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A Peace Treaty with North Korea?

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Overview

After months of rising tension and hostile rhetoric between Pyongyang and Washington, in March 2018 President Donald J. Trump agreed to attend a summit in spring 2018 with North Korean leader Kim Jong-un. South Korea (officially the Republic of Korea, or ROK) issued the invitation and said that North Korea (officially the Democratic People's Republic of Korea, or DPRK) was ready to discuss giving up its nuclear weapons and missile programs. The meeting, which is to follow a scheduled April 27, 2018, summit between Kim and South Korean President Moon Jae-in, would be the first ever between leaders of the two countries.

If the U.S.-DPRK opening leads to further talks, the agenda might include negotiating a permanent peace settlement on the Korean Peninsula, reportedly a top priority for South Korea.¹ The 1950-1953 Korean War ended in a truce, with the U.S.-led United Nations Command, North Korea, and China signing an armistice that was intended to be temporary.² Over the course of past negotiations on North Korea's nuclear program, many parties have proposed that the major participants in the Korean War conclude a permanent peace treaty, which would likely require Senate ratification. As described below, during the 1990s and early 2000s, North Korea agreed on several occasions to enter into discussions over a permanent peace settlement as part of accords over the DPRK's nuclear program, but such discussions over a peace settlement did not bear fruit.

North Korea, South Korea, China, and Russia all have suggested linking a peace treaty, also referred to as a "peace regime" or "peace mechanism," to North Korea abandoning its nuclear weapons program. Through South Korean and Chinese intermediaries, Kim Jong-un has reportedly expressed his desire to discuss denuclearization of the Korean Peninsula with President Trump and linked this to the dissolution of threats against North Korea and a guarantee of the DPRK regime's security.³ In the past, North Korea has included the negotiation of a peace treaty as part of its demand for security. South Korean President Moon Jae-in, who took office in May 2017, has said a peace treaty is a key part of his approach to North Korea. In 2016, China proposed pursuing parallel negotiations toward denuclearization of the Korean Peninsula and replacement of the armistice agreement with a peace treaty.⁴ In March 2017, China proposed, and Russia subsequently endorsed, the idea of North Korea suspending its nuclear and missile activities in exchange for the United States and South Korea suspending their large-scale joint military exercises. This, they argued, could create conditions for the dual track negotiations aimed at denuclearization of the peninsula and establishment of a "peace and security mechanism."⁵

¹ Choe Sang-Hun and Jane Perlez, "Treaty to Formally End Korean War Is Being Discussed, South Confirms," *New York Times*, April 18, 2018. In April 17, 2018, remarks with Japanese Prime Minister Abe, President Trump said, "South Korea is meeting, and has plans to meet, with North Korea to see if they can end the war. And they have my blessing on that." In the same set of remarks, he subsequently said, "... subject to a deal, they [South and North Korea] would certainly have my blessing." The deal to which Trump was referring may be an agreement over North Korea's denuclearization. The White House, "Remarks by President Trump and Prime Minister Abe of Japan before Bilateral Meeting," April 17, 2018.

² North Korea's official name is the Democratic People's Republic of Korea, or DPRK. South Korea's official name is the Republic of Korea, or ROK.

³ "Xi Jinping, Kim Jong Un Hold Talks in Beijing," *Xinhua*, March 28, 2018, http://www.xinhuanet.com/english/2018-03/28/c_137070598.htm; "South Korean TV Carries Full Text of South Korean Special Envoy's Briefing on Result of North Visit," *YTN* in Korean March 6, 2018, translated by Open Source Enterprise KPW2018030647866849.

⁴ Ministry of Foreign Affairs of the People's Republic of China, "Foreign Minister Wang Yi Meets the Press," March 9, 2016, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1346238.shtml.

⁵ Ministry of Foreign Affairs of the People's Republic of China, "Foreign Minister Wang Yi Meets the Press," March 8, 2017, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1444204.shtml.

Concluding a peace treaty presents many challenges. First, although the other major players propose linking a peace settlement to denuclearization, North Korea's longstanding policy has been that it will not agree to give up its nuclear weapons until the United States drops what Pyongyang calls its "hostile policy." In theory, this could be addressed through negotiating a peace treaty. North Korea, however, may demand other concessions from the United States, such as a reduction or wholesale withdrawal of the U.S. military presence on the Peninsula, and removal of its designation as a state sponsor of acts of international terrorism. Most U.S. officials are unwilling to consider any pledge to reduce the U.S. military presence, particularly given North Korea's history of threats and provocations. Congress might also object to a terrorism delisting.

Second, for decades, North Korea has signaled a preference for bilateral negotiations, likely seeing direct talks as conferring more prestige on the regime, lessening their economic dependence on China, and marginalizing South Korea. The United States has traditionally insisted that South Korea and China also participate. It is not clear whether the Trump Administration will continue this policy if U.S.-DPRK discussions advance. The issue may be rendered moot if the two Koreas agree that a peace settlement is part of the agenda of the April 27 Moon-Kim summit and any inter-Korean diplomacy that ensues.

Third, on the occasions when Pyongyang has agreed to enter into discussions over peace treaty negotiations that involve China and South Korea, those talks have been unsuccessful in convincing North Korea to rein in its nuclear and missile programs. Fourth, many experts believe that the Kim Jong-un regime is unlikely to abandon its nuclear weapons program regardless of the inducements offered.⁶ Finally, many observers are skeptical that North Korea would abide by any agreement.

The Armistice

The Korean War technically has not ended, though active hostilities ceased in 1953 with the signing of an armistice. The armistice was intended to be a temporary measure, but has, for the most part, endured. The agreement was signed by U.S. General Mark W. Clark on behalf of the United Nations Command, Kim Il Sung, as Marshal of the DPRK and Supreme Commander of the Korean People's Party, and Peng Teh-Huai (Peng Dehuai), as Commander of the Chinese People's Volunteers, the military forces of the fledgling People's Republic of China that fought in the Korean War. South Korea was not a signatory. The armistice aimed to "insure a complete cessation of hostilities and of all acts of armed force in Korea until a final peaceful settlement is achieved."⁷ In addition, the armistice established the line of military demarcation and arranged a mechanism for the exchange of prisoners of war. The armistice was to be maintained by the Military Armistice Commission (MAC), but North Korea and China pulled out of the MAC in 1994, after the United States transferred the top position on the MAC to a South Korean.⁸ Now,

⁶ For more on this point, see CRS Report R45033, *Nuclear Negotiations with North Korea: In Brief*, by (name redacted), (name redacted), and (name redacted).

⁷ The Korean War Armistice Agreement, accessed at https://peacemaker.un.org/sites/peacemaker.un.org/files/KP%2BKR_530727_AgreementConcerningMilitaryArmistice.pdf.

⁸ According to an official Canadian source, "As it now exists, UNCMAC consists of five members: a senior member (Korean Major-General), a United States member (US Major-General), a Korean member (Korean Brigadier-General), a Commonwealth member (British Brigadier) and a rotating member from the UNCMAC Advisory Group." National Defense, Canada, "Details/Information for Canadian Forces (CF) Operation *United Nations Command Military Armistice Commission*," <http://www.cmp-cpm.forces.gc.ca/dhh-dhp/od-bdo/di-ri-eng.asp?IntlOpId=264&CdnOpId=312>.

the MAC's mission is to monitor and negotiate resolutions to violations of the Armistice Agreement.⁹

A peace agreement would presumably replace the existing armistice, which introduces complications regarding which parties would be involved. The armistice was signed by military commanders, not by civilian government representatives. Dismantling the armistice would require involvement from the United States, China, and North Korea. It is unclear what role, if any, the United Nations would play in such a negotiation, particularly the 16 additional countries that contributed military forces to the U.S.-led United Nations Command during the war, also known as the “sending states.”¹⁰ South Korea and Japan, both U.S. treaty allies, are not party to the armistice but would have significant national interests in the terms negotiated among the other parties. Russia may also consider itself to have strong national interests in the terms, as it borders the DPRK.

A comprehensive peace agreement with North Korea would likely involve the United Nations Command (UNC). The UNC was established in 1950 by UN Security Council Resolution 84 to coordinate and command international military forces assisting the Republic of Korea, under U.S. leadership, in repelling North Korean forces from South Korean territory. A U.S. Army general serves as the commander of the UNC. He concurrently serves as commander of the U.S. Forces in Korea (USFK) and the bilateral U.S.-ROK Combined Forces Command (CFC). Today, the UNC's primary functions include monitoring the armistice, facilitating daily military-to-military contacts at the De-Militarized Zone (DMZ), and, in the event of resumption of hostilities, coordinating, commanding and controlling non-U.S./ROK international coalition contributions to support the Republic of Korea.¹¹

Some observers have argued that the UNC, which has representation from 17 countries, could lend additional legitimacy to any agreement. The buy-in from so many countries could therefore be leveraged to provide broader international guarantees than could be made available in a bilateral U.S.-DPRK agreement. The UNC could augment monitoring for a denuclearization agreement or assume the role of a “peace guarantor” if the United States withdrew some or all of its military presence.¹² A significant obstacle to the use of the UNC is that North Korea traditionally has considered it to be a tool of the U.S. military to control South Korea.

Past Attempts to Conclude a Peace Agreement

In the past 25 years, there have been multiple attempts to conclude, or official discussions about launching negotiations to conclude, a peace treaty or a non-aggression agreement to tamp down hostilities and officially end the Korean War. Following is an overview of these negotiations.

1991-1992 North-South Agreements

In the late 1980s and early 1990s, the end of the Cold War provided South Korean president Roh Tae-woo with the opportunity to pursue his policy of “Nordpolitik.” This involved reaching out to

⁹ Joe Hyunkwon, “United Nations Command Armistice Roles on the Korean Peninsula: Is December 2015 the End?” thesis presented to the Faculty of the U.S. Army Command and General Staff College, January 2013.

¹⁰ The 17 “sending states” are Australia, Belgium, Canada, Colombia, Ethiopia, France, Greece, Luxembourg, the Netherlands, New Zealand, The Philippines, South Africa, South Korea, Thailand, Turkey, the United Kingdom, and the United States.

¹¹ United States Forces Korea website, <http://www.usfk.mil/>.

¹² Ltg In-Bum Chun, “The Future of the UN Command,” *38 North*, September 12, 2017.

and eventually establishing official relations with North Korea's traditional allies, particularly with the Soviet Union (relations established in 1990) and China (relations established in 1992). Roh's diplomatic success, combined with Moscow's post-Soviet withdrawal of subsidies to and concessionary trade arrangements with North Korea, compelled Pyongyang to engage in more concerted diplomacy with Seoul. In September 1991, the two Koreas simultaneously joined the United Nations. A few months later, Seoul and Pyongyang entered into two agreements that included references to a peace treaty. Article 5 of the December 1991 Agreement on Reconciliation, Non-aggression and Exchanges and Cooperation between the South and the North reads

The two sides shall endeavor together to transform the present state of armistice into a solid state of peace between the South and the North and shall abide by the present Military Armistice Agreement {July 27, 1953} until such a state of peace has been realized.¹³

The following month, the two Koreas signed a Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula, the preamble of which contains a connection between a formal resolution of the Korean War and denuclearization:

In order to eliminate the danger of nuclear war through the denuclearization of the Korean peninsula, to create conditions and an environment favourable to peace and the peaceful unification of Korea, and thus to contribute to the peace and security of Asia and the world."¹⁴

This thaw in inter-Korean relations proved to be fleeting, and the first North Korean nuclear crisis erupted in 1993.¹⁵

Four Party Talks

In 1996, President Bill Clinton and South Korean President Kim Young-sam jointly proposed that the United States, South Korea, North Korea, and China hold talks over confidence-building measures and a peace treaty. Between 1997 and 1999, the parties met six times, establishing working groups on reducing tensions and establishing a peace mechanism for the Peninsula. The talks broke down, in part because the United States and South Korea refused to accept North Korea's demand that the United States withdraw its troops from South Korea.¹⁶

Six-Party Talks

The most recent discussions about peace treaty negotiations occurred as part of the package deal outlined in the Six-Party Talks over North Korea's nuclear program. The talks began in 2003 and broke down in 2009. Treaty negotiations were a priority of then-South Korean president Roh Moo-hyun, for whom current South Korean president Moon Jae-in served as chief of staff. Since

¹³ "Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation between South and North Korea," December 13, 1991, available at <https://peacemaker.un.org/korea-reconciliation-nonaggression91>.

¹⁴ "Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula," January 20, 1992, available at <https://peacemaker.un.org/korea-denuclearization92>.

¹⁵ For more background, see CRS report R45033, *Nuclear Negotiations with North Korea*, at http://www.crs.gov/Reports/R45033#_Toc509502822.

¹⁶ Don Oberdorfer, *The Two Koreas*, Basic Books, 1997, Chapter 15. Ralph Cossa, "The Four-Party Talks: Testing Pyongyang's Sincerity," CSIS PacNet #16, April 23, 1999, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/media/csis/pubs/pac9916.pdf.

assuming office in May 2017, Moon has echoed Roh's desire for a permanent peace settlement, while also calling for North Korea to denuclearize.

The Six-Party Talks produced two comprehensive agreements, a 2005 joint statement and a 2007 action plan. In September 2005, the six parties issued a joint statement outlining principles for achieving verifiable denuclearization of the Korean Peninsula. In the statement, the DPRK agreed to abandon "all nuclear weapons and existing nuclear programs." The statement outlined compromises on the provision of light-water reactors (LWRs) and other energy assistance to the DPRK, U.S. security guarantees, normalization of diplomatic relations between the DPRK and the United States and Japan, and the negotiation of "a permanent peace regime...at an appropriate separate forum" by "the directly related parties."¹⁷

After over a year of delay, the six parties in February 2007 reached an agreement on a "Denuclearization Action Plan" to begin the initial 60-day phase to implement the 2005 Joint Statement.¹⁸ North Korea agreed to disable all nuclear facilities and provide a "complete" declaration of all its nuclear programs, in exchange for the delivery of heavy fuel oil and removal of the United States' Trading with the Enemy Act (TWEA) and State Sponsors of Terrorism (SST) designations.¹⁹ Separately, the United States assured Pyongyang that it would return certain North Korean funds that the United States had frozen in escrow accounts since 2005.

The Action Plan also repeated the September 2005 joint statement's phrase that "the directly related parties will negotiate a permanent peace regime on the Korean Peninsula at an appropriate separate forum."²⁰ According to U.S. officials involved in the Six-Party process, no such talks were ever convened, in part because of the breakdown of the Six-Party talks.²¹ U.S. Ambassador Chris Hill said in February 2008 testimony before the Senate Foreign Relations Committee that the United States would be interested in beginning peace agreement discussions only after North Korea made further progress in implementing the 2005 Six-Party agreement. He added that concluding an agreement could only occur "once the DPRK fully discloses and abandons its nuclear weapons programs."²²

¹⁷ U.S. Department of State, "Joint Statement of the Fourth Round of the Six-Party Talks, Beijing," September 19, 2005, <https://www.state.gov/p/eap/regional/c15455.htm>.

¹⁸ State Department, "North Korea – Denuclearization Action Plan," February 13, 2007, available at <https://2001-2009.state.gov/r/pa/prs/ps/2007/february/80479.htm>. The delay was due in part to North Korea's October 2006 nuclear test, its first, and the U.S. Treasury Department's September 2005 designation of Banco Delta Asia (BDA), a bank in the China's Macao Special Administrative Region., as a financial institution of primary money laundering concern, due to suspected counterfeiting. The February 2007 Denuclearization Action Plan did not address uranium enrichment-related activities or the dismantlement of warheads and instead focused on shutting down and disabling the key plutonium production facilities at Yongbyon. A third phase was expected to deal with all aspects of North Korea's nuclear program.

¹⁹ "Denuclearization Action Plan," February 13, 2007. For details of these negotiations, see CRS Report RL34256, *North Korea's Nuclear Weapons: Technical Issues*, by (name redacted).

²⁰ The Action Plan also set up five working groups, on the denuclearization of the Korean Peninsula, the normalization of DPRK-U.S. relations, the normalization of DPRK-Japan relations, economic and energy cooperation, and a Northeast Asia peace and security mechanism. The last of these groups, which was chaired by Russia, was envisioned as a means for discussing confidence-building measures and general principles for cooperation in Northeast Asia that might contribute to better handling of an array of regional challenges apart from the North Korean nuclear issue. This working group did not meet officially and did not handle peace treaty negotiations.

²¹ December 2017 CRS communication with former George W. Bush Administration officials.

²² U.S. Congress, Senate Committee on Foreign Relations, *Status of the Six-Party Talks for the Denuclearization of the Korean Peninsula*, 110th Cong., 2nd sess., February 6, 2008. Ambassador Hill's full statement, which was included in his prepared remarks, read, "Full implementation of the September 2005 Joint Statement could also provide a way forward for the transformation of overall security relations in Northeast Asia. We remain committed to replacing the (continued...)"

Although formal discussions over a peace treaty did not occur, the George W. Bush Administration engaged in extensive interagency discussions over what U.S. objectives and tactics might be used, should negotiations begin. According to one participant in the process, the Bush Administration decided that there would be no treaty without progress on denuclearization, that the United States and South Korea should coordinate closely on the treaty issues, and that the United States would need to see actions on the ground—such as conventional force reductions by North Korea—that would signal that Pyongyang was moving to a more peaceful posture on the Peninsula. Bush Administration officials held extensive bilateral talks with South Korea on the peace treaty issue, to ascertain the South Korean government’s goals and concerns.²³ These negotiations were particularly important because of ongoing tensions between Washington and Seoul, particularly over the best approach to North Korea.

One area of tension appears to have been over how quickly to begin talks about a peace regime, with many South Koreans seeking to begin earlier than U.S. officials felt appropriate.²⁴ In October 2007, North and South Korea held a summit, their second, between DPRK leader Kim Jong-il and South Korean President Roh. Current South Korean president Moon, then Roh’s equivalent of Chief of Staff, helped arrange the summit. Among their areas of agreement, the two leaders agreed on the “need for ending the current armistice mechanism and building a permanent peace mechanism.” To that end, Roh and Kim agreed to attempt to reconvene the four-party talks.²⁵ However, none of these talks ever came to fruition, in part due to the breakdown of the Six-Party talks in 2009,²⁶ as well as the reported stroke of Kim Jong-il in August 2009 and the election of the more conservative Lee Myung-bak as South Korea’s president in December 2007.

South Korea’s Current Approach to a Peace Treaty

South Korean President Moon has presented the goal of signing a peace treaty as a key part of his “peace and prosperity” approach to North Korea. According to a December 2017 policy brochure published by the South Korean Ministry of Unification, the first of three goals of this policy is “Resolution of the North Korean Nuclear Issue and Establishment of Permanent Peace.” In

(...continued)

1953 Armistice with a permanent peace arrangement on the Korean Peninsula. *The United States believes that discussions of a Korean Peninsula peace regime could begin among the directly related parties once the DPRK has disabled its existing nuclear facilities, has provided a complete and correct declaration of all of its nuclear programs, and is on the road to complete denuclearization. We can achieve a permanent peace arrangement on the Korean Peninsula once the DPRK fully discloses and abandons its nuclear weapons programs. We also hope to explore the development of a Northeast Asia Peace and Security Mechanism, which could help further solidify the cooperative relationships built through the Six-Party process.* [Emphasis added by CRS.]

Joseph Snyder and Patrick deGatigno, “Perspectives on Peace and Security in Korea and Northeast Asia,” The Atlantic Council Report, March 2008, <http://nautilus.org/wp-content/uploads/2012/09/Perspectives-on-Peace-Security-US-ROK-Areas-of-Consensus-Interim-Report-2008.pdf>.

²³ December 2017 CRS conversation with former U.S. diplomat.

²⁴ For an example of U.S.-South Korean disagreements at the time over the peace treaty issue, see Joseph Snyder and Patrick deGatigno, “Perspectives on Peace and Security in Korea and Northeast Asia,” The Atlantic Council Report, March 2008, <http://nautilus.org/wp-content/uploads/2012/09/Perspectives-on-Peace-Security-US-ROK-Areas-of-Consensus-Interim-Report-2008.pdf>.

²⁵ Open Source Enterprise, “ROK Version of 4 Oct N S Declaration From 2d Inter Korean Summit,” October 4, 2007, KPP20071004053011, translated from Seoul KBS 1 TV in Korean.

²⁶ Disputes over nuclear verification between Washington and Pyongyang stalled the process in 2008 and 2009. In April 2009, North Korea conducted a ballistic missile test which was followed by UNSC sanctions. North Korea then expelled international inspectors and in May 2009, tested a second nuclear device. For additional details see http://www.crs.gov/Reports/R45033#_Toc509502829.

pursuing this goal, the Moon government “...aim[s] to substitute the past sixty years of an unstable armistice with a permanent peace regime, to ensure peace in a practical and institutional manner.”²⁷ In a July 2017 speech in Berlin announcing his strategy toward North Korea, Moon spoke about the importance he places on a peace treaty:

my Government will work towards establishing a permanent peace regime. The Korean Peninsula has been under an armistice for more than 60 years since 1953. Firm peace cannot be realized under an unstable armistice system.... In order to establish a permanent peace structure on the Korean Peninsula, we need to conclude a peace treaty with the participation of relevant countries, and formally end the war. Through a comprehensive approach on the North Korean nuclear issue and establishing a peace regime on the Korean Peninsula, my Government will pursue the conclusion of a peace treaty along with complete denuclearization.²⁸

Moon also has emphasized that South Korea should take the lead in inter-Korean relations, including the unification process, though he has been vague about what this might mean in practice.²⁹ Moon has linked his peace regime proposal to progress on denuclearization.

China’s Proposals for a Peace Mechanism

As a party to the 1953 armistice agreement, China is expected to play a significant role in any efforts to establish a peace agreement. China advocates “dual track” negotiations, with one set of negotiations focused on denuclearization and the other focused on replacing the armistice agreement with a peace treaty. Introducing the idea in 2016, China’s Foreign Minister Wang Yi proposed that, “The two [tracks] can be negotiated in parallel, implemented in steps and resolved with reference to each other.”³⁰

In July 2017, the Foreign Ministries of China and Russia issued a “Joint Statement on the Korean Peninsula Issue,” providing a basic roadmap for how negotiations might proceed. They proposed that “the conflicting countries” start negotiations by asserting “common principles in their relations, including the non-use of force, the renunciation of aggression, peaceful coexistence and determination to do all they can to denuclearize the Korean Peninsula,” as well as a commitment to a comprehensive settlement of all issues, including the nuclear issue. The goal of negotiations, they proposed, should be a “peace and security mechanism” for the Korean Peninsula and Northeast Asia more broadly, with normalization of relations among the parties to follow.³¹

On April 5, 2018, meeting reporters with Russian Foreign Minister Sergei Lavrov, Wang Yi said both he and Lavrov welcomed “the apparent improvement in the situation of the Korean

²⁷ South Korean Ministry of Unification, “Moon Jae-In’s Policy on the Korean Peninsula. A Peninsula of Peace and Prosperity,” December 2017, http://www.unikorea.go.kr/eng_unikorea/news/news/?boardId=bbs_000000000000033&mode=view&cntId=54328&category=&pageIdx=.

²⁸ For a text of Moon’s July 6 speech at the Korber Foundation, see <http://www.koreaherald.com/view.php?ud=20170707000032>.

²⁹ Ruediger Frank, “President Moon’s North Korea Strategy,” *38 North*, July 13, 2017, <https://thediplomat.com/2017/07/president-moons-north-korea-strategy/>.

³⁰ Ministry of Foreign Affairs of the People’s Republic of China, “Foreign Minister Wang Yi Meets the Press,” March 9, 2016, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1346238.shtml.

³¹ The Ministry of Foreign Affairs of the Russian Federation, “Joint Statement by the Russian and Chinese Foreign Ministries on the Korean Peninsula’s Problems,” July 4, 2017, http://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/2807662. The official Chinese text is available at http://www.xinhuanet.com/world/2017-07/05/c_1121263903.htm.

Peninsula.” Wang renewed China’s call for a “dual track” approach to negotiations, which he said would need to employ “phased, synchronized, and packaged solutions.” Negotiations toward a peace agreement, Wang said, should adopt “an incremental approach” and be premised on denuclearization.³²

Other Considerations

A number of questions can be pursued if a peace treaty with North Korea is proposed. These include:

- **Who is best served by peace treaty negotiations today?** Does the United States want a peace treaty? Most analysts see the U.S. potential willingness to discuss a peace treaty as a way to extract concessions from North Korea, particularly on denuclearization. North Korea often has attempted to use discussions of a permanent settlement of the Korean War to insist on the withdrawal of U.S. forces from the Korean Peninsula, as well as the end of the U.S.-ROK alliance. These also are believed to be two of China’s long-term goals for diminishing U.S. influence in East Asia. As a party to the armistice, China would have leverage in asserting its interests in negotiations over a peace treaty. South Korean interests would be served by establishing more security if the DPRK threat is diminished, but the ROK government has repeatedly said it wishes to maintain the U.S. alliance and U.S. troop presence.
- **Should U.S. policymakers seek to insulate the U.S.-ROK alliance and/or U.S. troops in South Korea from discussions over a peace treaty?** To many observers, a formal end to the state of war on the Korean Peninsula could entail demands for the partial or complete withdrawal of U.S. troops from South Korea and the end of the U.S.-ROK alliance. Either situation could have an impact on U.S. alliances and strategic posture across East Asia, with particularly strong implications for the alliance with Japan. During the first inter-Korean summit, in 2000, Kim’s father and predecessor, Kim Jong-il, reportedly told South Korean President Kim Dae-jung that he could support U.S. troops on the Korean Peninsula to help preserve regional and peninsular stability after a peace settlement was reached.³³ South Korean National Security Advisor Chun Eui-yong reportedly has said that during his March 2018 conversations with Kim Jong-un, the DPRK leader indicated that if the threat to his country was dissolved, he could be flexible about the U.S. military presence.³⁴
- **Who should be at the table?** Since the early 1990s, when discussions over a permanent peace regime were held, they have involved the four major parties to the Korean conflict: North Korea, South Korea, the United States, and China. South Korea, however, was not a party to the armistice, however, a fact that North Korea may seek to exploit by adhering to its general preference to bypass

³² Ministry of Foreign Affairs of the People’s Republic of China, “Adhering to the ‘Dual-Track Approach’: The Realization of Denuclearization of the Korean Peninsula and the Establishment of Peaceful Mechanism on the Korean Peninsula,” April 5, 2018, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1548991.shtml.

³³ CRS Report RL30811, *North-South Korean Relations: A Chronology of Events in 2000 and 2001*, by (name redacted).

³⁴ Choe Sang-Hun and Jane Perlez, “Treaty to Formally End Korean War Is Being Discussed, South Confirms,” *New York Times*, April 18, 2018.

Seoul, in this case by seeking to hold peace treaty discussions only with the United States. U.S. proponents of offering to negotiate a peace treaty with North Korea may wish to consider whether or not to explicitly state that South Korea must be included in the negotiations. President Moon has presented a peace treaty as a key part of his “peace and prosperity” approach to North Korea. An additional consideration is that Japan, also not a party to the armistice but a close U.S. treaty ally, would also have strong interests in what terms would be negotiated. China is closely coordinating its North Korea policy with Russia, which, like China, shares a border with North Korea and may also expect a seat at the table. Other U.N. member states, particularly the 16 “sending states,” may also want to play a role in the negotiations (The United States signed the armistice on behalf of the U.N. Command, which includes these countries.)

- **How closely should the United States coordinate with South Korea?** Peace treaty negotiations would have profound implications for the security of South Korea, which has relied upon the U.S.-ROK alliance and its security guarantee for over sixty years. North Korea often insists that it negotiate directly with the United States, a stance that the United States has rejected, for example during the Four-Party Talks in the late 1990s and the Six-Party Talks of the early 2000s. Instead, the Clinton and George W. Bush Administrations insisted that South Korea be part of any formal negotiations. During the Six-Party process, the Bush Administration held multiple discussions with the Roh Moo-hyun government in Seoul to coordinate positions in possible peace treaty negotiations. These latter discussions occurred during a time of significant U.S.-South Korea disagreements over the best approach to North Korea, with the Roh government advocating engagement programs with North Korea and the Bush Administration pursuing a policy of a tougher stance. President Trump’s approach to diplomacy has generally favored bilateral over multilateral talks, suggesting that he may seek to negotiate directly with Kim Jong-un during a summit, potentially without close coordination with Seoul.
- **How closely should a peace treaty discussion be linked with denuclearization?** Should the United States insist that the two issues be discussed sequentially (denuclearization first, followed by a peace settlement) or in parallel? The Six Party Talks appeared to adopt a hybrid approach of linking the beginning and end of peace treaty discussions to the beginning and end of denuclearization talks. The Bush Administration’s policy was to conduct peace talks only after North Korea had made progress on nuclear dismantlement. China advocates that negotiations over a denuclearization and a peace treaty proceed in parallel, but be “resolved with reference to each other.”
- **Is North Korea’s interest in a peace treaty a ploy?** Some critics contend that Pyongyang is raising the peace treaty issue as a way to draw the United States into a long, drawn-out discussion that buys them time to develop their nuclear weapons program.³⁵ The multiple parties and interests involved in concluding a peace agreement could delay the process, allowing pressure on implementing sanctions to ebb and international attention to drift elsewhere.

³⁵ Jung H. Pak, “Kim Jong-un Has a Maximum Pressure and Engagement Strategy of His Own,” *Brookings Brief*, April 19, 2018.

- **Should North Korea’s other objectionable practices be part of the discussion?** The regime’s poor human rights record, money laundering, bulk cash smuggling, religious repression, international trade in weapons and dual-use materials, and a range of other factors could be included, which has the potential to slow or disrupt the process. U.S. insistence on including these issues could bring the talks to a halt.
- **How closely should a peace treaty negotiation be linked to the state of inter-Korean relations and the two Koreas’ military postures?** North Korea represents a military threat to South Korea, and did even before it developed a credible nuclear weapons program. Peace treaty talks could be linked to conventional force reductions, beginning confidence-building measures such as greater access to and transparency of military operations, North Korean disarming of its chemical and biological weapons programs³⁶, and concrete progress in inter-Korean relations including allowing contact between citizens of the two countries. China and Russia have suggested that negotiations begin with both sides committing to “the non-use of force, the renunciation of aggression, peaceful coexistence and determination to do all they can to denuclearize the Korean Peninsula.”
- **How credible would a U.S. peace treaty proposal be?** The credibility of a peace treaty proposal or any other kind of security assurance to North Korea could be complicated by a return to bellicose rhetoric from Washington. President Trump’s past statements, including those threatening to “totally destroy North Korea” with “fire and fury like the world has never seen,” may reduce the credibility of any written non-aggression pact.³⁷ Pledges not to use nuclear weapons against North Korea, or “negative security assurances,” have been a key part of past agreements with North Korea, such as the Six-Party agreement.³⁸
- **Should the parties use the phrase “peace treaty” or another phrase such as “peace regime” or “peace mechanism?”** The George W. Bush Administration, as well as President Moon, use the latter term. Using “peace regime” or “peace mechanism” arguably makes it easier to contend that the negotiations should not be limited to North Korea and the United States, but instead could include South Korea, Russia, and/or Japan.

³⁶ “Trump Aims to Eliminate N. Korea’s Chemical, Biological Weapons, Says US Envoy to Japan,” *Straits Times*, April 19, 2018.

³⁷ David Nakamura and Anne Gearan, “In U.N. Speech, Trump Threatens to ‘Totally Destroy North Korea’ and Calls Kim Jong Un ‘Rocket Man,’” *Washington Post*, September 19, 2017; Peter Baker and Choe Sang-hun, “Trump Threatens ‘Fire and Fury’ Against North Korea If It Endangers U.S.,” *New York Times*, August 8, 2017.

³⁸ For example, the 2005 Six Party Talks Joint Statement said, “The United States affirmed that it has no nuclear weapons on the Korean Peninsula and has no intention to attack or invade the D.P.R.K. with nuclear or conventional weapons.”

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