the entire Korean Peninsula, which includes these islands. The elimination of the UN Command and the armistice would present Pyongyang with an opportunity to revisit this issue and make it an agenda item in inter-Korean peace discussions.

Discussions about the Northwest Islands will have important implications for the volatile Northern Limit Line dispute. Shortly after the end of the Korean War, the UN Command unilaterally established the NLL as a military control measure, setting a northern limit for UN Command and South Korean vessels to avoid the potential of military clashes (see map 2). This line extends west from the Han River estuary through twelve coordinates equidistant between the Northwest Islands and the North Korean coast and at least three nautical miles from the coast. Around 1973, North Korea began to contest the NLL, with fishing boats and KPA vessels crossing the line twenty to thirty times a year by the late 1970s, serious inter-Korean naval clashes occurring near Yeonpyeong Island in 1999, 2002, and 2009, and the ROK corvette *Cheonan* being sunk off Baengnyeong Island in 2010.⁶⁰ For its part, South Korea argues that the NLL is a de facto maritime boundary in which North Korea acquiesced through its conduct until 1973.⁶¹ Although the NLL is neither a part of the Armistice Agreement nor intended to be an international maritime boundary, it has become “an effective means of separating ROK and DPRK military forces and preventing military tensions.”⁶²

The NLL carries significant value for several reasons. From a security viewpoint, it allows the South Korean military to access and defend the Northwest Islands and monitor North Korean military installations on the coast. Shifting the NLL further south, on the other hand, would allow North Korean vessels to patrol closer to the Han River estuary and Seoul and prevent South Korean ships from conducting surveillance close to the North Korean shore. For both countries, the maritime area around the NLL provides valuable fishing grounds and shipping routes to the Yellow Sea.

Although Seoul has little present interest in adjusting the NLL, significant progress in peace discussions could create political and legal momentum for adjudicating the territorial and maritime disputes. Currently, the two Koreas have outlined initial steps under the September 2018 inter-Korean military agreement to reduce tensions



Map 2. Northern Limit Line

Artwork by Lucidity Information Design

near the NLL, including establishing a peace zone that prohibits all live-fire and maritime maneuver exercises and creating a pilot joint fishing zone between one of the Northwest Islands and the North Korean coast.⁶³ However, any change in control over the Northwest Islands would affect the NLL. A final resolution of the NLL and Northwest Islands issues could be reached as part of inter-Korean negotiations or through international arbitration under the framework of the UN Convention on the Law of the Sea, which North Korea signed in 1982 but has not ratified. The US-ROK Alliance will need to determine the extent of US participation in settling these issues given the UN Command's role in establishing the NLL and managing the Northwest Islands.

PEOPLE-TO-PEOPLE EXCHANGES

People-to-people engagements and initiatives—such as academic, cultural, sports, health, and humanitarian-related exchanges—can over time help strengthen mutual trust under a peace regime and establish the new US-DPRK relations envisioned in the Singapore agreement. Sustained lower-level contact may also help enhance broader domestic support for peace in each country and reinforce the political conditions conducive to progress on the diplomatic track. Previous examples of US exchanges with adversaries include science diplomacy with the Soviet Union before the fall of the Berlin Wall, ping-pong diplomacy that paved the way for President Nixon to open relations with China, and more recently limited exchanges with Myanmar, Cuba, and Iran. At the height of the Six-Party Talks in 2008, the New York Philharmonic performed at the East Pyongyang Grand Theater, the largest contingent of US citizens in the country's capital since the Korean War.⁶⁴

Starting with the Obama administration and expanded under the Trump administration, the United States has tied humanitarian exchanges to political progress with North Korea. Since September 2017, US bans on American travel to North Korea (except for journalists, humanitarian aid workers, and visits that advance US national security interests) and North Korean travel

to the United States have significantly restricted people-to-people exchanges. The restrictions came at the height of the recent tensions between the two countries and were intended to reinforce the maximum pressure campaign against North Korea. The Trump administration imposed the US travel ban amid concerns about North Korea's arbitrary detentions following American student Otto Warmbier's death after falling into a coma while in North Korean custody and the detention of two other US citizens in the spring of 2017. Prior to the restriction, an estimated eight hundred to a thousand Americans visited North Korea each year.⁶⁵ About two hundred US citizens lived there.⁶⁶ The ban on North Korean travel to the United States was implemented as part of a wider effort to protect US citizens from terrorist attacks.⁶⁷ However, that only a handful of North Korean officials and academics visited the United States each year led some to question the purpose and impact of the order.⁶⁸

People-to-people initiatives could help build mutual confidence leading up to, and as part of, a peace process. The 2018 Singapore agreement already emphasized a bilateral commitment to resume joint US-DPRK operations in North Korea to recover the remains of US prisoners of war and missing in action (POW/MIA) from the Korean War.⁶⁹ One month after the Singapore Summit, North Korea handed over fifty-five boxes of presumed US remains, but the effort was suspended after negotiations stalled at the February 2019 Hanoi summit. Another initiative some activist groups advocate is family reunions for Americans of Korean descent separated from relatives in North Korea after the Korean War. Although twenty-two official inter-Korean family reunions have been held since 1985, American citizens have lacked a state-sponsored pathway to reunite with their family members in North Korea.⁷⁰ Advocates say as many as a hundred thousand Korean Americans have relatives in North Korea who could be part of such a program.⁷¹ Last, the easing or termination of the travel bans to and from North Korea would open up a broader range of potential people-to-people exchanges, such as the participation of North Korean professionals in the State Department's International Visitor Leadership Program,

and the resumption of US congressional delegation visits⁷² to North Korea and US citizens teaching at the Pyongyang University of Science and Technology.⁷³

HUMAN RIGHTS

The North Korean regime's status as one of the world's worst human rights abusers poses a significant challenge for diplomatic normalization under a peace regime. US administrations have tended to segregate human rights concerns because raising them could complicate and protract security-related negotiations. However, after many years of defector accounts and the 2014 UN Commission of Inquiry's conclusion of "systematic, widespread and gross human rights violations" by the North Korean regime, many analysts argue that human rights must be an inextricable component of peace and denuclearization talks.⁷⁴ Without progress on human rights, it could be politically difficult for two-thirds of US Senators to provide consent on a peace treaty. Even with an executive agreement, various US laws with human rights provisions, such as the North Korea Sanctions and Policy Enhancement Act (NKSPEA), make it legally difficult for the United States to grant the permanent sanctions relief necessary for a full normalization of relations unless North Korea takes substantive steps to address its human rights violations.⁷⁵

Human rights issues can be incorporated into the peace negotiation process in various ways. Initial, incremental steps on issues of humanitarian concern, such as allowing more reunions between families separated by the Korean War, particularly first-time reunions with Korean American families, could lend credibility to North Korea's commitment to an improved relationship with its neighbors and the United States under a peace regime. Such measures would not bring about significant change in North Korea's human rights situation but would indicate a commitment to establishing a new and closer relationship with the United States.

Next, any peace settlement should incorporate broad commitments to human rights principles that lay the

groundwork for future discussions and reforms as well as the monitoring of human rights issues. This approach could follow the model of the 1975 Helsinki Accords, which established the foundation for later reforms in Soviet Bloc states in Eastern Europe (see box 2). Certain issues that North Korea has already agreed to address as part of the UN's Universal Periodic Review process, such as improving the rights of women and children and increasing access to food and health services, could be the basis for immediate cooperation.⁷⁶

The commitments should address the concerns outlined in the NKSPEA and Commission of Inquiry, including accounting for and repatriating foreign abductees and service member remains, allowing humanitarian aid workers greater access in North Korea, and improving living conditions in the political prison camps that house those considered disloyal to the regime. Greater North Korean willingness to engage with the UN High Commissioner for Human Rights, the UN Special Rapporteur on the situation of human rights in North Korea, and a US special envoy for North Korean human rights would help build congressional support for normalizing ties with Pyongyang. In this regard, the White House should appoint a human rights envoy immediately—a position vacant since January 2017—to begin coordinating the integration of human rights measures into efforts toward a peace regime.

Getting Pyongyang to engage on human rights, which it perceives as an indirect attempt to pursue regime collapse, will not be easy. Beijing would also have no interest in backing an incremental human rights agenda. Washington needs to demonstrate how human rights progress can strengthen regime security and improve US-DPRK relations, including greater offers of humanitarian assistance, partial sanctions relief, and a tangible pathway to diplomatic normalization. At the same time, experience indicates that North Korea responds to public shaming. In response to the Commission of Inquiry, the regime issued its own report defending its human rights practices, acknowledged

some multilateral recommendations from the Universal Periodic Review process more sincerely, and enhanced its senior-level diplomatic engagements on human rights, including the first visit by a North Korean foreign minister to the UN General Assembly in fifteen years.⁷⁷ In the long run, the United States will seek broad reforms to North Korea's political system, including

dismantlement of the prison camp system and the *songbun* social classification system, as well as greater access to outside information and decriminalization of "hostile" information. However, because these types of measures are the most sensitive for North Korea, Washington will need to calibrate how it broaches and seeks implementation of these reforms.

Box 2.

THE HELSINKI ACCORDS

The 1975 Helsinki Accords—an agreement, signed by thirty-five states representing the rival Eastern and Western blocs of the Cold War, that introduced the concept of universal human rights as a basis for relations between states—may prove a useful model for how the United States can address human rights issues in a Korean Peninsula peace regime. Through the accords, Europe and the United States secured the Soviet Union's agreement to a number of human rights provisions as part of a broader deal that allowed Moscow to consolidate its control over Eastern Europe and receive economic trade benefits from the West. The first basket of the accords included ten principles to guide relations between participating states, including Article VII, which stated that "the participating States recognize the universal significance of human rights and fundamental freedoms" such as freedom of thought, conscience, religion, or belief. The third basket related to improving humanitarian concerns such as family reunification, marriages, travel, people-to-people exchanges, working conditions for journalists, information access, and cultural exchanges.

At the time of signing, the Soviet Union's leadership recognized the risks posed by international human rights norms but believed that the Helsinki principles of sovereignty and non-intervention would let Warsaw Pact members, as "masters in our own house," neglect compliance with Helsinki norms.^a Over time, however, the provisions proved to be effective in securing improvements in human rights after activists in the Soviet Union and Europe set up monitoring groups to track and draw international attention to violations of the accords, and a process was introduced to review Helsinki implementation.^b

Pyongyang will likely be averse to a Helsinki-type framework, viewing it as a Trojan horse. But much like the Soviet Union, the leadership may regard commitments as unenforceable and thus a small price to pay for receiving desired benefits and being seen as a more responsible international actor. As difficult as it is to envisage at the moment, over time, circumstances could develop that lead to greater adherence to universal human rights standards in North Korea.

Notes

a. Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, NJ: Princeton University Press, September 1, 2001), 93.

b. US Department of State, Office of the Historian, "Helsinki Final Act, 1975," <https://history.state.gov/milestones/1969-1976/helsinki>.

Security and Military Issues

To be robust and durable, diplomatic agreements enshrining peace need to be accompanied by tangible measures that reduce military tensions and enhance mutual security. One of the greatest challenges for a peace regime on the Korean Peninsula will be crafting measures that can address the seventy years of mistrust between North Korea and the US-ROK Alliance as well as the security concerns of major regional stakeholders. The process will also raise difficult and larger questions about the future of the Alliance, the strategic orientation of North and South Korea, the role of the United States and China on the Korean Peninsula, and the overall security framework for the Northeast Asian region.

SECURITY GUARANTEES

A permanent peace settlement will require mutual security guarantees among the two Koreas, the United States, and China. Security guarantees could come in the form of both negative security assurances (promising not to attack) and positive ones (promising to protect from attack by others).

Over three decades of negotiations, the United States has extended negative security guarantees to North Korea numerous times. In the 1994 Agreed Framework, Washington expressed intent to provide “formal assurances to the DPRK, against the threat or use of nuclear weapons.” It took an additional step in the September 2005 Joint Statement of the Six-Party Talks by “affirm[ing] that it has no nuclear weapons on the Korean Peninsula and has no intention to attack or invade the DPRK with nuclear or conventional weapons.” In this statement, the ROK also “reaffirmed its commitment not to receive or deploy nuclear weapons . . . while affirming that there exist no nuclear weapons within its territory.”⁷⁸ Most recently, the Singapore Statement underscored that “President Trump committed to provide security guarantees to the DPRK.”⁷⁹

Despite these instances, the United States will need to reaffirm explicitly through a formal agreement its commitment not to attack North Korea using either conventional or nuclear weapons. Washington could also argue that once relations have improved, the presence of a sizable number of US civilians in Pyongyang, including diplomats, aid workers, business people, academics, and tourists, would help reinforce the security guarantee. Likewise, North Korea would need to forswear all threats and aggression against South Korea, Japan, and the United States. Russia has also identified the possibility of developing a “system of international security guarantees for North Korea,” perhaps a continuation of the Six-Party Talks proposal for a Northeast Asia Peace and Security Mechanism.⁸⁰ Analysts have pointed out, however, that multilateral security guarantees do not have great track records.⁸¹

An end-of-war declaration could further strengthen the credibility of mutual security guarantees. The Moon administration as well as some analysts have argued that declaring an end to the Korean War could send an encouraging signal to North Korea about US intentions, help Kim Jong Un counter hard-liners at home, and boost momentum for ongoing negotiations.⁸² Other experts, however, have warned against such a declaration, arguing that it would be premature without greater North Korean concessions and could unravel the rationale and support for a US military presence on the Peninsula.⁸³ President Trump reportedly promised Chairman Kim that he would sign an end-of-war declaration soon after their meeting in Singapore, but this debate continued to play out within the US government.⁸⁴ Washington apparently decided to put a joint end-of-war declaration on the table at the February 2019 Hanoi summit, but it was sidelined when the two sides could not agree

on denuclearization and sanctions relief measures.⁸⁵ Even if a declaration is made, Washington and Seoul should stress that existing arrangements that ensure security, such as the Armistice Agreement, the Military Demarcation Line, and the UN Command, will remain in place until a formal peace agreement is reached.

Analysts have also pointed out that beyond just promises of nonaggression, Kim Jong Un seeks his regime's guaranteed security.⁸⁶ Setting aside that Congress would never support the idea of protecting the Kim regime, it is unclear how the United States would extend such a guarantee, other than vowing not to intervene in the face of internal unrest in North Korea or pledging to ensure Kim's personal safety in the event of a coup. One measure of reassurance, which does not cross the line into regime support, could be for Washington to underscore the political and symbolic value of official US recognition of the DPRK and normalization of relations. Washington could argue that the political legitimacy and economic development that flows from diplomatic normalization would help prevent domestic instability in North Korea.

Ultimately, security guarantees are necessary but not sufficient measures for the establishment of a peace regime on the Korean Peninsula. Oral and written guarantees are only the first step in a longer process and need to be substantiated through further discussions and tangible actions that reduce military tensions and build confidence.

CONFIDENCE-BUILDING MEASURES

Concrete measures by both sides that reduce military tensions, the likelihood of conflict, and the potential for miscommunication can strengthen mutual confidence in security guarantees.

Military Exercises

Cancellation of major US-ROK military exercises, which North Korea views as rehearsals for invasion, has sometimes served as a confidence-building measure during periods of diplomacy. The suspension of the massive spring field training exercise Team Spirit in January

1992, in conjunction with the US withdrawal of its tactical nuclear weapons from South Korea and the granting of a high-level US-DPRK meeting, led directly to Pyongyang ratifying an International Atomic Energy Agency safeguards agreement. North Korea had dragged its feet on that agreement since signing the Nuclear Non-Proliferation Treaty in 1985. Similar cancellations in 1994, 1995, and 1996 maintained the diplomatic space that allowed the Agreed Framework to be signed in October 1994 and remain in effect throughout the 1990s. More recently, President Trump's unilateral decision at the June 2018 Singapore Summit to suspend the fall command post exercise—although problematic from an Alliance coordination perspective—likely helped ensure a positive summit outcome as well as confirm that a “dual freeze” was in effect. Conversely, the Alliance decision to modify rather than suspend the major 2019 spring and fall exercises provided a basis for North Korea to pull back from working-level negotiations and conduct several short-range ballistic missile tests in response.⁸⁷ Experts at the Center for Strategic and International Studies, however, have found Alliance military exercises to have no effect on US-North Korea relations (the state of relations prior to the exercises were the primary determinant of North Korean behavior after them).⁸⁸

If negotiations advance, the US-ROK Alliance will need to consider the role of military exercises in the peace-building process as well as in a future security environment. Washington, Seoul, and Pyongyang should have a clear understanding that all militaries, including their own, conduct exercises for training and readiness purposes. The question is the extent to which military exercises should and can be adjusted to build trust under a peace regime while preserving necessary defense and deterrence objectives. US military officials have asserted that though a reduction in exercises can cause slight degradations to military readiness, the diplomatic leverage or traction that comes from such adjustments may make this trade-off a prudent risk.⁸⁹ Other analysts warn, however, that long-term cancellations and modifications could have a more severe impact.⁹⁰

Scaling back major exercises remains a potential, though limited, option for reducing tensions and building trust. Further efforts to alter the current Dong Maeng exercise series may be difficult given that they are already reduced versions of the former Key Resolve/Foal Eagle and Ulchi Freedom Guardian exercises. In addition, the exercises need to be comprehensive enough to test the operational and mission capabilities of the South Korean military, a requirement for giving Seoul wartime operational control of its troops by the Moon administration's goal of 2022. As the peace process unfolds over time, however, exercises could be modified to train for less threatening objectives, such as humanitarian assistance and search and rescue, or reduced in scope and size and moved off the Peninsula to be less threatening to Pyongyang. The potential transition of wartime operational control, which includes establishing a future combined command structure with a South Korean four-star general as the commander, would also give Seoul greater authority and confidence to shape the exercises. And though Pyongyang should not have a vote in Alliance matters, having discussions with the Korean People's Army through the North-South joint military committee could help clarify tension reduction measures, including reciprocal modifications to the KPA's winter and summer training cycles.

US Military Presence

The potential for improved US-DPRK relations and an eventual peace agreement would raise important questions about the future of the US military presence on the Korean Peninsula. Currently, the United States stations approximately 28,500 troops in South Korea, concentrated in two major hubs: Camp Humphreys, which is the largest US military base overseas and located fifty-five miles south of Seoul in Pyeongtaek, and a constellation of bases around the southeastern city of Daegu. This forward-deployed presence reflects not only the US treaty commitment to defend its ally but also the broader goals of projecting power and serving a stabilizing function in the region.



US and South Korean soldiers cross the Namhan River during a May 2013 joint military exercise in Yeoncheon near the border with North Korea. (Photo by Ahn Young-joon/AP)

Box 3.

US-ROK COMBINED MILITARY EXERCISES

US-ROK combined military exercises play a pivotal role in maintaining peace and stability on the Korean Peninsula. Since 1955, the two countries' militaries have conducted them to maintain military readiness, test command and control capabilities, strengthen interoperability, and train for a range of contingency operations, including defending South Korea against North Korean aggression.^a These exercises also serve a signaling function, demonstrating Alliance resolve and military superiority to help deter, or at least minimize, North Korean adventurism. The scope, size, and function of these exercises, which number in the dozens annually and range from computer-assisted, command post exercises to tactical-level, field training exercises, have evolved over the years depending on the security environment. Typically, two major combined exercises occur each year during the spring and fall.

Notes

- a. Robert Collins, "A Brief History of the US-ROK Combined Military Exercises," *38 North*, February 26, 2014, www.38north.org/2014/02/rcollins022714.

If negotiations progress toward a peace agreement, the US and South Korean governments could face pressure to review and justify continuing US troop presence: North Korea and China may call for the outright withdrawal of US troops or at least a significant reduction in size and a reorientation toward peacekeeping and stability.

If negotiations progress toward a peace agreement, the US and South Korean governments could face external and internal pressure to review and justify continuing US troop presence. As discussed, North Korea and China may call for the outright withdrawal of US troops from South Korea or at least a significant reduction in size and a reorientation toward peacekeeping and stability.⁹¹ According to a 2018 survey, 74 percent of Americans support maintaining long-term bases in South Korea, but a significant number also support a partial (54 percent) or complete (18 percent) withdrawal of troops if denuclearization occurs.⁹² In South Korea, views will likely diverge along liberal and conservative fault lines. It is conceivable, however, that if inter-Korean relations advance rapidly, the rationale for allowing and providing funding for US troops and bases on Korean territory could be questioned, and South Korea could ask the US troops to leave, revise its presence, or remain only on a rotational basis. According to recent survey results, a majority of the South Korean public supports US troop presence (67.7 percent) but between 2013 and 2017 this number has trended downward from an average of more than 75 percent.⁹³ The support drops to 43.5 percent in a post-unification scenario, and could further dip during periods of anti-Americanism.⁹⁴

The current situation has been complicated by President Trump's own criticism of the US military presence in South Korea. Since before taking office, he has talked about withdrawing large numbers of troops from the Korean Peninsula. Prior to the June 2018 summit, he reportedly ordered the Pentagon to review options for drawing down US troops in South Korea.⁹⁵ Fearing the potential for arbitrary reductions in US troop presence, Congress restricted the president's ability to cut troops below current levels unless the secretary of defense first certifies that the reduction is in the national security

interests of the United States and its allies and that Washington has appropriately consulted with allies.⁹⁶

The US and ROK defense establishments should begin discussions about how the size, posture, and role of the US military in South Korea might change depending on future scenarios and threat environments. US troop presence on the Peninsula has constantly adapted to the political, strategic, and military needs of the times, from more than seventy thousand troops immediately after the Korean War to thirty-eight thousand in the 1990s to the current 28,500.⁹⁷ Some experts believe that the current force posture is warranted given the prevailing goals of deterrence and reassurance, but believe Alliance discussions about future modifications could be helpful.⁹⁸ Others go a step further to suggest signaling to China and North Korea that future force levels could be calibrated commensurate with the severity of the North Korean threat.⁹⁹ If this threat is diminished, various levels of US troop deployments and US-ROK security arrangements could be employed, including nonpermanent, base access agreements (similar to the ones used with the Philippines and Australia) or a reduced posture oriented toward expeditionary, disaster relief, and humanitarian operations.¹⁰⁰ Some US analysts even argue for modifying the force structure today, either because a significant US presence is no longer necessary given the readiness of the South Korean military or because deterrence against a nuclear North Korea requires a different approach than against a larger or a nuclear-armed adversary.¹⁰¹

Opinions will be split within the United States, particularly within the broader debate between those who seek a more restrained foreign policy and a smaller global military footprint and those who value US power projection capabilities and general military engagement around the world. However, reexamining the rationale

for the current disposition of US troops in South Korea and the appropriate force posture for addressing specific missions can help shift the conversation away from a simplistic, all-or-none, stay-or-withdraw framework to a more nuanced and effective prescription tailored toward the current and future security environment.

Conventional Force Reductions

Reducing the size and scope of conventional military forces on both sides of the Military Demarcation Line could help lower the potential for sudden, large-scale conflict and build confidence toward a permanent peace. North Korea has the fourth-largest military in the world (1.2 million serving as active-duty personnel), with a significant portion of its ground, naval, and air forces forward-deployed near the DMZ.¹⁰² Although undergoing defense reform that will reduce its military personnel to a half a million troops by 2025, South Korea maintains a combined defense posture with US forces and fields more advanced military weapons, technology, and systems to achieve its defense and deterrence objectives.¹⁰³

The two Koreas already outlined an approach to reducing military confrontation in the 1991 Basic Agreement. They agreed to resolve disputes peacefully through dialogue and negotiation, not use force against each other, and create an inter-Korean joint military commission to further identify and implement measures to decrease military tensions. These steps included discussions of major movements of military units and major military exercises, the peaceful use of the DMZ, exchanges of military personnel and information, phased reductions in armaments and attack capabilities, and verification measures.

Although the 1991 measures were not implemented, they provided a foundation for subsequent progress on tension reduction achieved under the September 2018 Comprehensive Military Agreement.¹⁰⁴ Within months of this accord, the two Koreas enacted a range of actions to minimize conflict along the DMZ and in the Yellow Sea. These steps included ceasing all live-fire artillery and field

training drills near the Military Demarcation Line, withdrawing guard posts within the DMZ, demilitarizing the Joint Security Area in Panmunjom (including land mine and firearms removal), establishing no-fly zones along the MDL, halting live-fire and maritime maneuver exercises in West and East Sea buffer zones, and adopting revised operational procedures to avoid accidental military clashes.

Both in the course of peace negotiations and once a treaty is signed, the United States and the two Koreas could engage in additional, phased confidence-building measures to increase transparency, restrict operations, and reduce conventional arms. Although Washington has never officially discussed which conventional force reduction measures would be appropriate as part of a peace agreement, analysts have pointed to the approach taken by the Conference on Security and Co-operation in Europe (now the Organization for Security and Co-operation in Europe) under Vienna Document 1990 and the Conventional Armed Forces in Europe Treaty (CFE).¹⁰⁵ This path would include confidence- and security-building measures that provide greater transparency and information sharing on military activities, organization, and plans (such as notification of major military activities; exchange of information on defense policy, manpower, and major conventional weapons and equipment systems; reciprocal observer visits to bases and exercises; and so on) and restrict peacetime operations and exercises (withdrawing North and South Korean artillery back from their forward positions, for example).¹⁰⁶ In addition, the two sides could adopt the CFE focus on eliminating or reducing major weapons and equipment (such as attack helicopters, heavy artillery, combat aircraft, or tanks) to decrease the possibility of large-scale, surprise attacks.¹⁰⁷

These security-related discussions should occur through direct military-to-military engagement with North Korea, primarily through the inter-Korean joint military committee. In addition, establishing a senior-level, policy-oriented dialogue between the Defense Department and the KPA—rather than just revitalizing the defunct colonel- and flag officer-level discussions that occurred intermittently



South Korean Defense Minister Jeong Kyeong-doo, left, greets US Defense Secretary Mike Esper as he arrives at the Security Consultative Meeting in Seoul on November 15, 2019. (Photo by Lee Jin-man/AP)

through the Military Armistice Commission at the DMZ during the 1990s and 2000s—would also provide a regular forum for addressing strategic tension reduction measures, enhancing communication and transparency, and preventing miscalculations and accidents that could escalate into larger conflict.¹⁰⁸ A dialogue with the North Korean military could also help build a relationship with one of the most powerful constituencies within the regime, enhance its buy-in to the peace regime process, and strengthen US understanding of its interests and motivations.

US-ROK Alliance

The United States and South Korea will decide the future of the Alliance on a bilateral basis, regardless of North Korean, Russian, and Chinese interests. Still, a potential peace regime raises difficult questions for policymakers in Washington and Seoul about the Alliance’s role and scope. Although the 1953 US-ROK

Mutual Defense Treaty never mentions North Korea and only declares a “common determination to defend themselves against external armed attack,” the Alliance has existed primarily to deter North Korean aggression and ensure South Korean and regional security.¹⁰⁹ A peace process that ostensibly promises to resolve North Korean threats and aggression could undermine a significant part of the rationale for the Alliance and the US troop presence. More immediately, as a part of the negotiations, North Korea may demand concessions that detract from military readiness and deterrence. Those could include reductions in US troop presence, an end to US extended deterrence, and limitations on nuclear and strategic asset deployments to the area.

Washington and Seoul have argued that since its founding, the Alliance has grown global in nature, beyond the North Korean threat. The two countries have worked

together under the Alliance framework to address the common interests of human rights, democracy, a market economy, and trade liberalization while tackling shared threats such as terrorism, climate change, piracy, and epidemic disease.¹¹⁰ Alliance supporters in Washington and Seoul would take a skeptical view of any moves within a peace process that weaken the legal or political underpinnings for the US-ROK Alliance, encourage Alliance “decoupling” overall, or degrade readiness and deterrence while a threat still exists. Another argument for continuing the Alliance even after denuclearization would be that Pyongyang’s conventional weapons, even if reduced considerably as part of an agreement, still pose a threat to Seoul’s security.

In addition, Washington and Seoul would need to consider how a peace regime would affect the US strategic position in Northeast Asia, which is built on a framework of strong regional alliances. US policymakers believe that the American-led order in Asia provides the foundation for peace, stability, and economic growth in the region, including for South Korea.¹¹¹ A peace regime necessarily means revising existing security arrangements and may therefore be greeted by some camps with skepticism. If the threat from North Korea eases through a peace regime, US regional strategy will require a reassessment, including whether the US-ROK Alliance should reorient toward balancing Chinese power in Northeast Asia and the Indo-Pacific region overall. In this regard, the recent bilateral effort to examine a forward-looking joint vision for the Alliance in light of dynamic changes in the security environment are encouraging.¹¹²

Long-Term Regional Security Architecture

A comprehensive Korean peace agreement would likely transform the status quo security environment in the region. The two Koreas and the other major regional stakeholders should therefore begin discussions on a regional security mechanism (or a series of mechanisms) that can serve as a venue for discussing, implementing, and monitoring various multilateral aspects of the peace regime as well as building mutual confidence and

regional peace and stability. This mechanism could address Peninsula-specific issues, from tracking progress on denuclearization to coordinating actions to facilitate North Korea’s integration into the regional economy, as well as help mitigate some of the conflicting security interests in the region by functioning as a venue for frank dialogue and confidence-building exchanges. Further, such a mechanism could later potentially be broadened to address other regional issues, from managing outstanding territorial disputes in the East China Sea to coordinating efforts on transregional issues.

Creating such a regional security mechanism will be no easy task given the existing rivalries, mistrust, and historical grievances in the region. The closest analogue, the Six-Party Talks, ended without success and not all parties are willing to revive it at this juncture. A Northeast Asia Peace and Security Mechanism (one of the proposals from the Six-Party Talks) that focuses more on regional peace and stability could avoid some of the resistance. Significant bilateral and four-party progress toward a peace deal on the Korean Peninsula could serve as an impetus for the major stakeholders to explore the creation of such a mechanism, and a mechanism with mutual backing would in turn serve as a valuable asset for ensuring continued progress on peace.

Denuclearization

A sustainable peace regime will depend heavily on a common understanding about what is included under the definition of *denuclearization*. Debating the term goes beyond semantics. Instead, agonizing over the meaning of denuclearization is a proxy for negotiating the fundamental trade-offs inherent in a deal. The areas of disagreement relate to the substantive, geographic, and temporal scope of denuclearization, as well as whether the term includes nonnuclear weapons.

Regarding denuclearization’s scope inside North Korea itself, each party has its own view on which capabilities would be restricted or eliminated. Assembled nuclear devices would clearly fall under this rubric, as would

stockpiles of weapons-grade fissile material that could be used to make bombs. However, including a range of other capabilities is less clear. For example, negotiators would need to determine which categories of ballistic missiles would be regulated. They would also need to agree on whether Pyongyang could retain a civilian nuclear or space program that uses dual-use technologies. Cooperative threat reduction measures related to the disposition of nuclear expertise and records as well as the transition of nuclear scientists to civilian programs could fall under the denuclearization definition as well.¹¹³ Moreover, an intrusive monitoring and verification mechanism would be needed to ensure compliance with those commitments.

Beyond North Korean territory, definitions of denuclearization proposed by North Korea, China, and Russia—and recognized in principle by South Korea—broaden the geographic scope to include the entire Korean Peninsula. Accepting a broader scope could mean restrictions on South Korean and US activities, including agreeing not to station, rotate, or deploy nuclear-capable platforms such as B-52 bombers in South Korea. North Korea has even demanded the withdrawal of US troops that hold the authority to use nuclear weapons from South Korea.¹¹⁴ In addition, Pyongyang would likely expect Seoul (and Tokyo) to reaffirm its commitment not to develop or acquire nuclear weapons in the future.¹¹⁵

North Korea may also take issue with the US extended deterrence commitments to South Korea. Although Pyongyang has long called on Washington to remove US strategic assets from the Korean Peninsula, it has not explicitly stated that the United States must retract its nuclear umbrella over the ROK, which suggests some flexibility in North Korea's position.

Three post-peace regime possibilities exist regarding the US nuclear umbrella: retract, extend, or remain. Some experts have advocated the first scenario, envisioning a Korean Peninsula as a nuclear-free zone with guarantees from all P5 states never to use a nuclear weapon against

the Peninsula.¹¹⁶ Others have cautioned that such developments, without verification of denuclearization, would only play into North Korea's hands, enabling it to forcibly unify the Korean Peninsula or otherwise coerce South Korea.¹¹⁷ Furthermore, such a decision would have broader implications for other US alliances and could raise questions about US extended deterrence commitments.

Theoretically, the two Koreas could seek the extension of the US nuclear umbrella over the entire Korean Peninsula as well as North Korea's tacit affiliation with the US-ROK Alliance, given the concerns about China's growing influence in the region. Such an alternative security arrangement is not implausible considering North Korea's deep distrust of China, but it would face fierce opposition from Beijing.

An arrangement could also be made for the US nuclear umbrella to remain over South Korea, and for China and Russia (or both) to extend nuclear umbrellas over North Korea. China, despite growing signs of a more ambitious regional role, has never extended such guarantees to any other state and has generally eschewed playing the role of a traditional great power security provider. Furthermore, Washington, Seoul, and Pyongyang itself would oppose expanding Chinese or Russian security roles on the Korean Peninsula. At the conventional level, it is unclear where Pyongyang stands on US extended deterrence guarantees that are backed by nonnuclear strike and missile defense capabilities.

At times, North Korea has expanded its conception of denuclearization beyond the Peninsula to include military assets stationed throughout East Asia, such as those on Japan and Guam.¹¹⁸ Accepting a region-wide geographic scope for denuclearization would create a dilemma for the United States for a variety of reasons, foremost because those forces serve essential missions beyond deterring North Korea. Even if the United States removed nuclear-capable assets from all of East Asia, its changed posture would provide only symbolic security reassurances. All three legs of the US nuclear triad—intercontinental

US policymakers have set a high bar for the end-state they want to achieve for North Korea’s nuclear program: complete, verifiable, irreversible dismantlement.

ballistic missiles, submarines, and bombers—can reach North Korea from the continental United States. Refraining from basing nuclear forces in East Asia places only minimal operational constraints on US nuclear forces. In other words, if the US nuclear “threat” to North Korea is based on capabilities rather than intent, the only way to make Pyongyang invulnerable is total US disarmament. To be sure, the symbolism of security guarantees can still be meaningful, but only as indicators of benign intent.

Washington and Pyongyang also disagree on the time span of denuclearization. Chairman Kim called for the two countries to take “phased and synchronous measures” to “eventually achieve denuclearization and lasting peace on the peninsula,” reflecting a desire for a protracted, incremental process.¹¹⁹ Washington initially envisioned an accelerated time frame for denuclearization but lowered its expectations after the failed Hanoi meeting.¹²⁰

Developing a common understanding about which types of nonnuclear assets fit under the denuclearization definition may be another variable in negotiations. North Korea has called for an end to the deployment of US conventional “strategic assets” on or near the Peninsula that could defeat its air defense systems and conduct regime “decapitation” operations intended to take out the leadership (such as F-35 and F-22 stealth fighters and B1-B bombers).¹²¹ The regime has also complained about South Korea’s taking possession of US-made F-35 stealth fighters. For its part, the United States has at times interpreted denuclearization to include North Korea giving up all weapons of mass destruction (WMD), including chemical and biological weapons.¹²²

A compromise working definition of denuclearization could leave out nonnuclear capabilities. The United States would need to address North Korean chemical and biological weapons later; North Korea would have to accept highly capable conventional weapons being

stationed on and around South Korea. Choosing this approach would allow the denuclearization process to begin with a relatively narrow scope and be expanded over time. Some analysts have argued that, rather than getting mired in defining denuclearization up front, it is more important to focus immediately on achieving tangible security benefits and beginning the confidence-building process¹²³ Yet if a near-term definition is necessary, one of the existing definitions from the 1992 Joint North-South Declaration or the 2005 Joint Statement of the Six Party Talks could be used as a starting point.

Dismantlement and Verification

US policymakers have set a high bar for the end-state they want to achieve for North Korea’s nuclear program: complete, verifiable, irreversible dismantlement. This concept dates back to the early 2000s and is codified into UNSCR 1718.¹²⁴ Trump administration officials use “final, fully verified denuclearization” as an alternative phrasing for the same goal. Achieving it will require a phased, step-by-step process. The sheer scope of North Korea’s nuclear program and the regime’s unwillingness to make security concessions until greater trust is established demands as much.

Experts generally agree that the first step in the dismantlement process is freezing and capping North Korea’s nuclear and ballistic missile activities.¹²⁵ Although the regime has demonstrated a significant level of nuclear weapons development and testing, it has yet to demonstrate a fully integrated and reliable capability. Implementing a freeze on further nuclear and missile activities—including nuclear tests, fissile material production, long-range missile and solid-fuel rocket tests, and weapons export and proliferation, would halt the most concerning aspects of North Korea’s nuclear program.

Once a freeze is implemented, the next phase would seek to roll back and then completely dismantle North

Korea's nuclear weapons facilities and programs. This goal would address two major categories of activities. The first is dismantling and removing North Korea's existing arsenal of nuclear devices, ready-made component parts that can be assembled into nuclear devices, and stockpiles of fissile material. North Korean nuclear technicians could potentially dismantle some or all of those weapons with the appropriate monitoring. P5 countries could provide related technical support.

The second area is neutralizing North Korea's nuclear infrastructure and ways of operating a nuclear weapons program. Major capabilities to be destroyed would include Pyongyang's declared and undeclared facilities that produce weapons-grade fissile material, mine and mill such material, assemble nuclear weapons, and build certain ballistic missiles. Finding alternative employment for the scientists and engineers who build and operate these weapons would also have to be taken into consideration. Addressing North Korea's remaining nuclear infrastructure would pose a more technically difficult challenge because some would fall under dual-use provisions (such as supporting a civilian nuclear or space program). Other facilities may build types of weapons that may fall outside the restrictions of a denuclearization agreement (such as short- and medium-range conventional ballistic missiles). Because of their dual-use roles, many facilities would have to be continuously monitored rather than destroyed.

Monitoring and verification are perhaps the greatest challenges in the dismantlement process. During the Six-Party Talks, an inability to agree on a written verification procedure for North Korea's declared nuclear activities and stockpiles led to the demise of the negotiations. The significant growth of the country's nuclear program since then has exacerbated the verification problem. The main issue is that verification with a 100 percent level of certainty across the entirety of North Korea's nuclear program would be extremely difficult, if not impossible, given the resources required to conduct monitoring and verification and the access constraints that the regime would likely impose. North

Korea also maintains an extensive network of covert and underground facilities, tunnels, and sites that can be used to hide activities and materials.

Nevertheless, an extensive and stringent verification and monitoring regime will be necessary to enforce any agreement, keep tabs on North Korea's denuclearization progress, and prevent any backsliding or reconstitution.¹²⁶ Verification activities could potentially start small and ramp up over time in coordination with political progress on both sides toward a peace regime.¹²⁷ One option might be to accept as a first step dismantlement and removal of major components of North Korea's nuclear arsenal (that is, steps that undeniably reduce its arsenal or reduce its production capabilities) in lieu of transparency on the entire nuclear and missile complex. Experts have proposed a "probabilistic" approach to comprehensive verification to supplement traditional verification of major objects or activities. This approach would subject a wider, though not exhaustive, list of items and activities for monitoring, each of which by itself could have a low probability of detection but in the aggregate would provide a higher monitoring confidence.¹²⁸

Eventually, North Korea would need to provide a full declaration of its nuclear and missile complex to enable verification and monitoring of Pyongyang's compliance with any agreements. Over time, the United States and the international community would expect North Korea to adhere to robust safeguards, including by negotiating an Additional Protocol agreement with the International Atomic Energy Agency.¹²⁹ Pyongyang would also need to join or return to compliance with several relevant treaties, including the Treaty on the Non-Proliferation of Nuclear Weapons, which it withdrew from in January 2003; the Comprehensive Nuclear-Test-Ban Treaty; and the Missile Technology Control Regime. The technically complex process of verification will take many years to complete, and each side will require both political commitments and concrete actions early in the process to sustain the political momentum and diplomatic credibility required for adhering to the process until completion. Creating the

necessary trust this process requires can best be accomplished by steps in parallel toward a peace regime.

Chemical and Biological Weapons

As noted, the United States has at times interpreted denuclearization to include North Korea giving up all weapons of mass destruction, including chemical and biological weapons. During the February 2019 Hanoi summit, President Trump reportedly handed Chairman Kim a document that called for fully dismantling not just North Korea's nuclear infrastructure but also its chemical and biological warfare program.¹³⁰

North Korea is party to the Biological and Toxin Weapons Convention and the Geneva Protocol, but not to the Chemical Weapons Convention (CWC). The government denies having biological or chemical weapons, but the United States and others worry that the Kim regime could turn to these weapons as a cheaper alternative or complement to its burgeoning nuclear capability.

North Korea is believed to have an indigenous capability to develop chemical weapons, as well as the world's third-largest stockpile, and an estimated 2,500 to 5,000 metric tons of chemical weapons agents. Concerns about Pyongyang's willingness to use them were heightened in February 2017 when Kim Jong Un's half-brother Kim Jong Nam died from exposure to the VX nerve agent in the Kuala Lumpur airport. Pyongyang denied responsibility for the murder, but Washington imposed additional sanctions on North Korea in response to the incident.

North Korea can indigenously cultivate many types of biological agents, including anthrax and smallpox, and produce biological weapons in various dual-use facilities.¹³¹ Little data exist to confirm the existence and size of potential stockpiles, but signs indicate that Kim may be reviving efforts to weaponize and deliver the agents. According to former Pentagon official Andrew Weber, "North Korea is far more likely to use biological weapons than nuclear ones."¹³² Still, experts warn against exaggerating North Korea's capabilities in the absence of

reliable evidence. Most information comes from defectors, and the US government has been increasingly cautious in its estimates of North Korea's capabilities.¹³³

To address these risks, a peace agreement might include a no-first-use pledge on biological and chemical weapons, as well as a requirement that North Korea join the CWC. The parties should also identify additional confidence-building measures, such as technical exchanges among scientists or medical personnel, and mechanisms for improved transparency and monitoring.

United Nations Command

The UN Command has played both a stabilizing and controversial role on the Korean Peninsula since the Korean War. In July 1950, the Security Council authorized a US-led unified command of multilateral forces to repel North Korean aggression. Throughout the next two decades, the UN Command maintained nominal responsibility for South Korea's defense. However, the majority of the fifteen sending states, which made up only 4 percent of the total UN Command forces at peak strength in 1953, withdrew most of their troops by 1956, and the defense mission was fulfilled by ROK and US forces.¹³⁴ The UN Command's role diminished further with the establishment of a US-ROK Combined Forces Command in 1978. Today, in the absence of active hostilities and an adequate distinction between its role and Alliance functions, the UN Command's existence engenders ongoing dispute.

For the United States and its allies, the UN Command continues to serve important functions related to peacekeeping, multilateral cooperation, and contingency readiness. It helps enforce the Armistice Agreement and maintain communications with the Korean People's Army through its participation in the Military Armistice Commission.¹³⁵ The UN Command would also serve as a force provider in the case of a contingency on the Korean Peninsula. Its subordinate command, UN Command-Rear, has nominal authority over seven rear bases in Japan, which provide administrative and logistics support, allow multilateral forces to conduct missions (such as



Military officers from the US-led United Nations Command, South Korea, and North Korea (clockwise from left) attend an October 16, 2018 meeting in the Demilitarized Zone to discuss efforts to ban weapons in the border village of Panmunjom. (Photo by South Korea Defense Ministry via AP)

monitoring and preventing North Korea’s illicit ship-to-ship transfers), and would manage force flows in a contingency scenario.¹³⁶ In recent years, the UN Command has undergone a formal “revitalization” process to strengthen the role of sending states in a potential crisis.¹³⁷ The Moon administration has expressed concern, however, that Washington could use the UN Command to maintain control over the Combined Forces Command and ROK forces during a military crisis, even after the transition of wartime operational control, by defining the situation as a violation rather than nullification of the armistice.¹³⁸

For Pyongyang, Beijing, and Moscow, however, the UN Command is a shell construct propped up by Washington to maintain the pretense of international solidarity against North Korea. They have long questioned the UN Command’s legitimacy given that the Security Council voted to establish the command when a key

permanent member, the Soviet Union, was boycotting council proceedings. North Korea in particular has called for the UN Command to be dissolved, arguing that the United States is trying to transform it into an “Asian version of NATO.”¹³⁹ In addition, critics argue that UN Command-Rear, which maintains just four personnel, is merely a fig leaf entity used to prevent the termination of the UN-Japan Status of Forces Agreement (SOFA) and ensure US control over the rear bases.

For its part, the United Nations has distanced itself from the UN Command.¹⁴⁰ Former UN Secretary-General Boutros Boutros-Ghali noted in 1994 that the “Security Council did not establish the unified command as a subsidiary organ under its control but merely recommended the creation of such a command, specifying that it be under the authority of the United States.” Therefore, Washington alone has the authority to

“decide on the continued existence or the dissolution of the United Nations Command.”¹⁴¹

As US-DPRK and inter-Korean negotiations made headway in 2018, the UN Command demonstrated its ability to play a facilitating role in tension reduction. It met trilaterally with military officials from both Koreas in October to advance the implementation of the inter-Korean comprehensive military agreement. Later, it verified the removal of dozens of landmines and twenty-two front-line guard posts in the DMZ as part of the agreement. Throughout 2018, it approved the movement of more than six thousand people through the DMZ between the two Koreas, versus zero in 2017.¹⁴²

The UN Command’s role will continue to evolve as a peace process moves forward. It could play a role in coordinating the various international entities that would be involved in implementing peace arrangements.¹⁴³ Some experts argue that, even after a peace agreement is reached, the command could continue in the capacity of a peace guarantor, managing peacekeeping operations and various North-South confidence-building measures.¹⁴⁴ However, its historical baggage as a belligerent in the Korean War would potentially undermine its argument for a new, neutral role. Also, the two Koreas’ desire to minimize foreign encroachment on their sovereignty may reinvigorate calls for it to be dissolved or replaced rather than reformed.¹⁴⁵

A formal end to the Korean War would render the UN Command’s original rationale under UNSCR 84 moot or obsolete. If it were dissolved, the UN Command-Rear would also need to be dissolved, and UN forces would need to be removed from Japan pursuant to the UN-Japan SOFA.¹⁴⁶ Currently, the UN Command-Rear offers a streamlined way to provide visiting forces access to bases in Japan, exercise multilateral cooperation, and supply political cover for sensitive ROK-Japan security cooperation. In its place, Japan would need to negotiate bilateral access and SOFA agreements with relevant countries (the United States already has a SOFA with

Japan), which it has already begun doing with the United Kingdom and Australia, two of the UN-Japan SOFA signatories.¹⁴⁷ Given the implications for regional security, the United States, South Korea, Japan, and other interested parties would need to begin discussions on how to replace the force management functions of the UN Command-Rear in the new environment.

New Peace Management System

The peace agreement that replaces the Armistice Agreement would need to help establish a new framework for maintaining the peace. Currently, the Armistice Agreement mandates the Military Armistice Commission, along with representatives from the KPA and the UN Command, to implement the truce as well as a Neutral Nations Supervisory Commission to monitor armistice implementation outside of the DMZ. However, both commissions have largely been defunct since the mid-1990s. In practice, a fragile peace has been maintained on the Peninsula through mutual deterrence by the military capabilities of the KPA and US-ROK Combined Forces Command.

A central question is how to structure the new peace system to institutionalize and improve on the de facto way peace is maintained today, as well as how to account for the preferences of the main parties involved. Most likely, the two Koreas would prefer a Korea-only framework that ensures Korean sovereignty over security matters and minimizes foreign influence. The inter-Korean joint military commission established under the 1991 Basic Agreement and reaffirmed under the 2018 inter-Korean military agreement would be one potential body for addressing and resolving security issues, though it would need to be further developed during the negotiation process. Another possibility would be to add the United States and China as members or supervisors to the management system given their direct interests on the Peninsula and ability to underwrite the peace process. A third, though least likely, option would be to establish a formal UN peacekeeping operation in the DMZ.

Economic and Humanitarian Issues



North Korea has long prioritized the economic aspects of regime security alongside military security in diplomatic negotiations. Previous negotiations with Pyongyang have all featured demands to address the regime's economic security, including sanctions relief, provision of heavy fuel oil, and the promise of light-water reactors (as part of the Agreed Framework and Six-Party Talks); the additional relaxation of sanctions after North Korea's 1999 moratorium on missile tests; the release of \$25 million in North Korean funds from the sanctioned Banco Delta Asia (to reinvigorate Six-Party Talks discussions); the removal of North Korea from the state sponsor of terrorism list in 2008; and 240,000 metric tons of nutritional assistance (as part of the 2012 Leap Day Deal).

North Korea's economy, already in disarray after the fall of the Soviet Union and years of mismanagement, has deteriorated further since the imposition of robust UN sanctions in 2016 and 2017. According to the Bank of Korea, North Korea's economy contracted by 4.1 percent in 2018, the worst drop in twenty-one years and the second consecutive year of decline (see figure 1). In addition, its international trade dropped by 48.4 percent in 2018, the largest fall in exports in nearly thirty years.¹⁴⁸ In this regard, measures that reassure Pyongyang about its economic security, including sanctions relief, economic assistance, and humanitarian aid, will play an important role in peace and denuclearization negotiations.

DISMANTLING SANCTIONS

Relieving and ultimately ending US and multilateral economic and financial sanctions against North Korea is the most significant element in addressing Pyongyang's

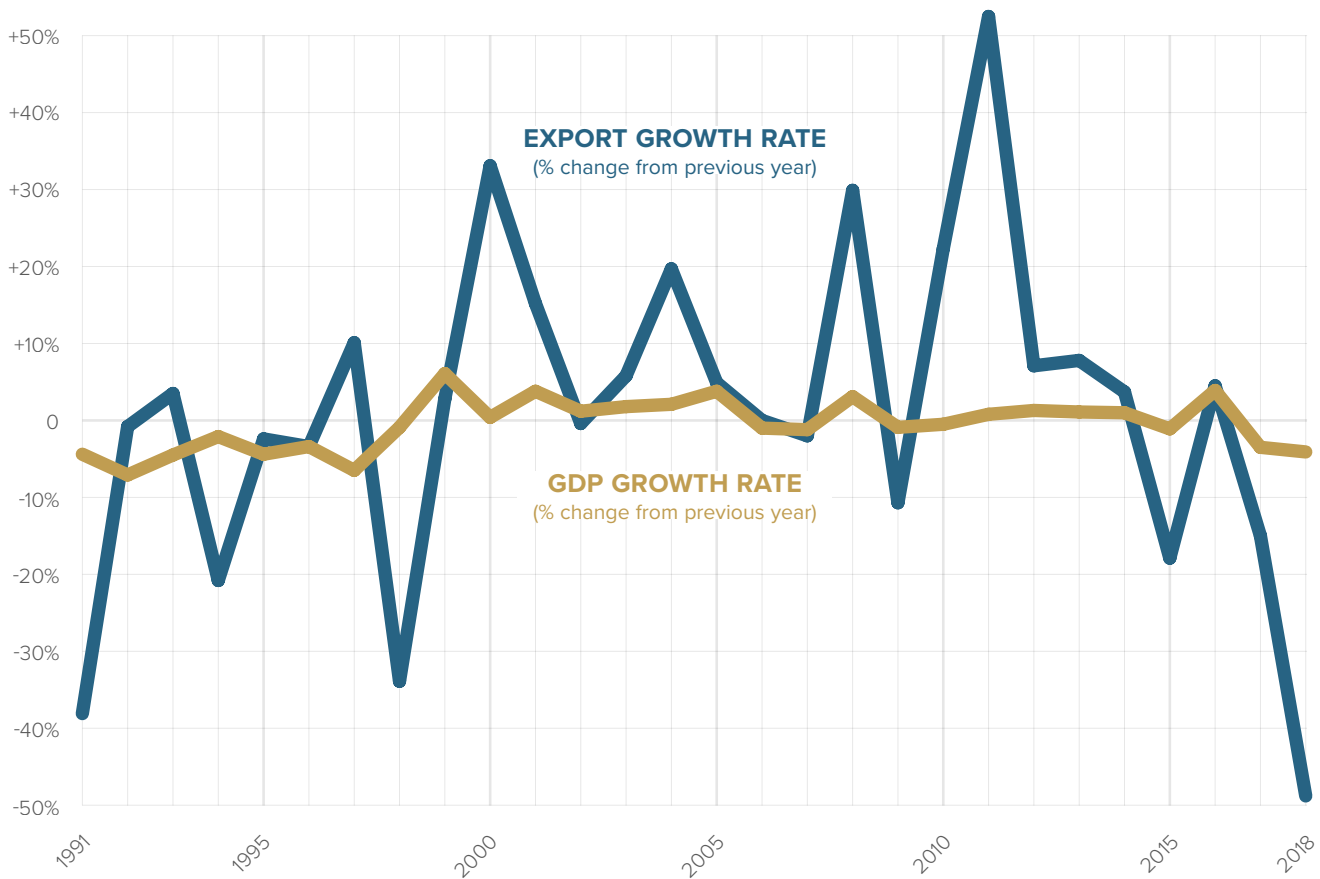
concerns about its economic security. Kim made sanctions relief his top demand during the second summit with President Trump in Hanoi, which suggests that Pyongyang may be prioritizing sanctions relief in much the same way Washington emphasizes denuclearization. Economic development and hard currency generation are critical to the regime's survival, and sanctions impede these aims.

Currently, a robust regime of multilateral and unilateral sanctions are imposed on North Korea on the basis of its illicit activities and violations of international law.¹⁴⁹ Between 2006 and 2017, the Security Council passed eleven resolutions imposing sanctions against North Korea.¹⁵⁰ The sanctions started with bans on exports of military items and luxury goods to North Korea, authorization for inspections of North Korean cargo, and other measures specifically tailored to curtail Pyongyang's nuclear program. During 2016 and 2017, when North Korea conducted three nuclear tests and multiple long-range missile launches, the Security Council introduced a series of escalating sanctions that cumulatively banned exports from vast sectors of the North Korean civilian industry, including coal, iron ore, minerals, seafood, textiles, and labor. These sectors accounted for 99 percent of North Korea's export revenues.¹⁵¹ North Korea's import of refined petroleum was also capped at half a million barrels per year. It was these civilian sectoral sanctions that Kim sought to end during the Hanoi negotiations.¹⁵²

The United States also maintains a complex web of unilateral sanctions that restricts most commercial and financial activities by US companies, entities, and individuals with North Korea.¹⁵³ Trade is generally limited to food,

Figure 1. Annual Percentage Change in North Korea's GDP and Exports

In disarray after the fall of the Soviet Union and years of mismanagement, North Korea's economy deteriorated further following the imposition of robust UN sanctions in 2016 and 2017.



Source: Bank of Korea

medicine, and other humanitarian exports. Financial transactions involving US persons are prohibited, as are new US investments in North Korea and arms sales and transfers. Even US travel to North Korea is not permitted except for journalists, humanitarian aid workers, and others receiving special validation passports from the State Department for visits said to advance national interests. A new US law signed in December 2019, the Otto Warmbier Nuclear Sanctions Act, tightened the sanctions regime further by prohibiting non-US entities that facilitate business with North Korean enterprises from having access to the US financial system.¹⁵⁴

US sanctions reflect the independent but overlapping roles of the legislative and executive branches of the federal government. Congress has delegated some of

its authority to regulate commerce with foreign nations to the president under the National Emergencies Act, the International Emergency Economic Powers Act, and the Patriot Act. Pursuant to that authority, US presidents have issued various executive orders related to North Korea. Congress has also enacted a series of North Korea-related statutes, including the NKSPEA; Title III of the Countering America's Adversaries Through Sanctions Act of 2017; the Warmbier Act; the Iran, North Korea, and Syria Non-Proliferation Act of 2000; and the North Korea Human Rights Act of 2004. The NKSPEA and the Warmbier Act, in particular, mandated the exclusion of North Korea and its third-party enablers from the US financial system and the freezing of their assets. The power of this sanction derives from the fact that most international transactions are denominated in dollars, the world's

primary reserve currency, and even dollar transactions that are not between US persons or banks must be cleared through correspondent banks within US jurisdiction.¹⁵⁵

Multilateral sanctions can be lifted by specific Security Council resolutions. Although any one of the five permanent members could veto such a measure, China and Russia have been calling for sanctions relief for North Korea so a veto would not likely be an issue. The Security Council can also waive sanctions for a specific period and adopt so-called snapback provisions that condition an extension of relief on continued denuclearization progress, as was the case in the Iran Joint Comprehensive Plan of Action.¹⁵⁶ More narrowly, US administrations can engage the UN's 1718 Sanctions Committee to allow for exemptions related to specific activities. For example, the United States has supported exemptions for limited inter-Korean projects, such as a joint railway inspection at the end of 2018.

Removing US sanctions will be more complicated. Some will be easier to lift, such as presidential executive orders that can be canceled by subsequent ones. Certain laws include waivers (such as for national security interests) or other flexible authorities for the executive branch.¹⁵⁷ Others, such as certain restrictive proliferation-related sanctions, do not.¹⁵⁸ The NKSPEA—the first comprehensive North Korea–related sanctions law—requires Pyongyang to demonstrate progress on a range of areas, including denuclearization, human rights, financial transparency, and counterfeiting, for a temporary one-year suspension of its sanctions. “Significant progress” in those areas is needed for sanctions to be permanently lifted.¹⁵⁹ The Warmbier Act also requires that North Korea take certain steps toward permanently and verifiably limiting its WMD and ballistic missile programs before the law’s provisions are suspended or terminated. In the absence of legislative flexibility, an administration may find that official actions to test the viability of a peace regime or undertake related confidence-building measures (such as certain people-to-people exchanges) may be prohibited. Overlapping sanctions requirements of

different legislation could introduce another complication that makes the piecemeal provision of relief difficult. For example, certain North Korean commercial activities could be sanctioned for a number of divergent reasons enumerated in separate legal authorities. These challenges arose in the context of US sanctions relief in response to Myanmar’s democratic opening a few years ago.

The critical challenge in US deliberations over sanctions relief will be how to encourage North Korean progress toward denuclearization and peace while minimizing any premature loss of the leverage that sanctions provide. Since the Hanoi summit, North Korea has made it clear, without being explicit, that no deal is possible without at least some form of sanctions relief. On the other hand, Secretary Pompeo has reiterated that no sanctions relief is possible until Pyongyang gives up its nuclear weapons.

Given the lack of mutual trust and the likelihood of a phased process, if Washington decides to consider sanctions relief in conjunction with corresponding North Korea denuclearization measures, it could begin with easing UN multilateral sanctions on a temporary and limited basis. This could be done through waivers for specific North Korean sectors or inter-Korean projects, and include snapback provisions rather than outright sanctions removal. In a step-by-step process that emphasizes parallel and simultaneous actions to establish trust, an administration might prefer to allow activities that generate a limited amount of revenue for the regime or require disturbing the minimal number of sanctions. It could also focus on activities that are narrower in scope and humanitarian in nature or, relatedly, issue general licenses authorizing categories of action that previously required a specific license.¹⁶⁰ The president would potentially have more flexibility in these circumstances and is not as likely to encounter staunch congressional opposition. During past instances of denuclearization progress in 2000 and 2008, US administrations have lifted sanctions on North Korea under the Trading with the Enemy Act, the Export Administration Act, the Defense Production Act,

and related executive orders.¹⁶¹ As North Korea makes progress on denuclearization steps and US confidence builds, the sanctions relief process could possibly accelerate, depending on the circumstances. Washington and its partners will also want to ensure sanctions relief does not inadvertently allow Pyongyang to further develop or reconstitute its nuclear and other WMD programs while continuing to minimize North Korean sanctions circumvention and access to hard currency that can finance illicit activities.

ECONOMIC AND ENERGY ASSISTANCE

Even after sanctions relief, North Korea would still need significant assistance from the international community to develop its economy and build peace in a sustainable way. North Korea has been ambivalent, however, about accepting foreign assistance, recognizing it both as a necessity and a threat. Internally, the regime continues to trumpet the pursuit of a self-sufficient economy “without any external assistance or any others’ help.”¹⁶² In practice, however, it has taken steps to attract foreign investment, including creating dozens of special economic zones, seeking membership in the Asian Development Bank, and permitting equity and joint venture investments from foreign companies. North Korea has also made gradual moves over the last three decades to enhance marketization, private entrepreneurship, and decentralized planning, but it still appears reluctant to take the full economic reform and transparency measures required for foreign assistance.

At the bilateral level, Seoul would take the lead in aiding Pyongyang given their shared interests, culture, language, and future. The Moon administration has already proposed a new economic road map for the Korean Peninsula that envisions—once significant progress on denuclearization has been made—various infrastructure investments and joint ventures connecting not only the two Koreas but also the Peninsula to China, Russia, and Europe. This vision draws inspiration from the European Coal and Steel Community, which enhanced economic and social ties among six European nations after World

War II and established the foundation for the European Union.¹⁶³ Japan and China, as well as various European and Pacific Rim countries, would also seek to be involved at the appropriate time.

International financial institutions (IFIs), such as the International Monetary Fund (IMF) and World Bank, can also help provide North Korea with the funds, technical assistance, and international legitimacy to better integrate into the global economy. All major UN member states—and every country that has transitioned from central planning to a market economy—have become members of the IMF, except for Cuba and North Korea.

If North Korea decides to pursue international assistance seriously, it must first join the IMF, which is a prerequisite for membership in the World Bank and its affiliates. There are two main factors for IMF membership. First, the country would need to gain approval from major IMF shareholders, particularly the United States and Japan. As long as North Korea maintains its WMD programs, the path to membership will be blocked.¹⁶⁴ The experiences of other socialist countries that acceded to the IMF, such as China, Russia, and Vietnam, have also shown that significant economic reform, in addition to mended ties with the United States, always accompanies IMF membership.¹⁶⁵

Second, the country needs to satisfy certain technical requirements, such as removing restrictions on currency exchange flows and providing information regarding its fiscal health and economic performance. North Korea would be unlikely to jeopardize its monetary stability by relaxing its currency exchange policy or meet reporting requirements that reveal too much information about its economic vulnerabilities. However, an inability to meet these technical requirements has not prevented other underdeveloped countries from joining the IMF, so major shareholder approval is likely the decisive factor.

Even without membership, North Korea could still

receive assistance from IFIs. The IMF could begin providing technical advice to North Korean officials on standardizing economic information and adapting to the international economic system in preparation for future membership.¹⁶⁶ Likewise, the World Bank and the United Nations Development Program could collaborate to conduct needs assessments as they did for a donors meeting on Iraq in 2003.¹⁶⁷ The World Bank has also administered international trust funds to finance development projects for nonmembers, such as Gaza and the West Bank, East Timor, Bosnia, and Kosovo.¹⁶⁸

Private capital markets are another important source of long-term funding. A 2019 Korea Society report by Thomas Byrne and Jonathan Corrado argues that, because neither South Korean financing nor IFI assistance can support North Korean development on a sustainable basis, the regime will eventually need to turn to private markets. To access these markets, North Korea must resolve its international debt arrears and demonstrate sovereign creditworthiness. Pyongyang currently owes approximately \$14.5 billion to external creditors, including foreign governments and Western banks.¹⁶⁹ Potential avenues for debt relief include negotiations with Paris Club lenders (for foreign government debt), London Club creditors (for private bank debt), and the World Bank's Heavily Indebted Poor Countries initiative.

Another component related to economic and development aid is the provision of energy assistance. North Korea continues to struggle to meet its energy demands, relying on its considerable coal reserves as well as hydro-power and Chinese petroleum imports to meet its needs. During both the Agreed Framework period and Six-Party Talks, the United States and other partners offered the construction of light-water nuclear reactors, which are less efficient in producing weapons-usable plutonium, to induce North Korea to give up its nuclear program. Washington also provided North Korea with heavy fuel oil (\$400 million between 1995 and 2003; \$146 million between 2007 and 2009) as interim measures until the reactors were built.¹⁷⁰ It is possible that energy assistance

could again provide a similar incentive to North Korea in future negotiations. However, due to growing US fear of "buying the same horse twice," Washington may insist that Seoul and Beijing pick up more of the tab unless Pyongyang offers additional concessions.¹⁷¹

HUMANITARIAN ASSISTANCE

Humanitarian assistance to North Korea, including food, medical, and development aid, can potentially reinforce a peace regime process but presents difficult challenges. A March 2019 UN report assesses that about 10.9 million North Koreans, around 40 percent of the population, have unmet food, nutrition, health and water, sanitation, and hygiene needs.¹⁷² Donor fatigue stemming from an unwillingness to support the North Korean regime and its continued development of nuclear weapons, however, has depressed US and international support for food aid.¹⁷³ Pyongyang's restrictions on donor agencies' distribution and monitoring of food shipments have compounded the problem. As a result, US assistance to North Korea, which peaked in the early 2000s following a devastating famine in the mid-1990s, has dwindled to virtually zero since 2009. A 2018 appeal by UN agencies and international nongovernmental organizations for \$111 million to meet North Korean humanitarian needs was only 24 percent funded, one of the lowest-funded appeals in the world.¹⁷⁴

North Korea has been skillful in rotating through donors to secure assistance on the best terms.¹⁷⁵ In response to the US-led maximum pressure campaign, Pyongyang turned to Beijing, securing a promise of one million tons of rice and corn assistance without any access requirements as part of President Xi's first state visit to North Korea, in June 2019. This, in turn, allowed Pyongyang to dismiss an offer from Seoul of fifty thousand tons of rice, citing displeasure over the continuation of US-ROK joint military drills.¹⁷⁶

A viable humanitarian assistance program will need to overcome the challenges related to distribution, access, and monitoring. The North Korean government imposes well-documented hurdles for aid workers, including

limiting movement, restricting contact with aid recipients or relevant officials, surveillance, and failing to provide requested data.¹⁷⁷ The UN Commission of Inquiry found in 2014 that after two decades of humanitarian operations in the country, aid workers “still face unacceptable constraints impeding their access to populations in dire need.”¹⁷⁸ Aid organizations have sought compromises to overcome these restrictions, but even with better access, their efforts would still be hampered by concerns about providing aid to a state that is reluctant to make economic and political reforms that could increase food production and ensure more equitable distribution of resources.

US and multilateral sanctions and US licensing and travel restrictions pose additional, unintended obstacles to the provision of aid. International banking controls intended to ban transfers to support North Korea’s nuclear program have constrained UN agencies’ access to funds within the country; transportation bans have delayed aid shipments in customs inspections; and UN Sanctions Committee and US Treasury licensing requirements to export medical and other equipment have created a lengthy approval process for exemptions. UN Sanctions Committee guidelines were introduced in August 2018 to expedite the approval of humanitarian goods, leading to a decrease in approval times from an average of ninety-nine days in 2018 to fifteen days the following year.¹⁷⁹ Still, “life-saving

programmes continue to face serious challenges and delays” even though sanctions “clearly exempt humanitarian activities,” according to the UN resident coordinator.¹⁸⁰ The US government’s unclear standards for the compelling humanitarian considerations that would warrant an exemption from the travel ban have also impeded the ability of American aid workers to do their work.¹⁸¹ Both US-based nongovernment organizations and international humanitarian organizations will continue to need to grapple with these restrictions even if humanitarian aid to North Korea is stepped up under a peace process.

Despite the US government’s stated aspiration to abide by the principles of neutrality, impartiality, and independence from political objectives, its provision of humanitarian assistance will likely continue to be politicized. In this context, humanitarian aid will continue to have value as a confidence-building measure in peace discussions with North Korea, as was the case in the scuttled 2012 Leap Day Deal, which would have provided 240,000 tons of US nutritional assistance in exchange for a moratorium on North Korean nuclear and missile activities. Nevertheless, Pyongyang will prioritize sanctions relief and other economic concessions that enhance its security while minimizing intrusive foreign monitoring and access.

Principles to Guide the Process



The component parts of a peace regime on the Korean Peninsula are connected and need to be considered holistically. The parties will need to determine the appropriate timing and manner for addressing them, as well as how they relate and are prioritized. Several general principles for a cohesive and effective peace-building process follow.

Prioritize peace with denuclearization. The ultimate goal for all sides is peace and stability on the Korean Peninsula. Denuclearization—although a significant component of peace widely regarded as the *sine qua non*—is only one part of a peace process. Although North Korea views immediate, unilateral denuclearization as incompatible with peace, it has committed several times to working incrementally toward denuclearization in parallel with peace. The success of a peace regime, however, depends on the level of political will and resources devoted to it. The United States should maintain an approach that treats steps toward peace and denuclearization as simultaneous and inseparable—an approach hinted at but never fully realized by the Singapore Statement and previous agreements. Even without a comprehensive agreement on denuclearization and peace, the two sides should still take steps that enhance peace and minimize the potential for conflict, including a freeze on nuclear and missile activities, an end-of-war declaration, military-to-military dialogues, partial sanctions relief, humanitarian assistance, easing or ending the travel bans on US and DPRK citizens, and other confidence-building measures.

Ensure reciprocity and proportionality. Relatedly, all aspects of negotiations should proceed based on reciprocity and proportionality. No party should expect the other or others to make concessions without receiving equal concessions in return. Historical experience shows that

negotiations predicated on one side caving will ultimately prove unsustainable. A mutually acceptable deal with proportional commitments toward denuclearization and guaranteeing regime security (such as sanctions relief) will decrease the chances of one or more sides viewing backing out of that deal as a better alternative to using diplomatic engagement to overcome disputes. A sincere desire for peace in Washington and Seoul will not be enough if Pyongyang refuses to countenance real denuclearization. Likewise, a willingness by Pyongyang to take denuclearization steps will not be adequate if Washington and its allies refuse to offer proportional incentives. The key challenge will be determining how each side values its demands and offers and then negotiating and matching them in a mutually acceptable way.

Approach peace as a long-term process, not a single event. Denuclearization and peace cannot be achieved quickly. Overcoming seventy years of animosity will require many years of negotiations, multiple setbacks, confidence-building measures, and reconciliation. This history of enmity and mistrust, along with the two countries' desire to maintain leverage as long as possible (that is, maintaining nuclear weapons and withholding sanctions relief and normalization), means the peace and denuclearization process will likely unfold in phases and across the tenure of multiple US administrations. The process must persist through changes in administration and intermittent breakdowns. One of the failures of the Agreed Framework and Six-Party Talks, in addition to nonperformance or insincerity by one or both parties, was an inability to overcome setbacks through the negotiating process itself. Disagreements about noncompliance should be resolved within a consistent negotiating framework rather than by scrapping the process altogether.

Create the conditions for a sustainable diplomatic path forward. Given that a peace regime will take years to create, it is imperative to create the environment and institutions necessary for extensive negotiations. Leader-level summits, though at times pivotal, cannot replace regular, institutionalized working-level meetings to address technical details in a thorough and sustained manner. Instead, bilateral and multilateral working-level groups should be created to address various aspects of the peace regime. These groups should be founded on the mutual understanding that they will serve as stable coordinating mechanisms that meet consistently despite setbacks in negotiations. Clear rules of engagement should be mutually defined and agreed upon by all parties so that they have an explicit understanding of what actions are considered off limits, what countermeasures to expect if and when either side violates these rules, and what procedures exist to restart negotiations when the process stalls or falls apart. Admittedly, experience indicates that keeping Pyongyang and Washington committed to diplomacy will be difficult when both sides have at times viewed engagement itself as leverage or a liability. However, as much as possible, both sides must know what is required to keep diplomacy alive and how to jumpstart it if and when the process falters.

Build momentum and trust through pragmatic, acceptable measures. Given the severe lack of trust, each side will seek to maintain leverage and avoid making concessions that it cannot reverse if someone violates an agreement. Therefore, maximalist demands from either side, such as complete, unilateral denuclearization or complete relief from economic and financial sanctions, will be unproductive. Instead, negotiators should build trust and momentum early by targeting low-hanging-fruit measures that are reversible or less sensitive. A practical first step would be to establish an interim agreement that commits North Korea to denuclearization and freezes its nuclear and missile activities (including nuclear and missile testing and fissile material production) in exchange for appropriate security guarantees, such as partial, time-limited

sanctions relief; greater modification of major joint military exercises; a moratorium on the deployment of US strategic and nuclear assets to the Peninsula; and an end-of-war declaration. As trust builds, thornier areas can be tackled in a proportional fashion through comprehensive negotiations. It is encouraging that the United States and South Korea have disavowed any policy of near-term unification by force or absorption, which raises existential questions for the Peninsula, and decided to focus on building mutual security. Efforts that can facilitate inter-Korean cooperation and remain consistent with US national security interests, such as military tension reduction and limited economic cooperation, should also be supported.

Incorporate appropriate multilateral negotiating tracks. Although some issues are better addressed bilaterally, many will benefit from multilateral consultations. Formal multilateral negotiations housed in regional security mechanisms can provide an effective and reliable forum for talks across the range of issue areas covered in this report. Further, multilateral processes can help garner support, resources, and buy-in from all major powers with interests on the Peninsula and preclude forum shopping by Pyongyang.

Keep the broader strategic context in mind while advancing the peace regime process. Many aspects of the peace regime process, including security guarantees, denuclearization, economic concessions, conventional force reductions, and adjustments in the US-ROK defense posture, must be considered within the broader regional strategic context. US-ROK Alliance coordination mechanisms (such as the 2+2 Ministerial Meeting, Security Consultative Meeting, Korea Integrated Defense Dialogue, and the US-ROK working group on nuclear negotiations), trilateral consultative groups (such as the US-ROK-Japan Defense Trilateral Talks), and other bilateral and multilateral dialogues with relevant partners should be strengthened. In addition, the United States should quickly seek to help resolve the ongoing historical and trade disputes between its two regional allies, which could complicate and even undermine a peace process if left to fester.

Notes

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Few serious efforts have been made since the end of the Korean War in 1953 to achieve a comprehensive peace on the Korean Peninsula. The current deadlock in negotiations means that a broader discussion may remain out of reach. Nevertheless, the need to examine a peace regime, and its challenges and risks, remains. Peace is a process, however, not an event. For the Korean Peninsula, it involves not only the two Koreas but also four major powers—the United States, China, Japan, and Russia. This report outlines the perspectives and interests of each country before describing the diplomatic, security, and economic components necessary for a comprehensive peace, and how the United States can strategically and realistically approach the challenge.

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