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Peace in Korea: A Way Forward

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A peace process is an essential part of a comprehensive settlement to Korean security issues by reducing the risk of deadly clashes and advancing the denuclearization of the Korean Peninsula. Since a peace treaty or agreement will take time to negotiate, a peace process, beginning with an end-of-war declaration and including interim agreements on military confidence-building measures, could create the climate for a peace treaty or agreement and test the peaceful intentions of the parties, as well as provide signs of progress along the way.

Keywords: Peace treaty or agreement, peace process, comprehensive security settlement, confidence-building measures, Pyongyang Declaration

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Seventy years is a long time to endure without a peace treaty writing a formal end to the Korean War. For such a treaty to be more than a scrap of paper, however, Korea needs a peace process to test the peaceful intentions of the parties, enhance allied security, and facilitate the denuclearization of the Korean Peninsula.

I. Enhancing Security: Not by Deterrence Alone

North Korea has conducted numerous nuclear and missile tests and military exercises in recent years. South Korea and the United States, in turn, have held joint military exercises and run missile tests of their own.

Each side has condemned the other's actions as what they called "provocations," as if all were intended to be pure compellence. Sometimes, North Korea conducted nuclear and missile tests and military exercises for purposes of coercive diplomacy, but many of the nuclear and missile tests and military exercises by all three parties are better understood as attempts to shore up deterrence.

Yet the very same military moves that each side takes for deterrence purposes raise the risk of deadly clashes that endanger allied security.

This pattern is evident from recent history. For instance, the United States and South Korea almost stumbled into war with North Korea in the summer of 1994 after North Korea abruptly unloaded plutonium-laden spent fuel from its nuclear reactor at Yongbyon. Anticipating a U.N. Security Council vote on sanctions, the U.S. commander in Korea, General Gary Luck, was recommending the dispatch of reinforcements for such an eventuality. "He feels that sanctions are a dangerous option," an administration official said. "As the commander of 37,000 men there, he will want to try to increase deterrence if we go that route." Yet these very precautions risked provoking a war with North Korea. Both General Luck and James Laney, the U.S. ambassador in Seoul, were well aware of that risk. "We were all worried. We were talking about evacuating all civilians, ratcheting it up, going on a wartime footing,"

recalls a high-ranking U.S. military officer privy to their conversations. "We both agreed," recalled Laney, "that if we started to bring in several divisions, the North Koreans would think they were about to be attacked." Deterring North Korea put the allies in a predicament, in his view. "If one side is weaker and thinks the other side is building up, they would be tempted to preempt."[1]

Similar patterns occurred as one side sought to bolster deterrence and the other side responded in kind: the June 1999 exchange of naval fire in the West Sea near Yeonpyeong Island, the North's sinking of the *Cheonan* in March 2010 in retaliation for the South's November 2009 attack on a North Korean naval vessel that crossed the Northern Limit Line, and the November 2010 artillery exchange in the contested waters off Korea's west coast.

As these examples suggest, deterrence alone cannot avert such clashes. Military confidence-building measures[2] may be needed to reduce, though not eliminate, the risk of deadly clashes.

Armies need to conduct exercises to function. Tabletop exercises are useful, but not sufficient. Some field exercises are needed. Yet the

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1 Leon V. Sigal, *Disarming Strangers: Nuclear Diplomacy with North Korea* (Princeton: Princeton University Press, 1998), pp. 95, 122.

2 CBMs in Europe, embodied in a series of agreements that culminated in the 1990 Treaty on Conventional Forces Europe, are the subjects of an extensive literature, most notably, Johan Jorgen Holst and Karen Alette Melander, "European Security and Confidence-Building Measures," *Survival*, vol. 19, no. 4 (July/August 1977), pp. 2-15; Jonathan Alford, *Confidence-Building Measures in Europe: The Military Dimension*, Adelphi Paper no. 149 (London: Institute for Strategic Studies, 1979); and R.B. Byers, F. Stephen Larrabee, and Allen Lynch, *Confidence-Building Measures and International Security*, Institute for East-West Studies Monograph Series no. 4 (New York: Institute for East-West Studies, 1987). An early work applying the European experience to Korea is James E. Goodby, "Operational Arms Control in Europe: Implications for Security Negotiations in Korea," in *The Korean Peninsula: Prospects for Arms Reductions under Global Détente*, ed. William J. Taylor, Jr., Cha Young-koo, and John Q. Blodgett (Boulder: Westview Press, 1990). Goodby, who led the U.S. delegation at CFE, also discussed CBMs with North Korean officials in Track II meetings during the 1990s.

location, size, and equipment deployed in such exercises by the allies have varied significantly in the past, which might serve as ample precedent for future adjustments.

Even though the DPRK conducts exercises of its own from time to time, it has strenuously objected to U.S.-ROK joint exercises, in part because these exercises compel it to mobilize its own forces, in part because it wants to weaken the U.S.-ROK alliance, and in part because in the past it has sought the withdrawal of all foreign forces from the peninsula. Its objections have been fiercest towards the entry of U.S. nuclear-capable forces into Korean air space or territorial waters. The United States has long removed nuclear weapons from its surface ships and all but one class of submarines and few of its bombers are wired and certified to carry nuclear weapons, but the North characterizes as "nuclear-capable" any U.S. weapons platform that has ever carried nuclear weapons, including surface ships, attack submarines, and various aircraft. The allies have often foregone the use of such platforms in their joint exercises in the past. As a confidence-building measure, they could commit to doing so again.

While exercises within the vicinity of the DMZ and the contested waters of the West Sea are especially provocative and need to be prohibited, some exercises will have to be conducted elsewhere in South and North Korea, occasionally including those by combined air, land, and naval units. They could be limited in size and frequency. The specifics could be subject to advanced notification in the Inter-Korean Joint Military Committee and three-party general-level talks at Panmunjom. Yet such notification and the right to observe exercises are unlikely to allay North Korean suspicions completely.

On a more positive note, conducting joint South-North drills, such as sea rescue, might further acclimate the two sides' armed forces to cooperation, a modest step toward peace. Ultimately, they might agree to act in concert by forming a joint unit to conduct U.N. peacekeeping duties in other troubled regions. Such steps would also underscore the goal of unification, at least symbolically.

Yet, until there is a fundamental transformation of the political relationship – reconciliation or an end to enmity – mutual deterrence will still play a part in preventing war on the peninsula. Such reconciliation requires a peace process. So does the denuclearization of the Korean Peninsula, to judge from the DPRK's negotiating behavior.

II. Denuclearization Depends on a Peace Process – And More

For years, North Korea has linked denuclearization to the end of enmity, or what it calls "U.S. hostile policy." Among the steps it has sought toward that end – not just from the United States – are a peace treaty, the normalization of political and economic relations, and an end to sanctions.

Contrary to suspicions that Kim Jong Un wants an end to the U.S. alliance with South Korea and withdrawal of U.S. troops from the peninsula, his aim, like that of his father and grandfather, may be much more far-reaching. North Korean officials have long been telling American interlocutors that they want an alliance with the United States like the one Washington has with South Korea – backed by a continued U.S. troop presence on the peninsula and even a "nuclear umbrella."

Secretary of State Michael Pompeo may have been reflecting what U.S. officials were hearing from the North when he told a Japanese interviewer on June 7, 2018, shortly after the first Trump-Kim summit meeting in Singapore, that "We want to achieve a fundamentally different strategic relationship between our two countries."[3] Nothing in the public record to date suggests that Washington has offered anything like that to Pyongyang.

Why might North Korea want the United States for an ally? The answer is China. Throughout the Cold War Kim Il Sung had played off the Soviets against the Chinese, but in 1988, anticipating the collapse of

3 U.S., Department of State, Secretary State Mike Pompeo, Interview with Yui Hideki of NHK, June 7, 2018.

the Soviet Union, he had reached out to the United States, South Korea, and Japan in an effort to reconcile with them and hedge against China's rise.

From Pyongyang's perspective, the Kims' aims were the basis of the 1994 Agreed Framework, which committed Washington to "move toward full normalization of political and economic relations" – in plain English, end enmity. These aims were also the basis of the September 2005 Six-Party Joint Statement in which Washington and Pyongyang pledged to "respect each other's sovereignty, exist peacefully together, and take steps to normalize their relations subject to their respective bilateral policies" as well as to "negotiate a permanent peace regime on the Korean Peninsula."

Neither side kept its end of those agreements.[4] Consequently, the North's stated aim remains to be tested.

III. A Comprehensive Security Approach

A U.S. alliance with the DPRK has its downsides, however. It is unlikely to receive a warm reception in Congress, which would have to approve any such arrangement. Nor would conservatives in Seoul or Tokyo regard it with equanimity. And a reversal of alliances, especially if U.S. troops remain on the Korean peninsula as guarantor, would alter the balance of power in Northeast Asia, which is likely to arouse suspicion, if not outright antagonism in Beijing. That would not enhance security for any nation in the region.

A preferable alternative might be a comprehensive security approach that would involve all the region's actors in parallel

4 Leon V. Sigal, "What Have Twenty-Five Years of Nuclear Diplomacy Achieved?" in *Pathways to a Peaceful Korean Peninsula: Denuclearization, Reconciliation and Cooperation,* ed. Kyung-ok Do, Jeong-ho Roh, and Henri Feron (Seoul: Korean Institute for National Unification and Columbia Law School Center for Korean Studies, 2016), pp. 28-56.

negotiations leading ultimately to a U.S.-DPRK security partnership.[5]

Such an approach would begin with a four-party peace process on the Korean Peninsula that would eventually lead to a peace treaty.

The two Koreas and the United States, possibly along with Japan, would also declare non-hostility and move to normalize relations.

They would gradually relax economic sanctions, as well.

The six parties would set up a Northeast Asian Security Council to address regional security issues.

A nuclear-weapons-free zone (NWFZ) would be negotiated. That would provide a legally binding multilateral way to denuclearize the Korean Peninsula. A NWFZ could also serve as an alternative to an alliance by including a guarantee to the DPRK, once it is verifiably free of nuclear weapons, that it will not be the subject of a U.S. threat or use of nuclear weapons and will be defended against attack by any other nuclear-armed state or ally of such a state.

A NWFZ is not incompatible with U.S. nuclear obligations to its allies in contingencies not involving North Korea. In the words of Morton Halperin, "the nuclear component of the deterrent can and will be maintained without stationing or planning to deploy nuclear forces to the region whether or not a NWFZ is negotiated."[6]

The starting point for cooperative security is a peace process in the Korean Peninsula. Seoul has taken the lead and negotiated important steps with Pyongyang. Seoul's role is critical, but ultimately it will have to convince Washington to go along with further peace moves and that

5 Morton Halperin, Peter Hayes, Thomas Pickering, Leon Sigal, and Philip Yun, *From Enemies to Security Partners: Pathways to Denuclearization in Korea*, NAPSNet Policy Forum, July 6, 2018.

6 Morton H. Halperin, "Promoting Security in Northeast Asia: A New Approach." (paper presented at a workshop on A New Approach to Security in Northeast Asia: Breaking the Gridlock, Nautilus Institute and the Woodrow Wilson Center, Washington, October 9-10, 2012).

is less likely without North Korean steps to denuclearize.

IV. A Peace Treaty or Agreement Will Take Time

Why a peace process? To be more than a scrap of paper a peace accord would have to address a number of demanding issues:

Should the accord take the form of a treaty or an agreement? The U.S. Congress may insist that any such accord take the form of a peace treaty rather than an executive agreement, making it subject to ratification by two-thirds of the Senate. South and North Korea, however, have been loath to sign treaties with each other lest doing so would affect their rival claims to sovereignty over the entire peninsula as stipulated in the constitutions of both sides.

In a potentially important exception, on February 6, 2012, the DPRK Foreign Ministry issued a memorandum on South-North relations, a subject that has customarily been the domain of other organizations in Pyongyang. Citing the September 2005 Six-Party Joint Statement and using terms like "improved relations between the north and south" and "co-existence," it hinted at the possibility that the Foreign Ministry, rather than the party, the military, or intelligence agencies, might deal directly with its counterpart in the ROK on purely inter-Korean matters, which implicitly suggests an opening for state-to-state relations.[7] That initiative has yet to be followed up. The ROK and DPRK foreign ministries did negotiate bilaterally within the framework of Six-Party Talks, but the resulting agreements took the form of Six-Party joint statements, not treaties or agreements.

Indeed, the closest that the two Koreas have come to acknowledging one another's legitimacy as interlocutors while stopping short of sovereignty may be found in the 1992 Agreement on Reconciliation, Nonaggression,

7 "IDP, Foreign Ministry Released a Report on Kim Jong Il," *KCNA*, February 6, 2012.

and Exchanges and Cooperation between the South and the North, which spoke of "recognizing that their relations, not being a relationship between states, constitute a special interim relationship stemming from the process toward unification."

If Korean objections to signing a treaty remain, a peace accord might be recast in the form of a U.N. multilateral convention like others that the two Koreas have signed in the past, thereby sidestepping the constitutional issue. Recasting the peace accord in the form of a U.N. multilateral convention would also avoid the question of establishing diplomatic relations with the DPRK not only for the South but also for the United States. While an exchange of liaison offices between the United States and North Korea may have already been tentatively agreed at the Hanoi summit, further steps toward diplomatic recognition are likely to be linked by Congress to the resolution of human rights and other difficult issues, which would hold up ratification of a peace treaty.

Which would come first, a peace treaty or denuclearization? The United States has long held that denuclearization should precede a peace treaty. The North, in return, has said that peace should come first.

Many in Washington who are concerned about the timing, while supporting some steps toward peace, do not want a formal peace accord to precede Pyongyang's verifiable elimination of all its nuclear weapons on the grounds that that would undercut leverage for denuclearization and could perpetuate DPRK status as a nuclear-armed state. Any attempt to sign and ratify a formal peace accord without significant progress on denuclearization will face intense resistance in Washington.

That opposition can perhaps be undercut by conditioning ratification of a peace accord on the prior completion of denuclearization. A possible solution is to negotiate peace arrangements and denuclearization in parallel, with ratification of a peace treaty to be held up until all the nuclear weapons in the North have been disposed of and the dismantlement of production facilities are well underway.

Will the accord rectify borders? The DPRK has behaved as if it might be willing to accept the Military Demarcation Line as a de facto border between the two Koreas, but it has long contested the Northern Limit Line as a maritime border. In high-level talks leading to the 2000 summit meeting, when the South argued for the existing line of control in the West Sea, the North countered by claiming that the twelve nautical-mile limit to its territorial waters under the Law of the Sea should apply.[8] These differences remain to be resolved. Since the Armistice Agreement gave control of some islands in West Sea to the United Nations Command (UNC), not South Korea, replacing the UNC and the Armistice Agreement might open a way to easing the situation in the West Sea.

Any fundamental change in the Northern Limit Line would face intense opposition from conservatives in Seoul. While it is difficult to envisage a more suitable alternative to the NLL, some accommodations in the maritime border may be needed to address DPRK economic interests by allowing easier access for North Korean shipping to the West Sea without redrawing the NLL. The 2019 Agreement on the Implementation of the Historic Panmunjom Declaration in the Military Domain anticipates some of those adjustments. Whether such adjustments will satisfy the DPRK remains to be seen, but Pyongyang's position of a twelve nautical-mile limit all but renders much of the contested waters of the West Sea subject to DPRK sovereignty, which is a non-starter.

How will the accord address the presence, size, and disposition of opposing armed forces? Many opponents of negotiating a peace accord view it as inevitably leading to pressure to remove U.S. forces from the peninsula and ultimately from Northeast Asia. It remains to be seen whether that misconstrues the stated desire of the DPRK to have U.S. troops remain as a hedge against the growing power of China.

If North Korea were to make that stance clear in the course of

8 Dong-won Lim, *Peacemaker: Twenty Years of Inter-Korean Relations and the North Korean Nuclear Issue* (Washington: Brookings Institution Press, 2012), p. 109.

negotiations, it could ease U.S. opponents' concerns. There is some precedent suggesting that it might be prepared to do so. When four-party talks began in 1996, the North reiterated its longstanding position, calling for the withdrawal of U.S. forces. On July 31, 1997, it subtly shifted its stance on the agenda for the talks by changing the phrase "withdrawal of U.S. troops" to "disposition of U.S. troops," a hint that they might remain on the peninsula. The following was similar to what North Korean officials had told Americans involved in Track II contacts. The DPRK then broached explicitly in four-party talks and made public as well: "The peace treaty the North Koreans want signed with the Americans does not call for the immediate pullout of the American forces from South Korea. What matters most to Pyongyang is the role of U.S. troops after an establishment of a new peace mechanism."[9] In informal talks with Americans, North Koreans had suggested various formulations for such a presence, for instance, that U.S. troops could act as "peacekeepers" or could "sit in the DMZ with one face toward the north and another toward the south."

Pyongyang has also hinted at keeping a U.S. troop presence in Korea during summit meetings with Presidents Kim Dae-jung and Moon Jae-in.

The DPRK's view of the U.S. troop presence should become evident over the course of peace negotiations, but if the DPRK should instead seek the troops' removal, the allies can just say no. Their continued presence is a matter for Seoul and Washington alone to determine. That decision ultimately depends on the wishes of the United States to keep forces on the peninsula and of South Korea to host them.

What is the future of the United Nations Command? North Korea has long sought to put an end to the U.N. Command, a position stoutly resisted by South Korea and the United States. As a DPRK Foreign Ministry memorandum expressed it in 2013, "Whether the U.S. immediately dismantles the 'U.N. Command' or not will serve as the

9 *People's Korea*, "Formal Ending of Korean War Is Crucial to DPRK-U.S. Rapprochement," January 5, 1998.

acid stone in deciding whether or not the U.S. will maintain its anti-DPRK hostile policy."[10]

U.S. appropriation of the U.N. Command dates from its inception on July 7, 1950, when Security Council Resolution 84 (V) authorized a "unified command under the United States." Washington interpreted "unified command" to mean U.S. command[11] and created the "United Nations Command," distinct from and subordinated to that unified command, to direct forces comprised of fifteen other countries, all of which were committed to the collective security effort in Korea. The U.S. commander, General Douglas MacArthur, who was determined to preserve the U.S. Army's autonomy in conducting the war, was no more likely to take orders from the allies than he was from President Truman. His successor signed the Armistice in his role as "United Nations Commander."

The end of the U.N. Command faces strong opposition in Washington and Seoul partly on the grounds that it undercuts the basis for a continued U.S. troop presence on the peninsula and in Japan. Yet the troops' presence would remain rooted in the U.S.-ROK Mutual Defense Treaty and the equivalent U.S. agreements with Japan.

Critics have firmer grounds for concern because the United States is revitalizing the U.N. Command to ensure that the U.S. role and coordination with Japan and other allies in any Asian contingency will be maintained after South Korea assumes operational command of combined forces.[12]

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10 "DPRK Foreign Ministry Issues Memorandum," *KCNA*, January 14, 2013.

11 Richard Baxter, "Constitutional Forms and Some Legal Problems of International Military Command," *British Yearbook of International Law*, vol. 29 (1952), pp. 325, 332-36.

12 Bryan Harris and Boseong Kang, "South Korea Rattled by Push to Revitalize UN Force," *Financial Times*, October 4, 2018. For example, discussing participation at a Foreign Ministers meeting to be convened on January 16 in Vancouver on the maximum pressure campaign against North Korea, Director of Policy Planning Brian Hook said, "The invitation list is largely based on countries who are UN Command sending states, are the countries that sent combat support and/or humanitarian aid to support the Republic of Korea during the Korean War." U.S.,

This has not been lost on the DPRK[13] or China.

While the need for a coordinating body for allies is indisputable, it can operate under another name. That might allow Washington to dispense with the U.N. Command as a convenient cover for such coordination, one detached from the United Nations. Whether such an arrangement will satisfy the critics is an open question, but Seoul's attitude and public opinion in the South to the arrangements will be important considerations.

What body would monitor peace arrangements? A Korean Peace Commission (KPC), a civilian body with representatives from the three parties with armed forces on the peninsula, would monitor the Armistice Agreement and subsequent peace arrangements. An International Peace Observer Commission would supplant the Neutral Nations Supervisory Commission (NNSC) in deference to the DPRK's longstanding opposition to and non-cooperation with the NNSC.

Whether the KPC should include China is a sensitive question especially in Pyongyang and Washington. While there is some merit to have China involved in the KPC as guarantor of any peace accord, depending on Pyongyang's preferences, it might be better to confine Beijing's role to the seven-member International Peace Observer Commission along with Russia, Japan and Sweden under the auspices of the United Nations to monitor compliance with this agreement and try to resolve any disputes.

V. A Peace Process

Since resolving these tough issues and agreeing on a peace treaty or agreement could take years, interim agreements could provide signs of progress along the way. Such a peace process is essential both to create

Department of State, Briefing, January 11, 2018.

13 "DPRK Foreign Ministry Issues Memorandum," *KCNA*, July 14, 2015.

the climate for a peace treaty or agreement and to test the peaceful intentions of the parties.

An End-of-War Declaration. A first step would be an end-of-war or peace declaration, perhaps signed by foreign ministers or leaders, committing South and North Korea, the United States, and China to a peace process that would culminate in a peace treaty to replace the 1953 Armistice Agreement.

Such an end-of-war or peace declaration could reaffirm the 1992 South-North Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation, the June 2000 South-North Joint Declaration, the October 2007 Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity, the U.S.-DPRK Singapore Joint Statement, the South-North Panmunjom Declaration, and the September 2005 Six-Party Joint Communiqué. Specifically, North and South Korea could reiterate their commitments to "recognize and respect each other's system," not to "interfere in each other's internal affairs," not to "undertake armed aggression against each other," and to observe "the Military Demarcation Line specified in the Military Armistice Agreement of July 27, 1953 and the areas that have been under the jurisdiction of each side until the present time."

The peace declaration might also contain language reaffirming commitments made by the DPRK and the United States in their Joint Communiqué of October 12, 2000 "to take steps to fundamentally improve their relations in the interests of enhancing peace and security in the Asia-Pacific region," reiterating "that neither government would have hostile intent toward the other" and "to make every effort in the future to build a new relationship free from past enmity," recommitting them to base their relations "on the principles of respect for each other's sovereignty and non-interference in each other's internal affairs," to "work together to develop mutually beneficial economic cooperation and exchanges" and to "explore the possibilities for trade and commerce that will benefit the peoples of both countries and contribute to an environment conducive to greater economic cooperation throughout

Northeast Asia."

The signing of a peace declaration could serve as the occasion for the opening of liaison offices in Washington and Pyongyang discussed in the Trump-Kim summit meeting in Hanoi.

To further efforts to forge more normal relations, the DPRK could also commit in writing not to conduct nuclear or medium- and long-range missile tests, including satellite launches, while peace talks continue.

In return, South Korea and the United States could commit to suspend all joint military exercises in the field, in the air, and in the surrounding waters of the peninsula while talks make progress.

Military Confidence-Building Measures. As a next step, the three parties with forces on the peninsula, South and North Korea and the United States, could reach a series of interim agreements on military confidence-building measures (CBMs).

While the CBMs could be incorporated into the ensuing peace agreement or treaty, having interim agreements would serve as stepping-stones to such a peace accord.

Inasmuch as a full treaty or agreement would take time to negotiate, interim agreements could also provide signs of peaceful intent and help foster an atmosphere conducive to peace by reducing the likelihood of deadly clashes like those that have taken place in the past.

The DPRK has long been willing to negotiate and even propose CBMs, though not always to implement them. CBMs were a prominent feature of its May 31, 1988 proposal. In the early 1990s, DPRK officials privately expressed renewed interest in CBMs. They soon underscored their words with deeds. After an armed clash in the DMZ on July 16, 1997, according to a South Korean military briefing, the KPA began providing advance notice that "a certain number of their soldiers will go out for routine reconnaissance at a certain time and a certain location in

the DMZ."[14] In the spring of 2000, the DPRK accompanied acceptance of a North-South summit with a pullback of FROG-7 rockets from the DMZ and Silkworm missiles from the Northern Limit Line, as well as a reduction in operating tempo of its naval patrols.[15] All three acts were confidence-building gestures of sorts.

More recently, in a military-to-military meeting on October 15, 2014, one week after an exchange of fire in the West Sea, the DPRK proposed that "warships of both sides sailing to 'intercept illegal fishing boats' should display promised markings to prevent accidental firing beforehand."[16] Article 12 of the 1992 Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation had established a South-North Joint Military Committee that "shall discuss and carry out steps to build military confidence and realize arms reductions."[17] Neither party did much to put that provision into practice until recently.

New CBMs could build on those announced at the September 18-19, 2019 summit meeting in Pyongyang between President Moon Jae-in and Kim Jong Un, a high point of inter-Korean relations to date. In April Moon and Kim had agreed to a Panmunjom Declaration containing a bilateral end-of-war pledge: "The two leaders solemnly declared before the 80 million Koreans and the whole world that there will be no more war and a new era of peace has begun on the Korean peninsula." The Declaration committed the two sides to "completely cease all hostile acts against each other in every domain including land, sea and air," "devise a practical scheme to turn the area of the Northern Limit Line in the West Sea into a maritime peace zone to prevent accidental military clashes and ensure safe fishing activities," "carry out disarmament in a

14 "N.K. Gives Prior Notice for DMZ Reconnaissance," *Korea Herald*, September 8, 1997.

15 "Two Koreas Set to Hold Crucial Talks for Summit, Military Tension Eases," *Agence France Presse*, April 26, 2000.

16 "KCNA Discloses S. Korean Authorities' Acts of Chilling Atmosphere for Improving Ties," *KCNA*, October 16, 2014.

17 Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation between the South and the North.

phased manner," "hold frequent meetings between military authorities including the defense ministers' meeting," and "actively promote the holding of trilateral meetings involving the two sides, the United States, or quadrilateral meetings involving the two sides, the United States and China with a view to replacing the Armistice Agreement with a peace agreement and establishing a permanent and solid peace regime."

An Agreement on the Implementation of the Historic Panmunjom Declaration in the Military Domain, issued at the Pyongyang summit in September, promised to turn these fine words into deeds with the most comprehensive array of military confidence-building measures ever negotiated between the two sides. They included hotlines: a commitment to maintain "permanent communication channels" in order to prevent "any accidental military clash" on land, air, and sea "by immediately notifying each other when an abnormal situation arises," a commitment to "continue consultations regarding the installation and operation of direct communication lines between the respective military officials," and the adoption of a five-step warning procedure to prevent inadvertent clashes.

On land, agreed CBMs provided for cessation of "all live-fire artillery drills and field training exercises at the regiment level and above within 5 km of the MDL"; conversion of the DMZ into a zone of peace by commitment to "withdraw all guard posts"; establishment of a "trilateral consultative body" among South Korea, North Korea, and the United Nations Command that would "implement measures to demilitarize the Joint Security Area"; and a "pilot project of an Inter-Korean Joint Operation to Recover Remains in the DMZ."

At sea, the agreement called for a halt to "all live-fire and maritime maneuver exercises ... in designated zones of the West and East Seas"; installation of "covers on the barrels of coastal artilleries and ship guns"; and transformation of the area around the Northern Limit Line in the contested waters of the West Sea into a "maritime peace zone" and "pilot joint fishing zone." The two sides also reaffirmed their agreement on "accidental military clashes in the West Sea" and agreed to "devise

and implement inter-Korean joint patrol measures in order to deny illegal fishing and to ensure safe fishing activities for South and North Korean fishermen" in the zone; to allow "unarmed vessels" entry into the zone along a "mutually approved route" after hoisting a Korean Peninsula flag and giving 48 hours' notice; agreed to require prior notification and approval of the other side "if the entry of naval ships is unavoidable;" to "establish a plan," permitting "the use of Haeju Passage and Jeju Strait for North Korean vessels through consultations at the Inter-Korean Joint Military Committee;" and to set up a zone of joint use of the Han (Imjin) River estuary with one-day notice and inspection of vessels and personnel.

In the air, the 2019 accord committed the two Koreas to a ban on all "tactical live-fire drills involving fixed-wing aircraft, including the firing of air-to-ground guided weapons within the designated No Fly Zones in the eastern and western regions of the MDL"; and designation of "additional no-fly zones for fixed-wing aircraft, helicopters, unmanned aerial vehicles, and hot air balloons."

The North's failure to implement many of its Pyongyang commitments underscores a cautionary note that the political relationship between longtime foes, and especially between the United States and the DPRK, remained the driving force in reducing or increasing tensions that could erupt into armed clashes in the toe-to-toe military standoff on the peninsula.

Nevertheless, it is worth thinking about what additional CBMs could be useful in reducing the risk of deadly clashes on the Korean Peninsula.

One modest possibility is to require periodic reports to be exchanged by the sides on whether already agreed CBMs have been embedded in the rules of engagement of front-line military and naval units and whether those units' training reflects those rules.

Another more significant CBM might be mutual suspension of missile and rocket launches by the South and North. One problem with

this CBM is that the DPRK has referred to its May 2019 tests of a new short-range ballistic missile as a "drill,"[18] tacitly linking it to a joint U.S.-ROK military exercise around the same time. It made that link explicit at the time of the August 2019 exercises. In return for suspending its short-range missile launches, it will likely insist on an end to those exercises in return. An obvious quid pro quo might be for the South, with U.S. acquiescence, to scale back joint exercises and commit to refrain from introducing nuclear-capable platforms to Korean airspace or waters during its exercises. The problem with that proposal is the DPRK's expansive definition of nuclear-capable as any platform that has ever carried nuclear weapons, including not only B-52 bombers, but also B-1 and B-2 bombers, some fighter-bombers, aircraft carriers, and attack submarines, none of which now carry nuclear weapons.

A CBM with perhaps the greatest potential benefit is to eliminate North Korea artillery and short-range missiles or withdraw them from the vicinity of Seoul. Yet that seems too much to ask for at this point. Until North-South political relations resemble those between the United States and Canada, mutual deterrence will still play a part in preventing war on the peninsula. If North Korea proves willing to eliminate its nuclear deterrent, it will likely want to keep its forward-deployed artillery as well as its new conventionally-armed short-range missiles as a residual counterweight to South Korea's superior conventional forces.

The thinning out of tank and artillery concentrations along the DMZ is likely to face the same objections on both sides. A partial reduction in troops is possible, but only as long as it is reciprocal. It would have obvious advantages for the North, freeing up resources to work in its fields and factories – especially if economic aid and investment from the outside spurs further economic growth. Yet troop cuts might complicate the defense of Seoul by ROK forces.

A more feasible yet useful alternative might be mutual withdrawal of all land-based artillery within range of the principal inter-Korean hot

18 "Supreme Leader Kim Jong Un Guide Strike Drill of Frontline Defense Units in Frontline Area and Eastern Front," *KCNA*, May 5, 2019.

spot – the West Sea. Such a CBM would avert a repetition of the 2010 attack on Yeonpyeong Island and live-fire exercises in the contested waters. It would not eliminate the short-range missile threat posed by both sides, however.

Other more modest CBMs might include buoys deployed to demarcate sea routes for DPRK merchant shipping in the West Sea. Buoys could also be anchored just south of the NLL to delineate patrol zones in order to keep the two sides' navies apart while not being identical to the NLL itself.[19]

A more far-reaching CBM would be to establish a joint South-North watch center that could download and share commercially available real-time satellite imagery over the West Sea and the DMZ or, alternatively, an "open skies" arrangement to facilitate aerial reconnaissance of those sensitive areas.

Agreements on these additional CBMs could usefully create an atmosphere conducive for concluding a peace treaty or agreement.

VI. Conclusion

Even with the best of wills on all sides, denuclearization will take years. While a peace treaty or agreement could be concluded while denuclearization is well underway, it would not be ratified until the DPRK is free of nuclear weapons. Ratification of the peace treaty might be held up until dismantlement of other nuclear and missile assets in North Korea is also well under way. It might also be delayed until the Agreement on the Implementation of the Historic Panmunjom Declaration in the Military Domain of 2018 and a follow-on agreements on military confidence-building are fully effectuated and until the DPRK and ROK ratify the Anti-Personnel Mine Ban Convention, the Nuclear-

19 Jason Kim and Luke Herman, "War and Peace in the West Sea: Reducing Tension along the Northern Limit Line," *CSIS Issues and Insights*, vol. 12, no. 13, (December 2012), pp. 10-12.

Weapons-Free Zone Convention, and the chemical and biological weapons bans.

Turning armed confrontation into peace will not be easy. Yet a peace process is essential to allied security by reducing the risk of deadly encounters along the DMZ and in the West Sea. It is also a necessary component of a comprehensive security approach, negotiated in parallel with political and economic normalization, to advance denuclearization on the Korean Peninsula.

The question is whether Pyongyang is ready to undertake such a peace process as part of a comprehensive security approach, or if it will prefer to keep developing and deploying nuclear weapons and missiles. Yet for Kim Jong Un to take the latter course would mean abandoning his grandfather's and father's goal of reconciliation with their longtime foes and leave himself economically and politically ever more dependent on China. Many observers seem certain he intends to remain nuclear-armed, but only sustained negotiations will determine whether they are right or wrong.

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