

# *The Peace Regime and Reunification: Antagonism or “Conditio Sine Qua Non”? A Functionalist Approach*

*Kolja Naumann*

## **Abstract**

In discussing the issue of the peaceful coexistence and eventual reunification of the two Koreas, most of the literature stresses the importance of a peace regime for the Korean peninsula, which will eventually lead to reunification. However, the relationship between a peace regime and the objective of reunification has remained rather obscure. This article explores the possibilities and means which should be included in a peace regime so that it will effectively improve the chances for reunification, instead of merely maintaining the status quo. The article contends that, beside the conclusion of such a peace regime in a visible spirit of reunification, it is of utmost importance that a peace regime deals with common policies, which might prove helpful for a reunification process. This includes policies that will trigger economic and cultural exchanges between the two Koreas, thereby overcoming the current mutual isolation. Consequently, the North Korean economy could be strengthened and the North Korean population could be gradually prepared for the cultural shock, which will inexorably be a major problem in any reunification process. Additionally, it would be advantageous if the peace regime contains provisions which will ensure that further negotiations about intensifying inter-Korean cooperation will take place.

**Keywords:** peace regime, reunification, common policies, economic exchange, cultural exchange

For 59 years Korea has been divided into two states. Since the division, a state of war has persisted on the Korean peninsula, despite the existence of a cease-fire which has brought relative stability but which has also led to the creation of one of the most fortified borders in the world.

There have been efforts since then to overcome both the ongoing state of war and the separation of Korea.<sup>1</sup> In the last few years, hopes have been spreading that the cease-fire may be replaced by a peace regime for the peninsula. These hopes have been nourished by an important, if unsteady, rapprochement of the two Koreas over the last 10 years. The visit of President Roh Moo-hyun this October to North Korea was supposed to be the new starting point for the construction of a stable peace regime.

In this respect, it has been and it remains a very controversial issue as to whether or not a peace regime is a crucial step towards reunification. In South Korea, it was argued for a long time that a peace regime will stabilize the separation of the two Koreas and thus favor the status quo instead of reunification.<sup>2</sup> Nowadays, most, but not all, South Korean politicians see the peace regime as a first and very important part in a reunification process, albeit the exact relationship between the two issues remains rather obscure. The diverging positions bear a resemblance to the controversy caused by the “Grundlagenvertrag” concluded between Western and Eastern Germany in 1972, which, at that time, had been perceived by many as a step towards a petrification of the German division but which could also ultimately be an important

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<sup>1</sup> Until now there were three serious approaches, in 1972, 1991 and 2000, to install a stable peace regime on the Korean peninsula, however, for various reasons none of these approaches can be considered a success. Bruce Cummings, *Korea's Place in the Sun* (New York, NY; W. W. Norton, 2005); Su Hwan Lim, “Is peaceful reunification of Korea possible?” *Institute for National Security Strategy*, <http://www.inss.re.kr/Include/common/DownFile.jsp?fileUrl=999>.

<sup>2</sup> This was already the reason why South Korea was not party to the Armistice Agreement in 1953. Jang Jungsoo, “How can a peace be achieved on the Korean peninsula?” *The Hankyoreh*, May 10, 2007.

step towards reunification.<sup>3</sup>

This article will attempt to give some hints regarding the relationship between a peace regime and reunification in two steps: First, for what kind of reunification scenario would a peace regime be of importance? Closely connected to this question is the very controversial issue as to what effects a peace regime would have on the chances of reunification. Second, how can a peace regime improve the chances of reunification? This article will argue that the answers to the above questions depend on the spirit in which the peace regime is written but foremost on the common policies that the peace regime will progress from.

## **Reunification Scenarios and a Peace Regime**

For some time, it has been a much-debated issue in South Korea, as to whether a peace regime or any closer cooperation with North Korea encourages or rather prevents reunification.

### ***Classification of Inter-Korean Arrangements***

To answer this question one first has to point out what is understood by a peace regime. It should not be confused with a peace treaty which

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<sup>3</sup> See the decision of the German Constitutional Court. To understand this dispute one has to be aware of the historic situation in 1972. Prior to 1969 the federal republic of Germany had always insisted on its "Alleinvertretungsanspruch" for the entire German people. It had never recognized the government of the German Democratic Republic (GDR) to be a relevant representative of the Eastern parts of Germany. This governmental position was fundamentally changed when the new social/liberal coalition came to power. Chancellor Brandt stated in his governmental address in 1969 that there were two states on the German ground, but that Eastern Germany could never be regarded as foreign country. This position was heavily criticized by the conservative parties in Germany at the time, who saw a great threat to reunification in accepting the existence of the GDR. However history shows that the "Grundlagenvertrag," which was the consequent continuation of this position, eventually led to better cooperation between the two Germanys and finally became a milestone on the way to reunification. In the "Grundlagenvertrag," agreements were reached regarding economic and cultural exchanges, inter-German travel, etc.

would put formally an end to the state of war on the Korean peninsula without any further agreements about future coexistence on the Peninsula. Most political observers demand a broader approach which, in addition to the termination of the state of war, should contain provisions on either the strategic stability in Northeast Asia and/or, as this article argues, better cooperation between the two Korean states.<sup>4</sup> These different kinds of arrangements which are discussed in regards to the Korean peninsula can be classified as follows: First, it would be possible to conclude a peace treaty, which would put formally an end to the Korean War. Second, a security framework could be installed in close cooperation with the US, China, Russia, and Japan which puts great emphasis on military arrangements, thus reducing the risk of a military conflict.<sup>5</sup> Third, a “civil” peace regime could be concluded, which might include military arrangements, but which above all will cover areas of civilian exchange between the two Koreas.

This article will focus on the civil “peace regime” and not so much on the necessary military dimensions of an inter-Korean arrangement. If the military arrangements are of utmost importance to reduce the risk of an armed conflict on the Peninsula, the goal of reunification can only be promoted by the emergence of more civil exchanges between the two states. This issue has to be addressed in any future agreement between the two Koreas, if chances of reunification are to be improved. This is not to say that the topics of military détente and civil exchange are two completely distinct issues. They are closely interwoven and in

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<sup>4</sup> Such an arrangement would have an inter-Korean and an international face. This article will limit itself to the question of an inter-Korean peace regime, so that a special focus can be laid on inter-Korean cooperation. The international implications and necessities of a peace regime, especially the six-party talks, will be set aside and will only be mentioned where absolutely necessary. The international dimensions have been the object of recent studies, Su Hwan Lim, “Is peaceful reunification possible?”

<sup>5</sup> For the proposal of such a peace regime, see Lee Sanghee, “Toward a peace regime on the Korean peninsula - A way forward for the ROK-US alliance,” CNAPS Presentation, The Brookings Institution, May 2, 2007, <http://www.brookings.edu/fp/cnaps/events/20070502.htm>.

any negotiations none of these topics can be discussed without having regard to the other. However, given the limited scope of this article, it will limit itself to the civilian arenas which will be the most important in any scenario of peaceful reunification.

### ***Reunification Scenarios***

To analyze the relationship between a peace regime and reunification, one has to outline the various possibilities for peaceful reunification of the two Koreas. In public and academic discussions on this issue, two scenarios are by far the most commonly mentioned: Either the reunification of two sovereign and equal states or South Korea absorbing the North, following a collapse of the North Korean state. This case is often compared to German reunification.<sup>6</sup> Neither scenario can be dismissed today and both have some fervent supporters.

The supporters of a reunification of two equal states argue that there have been no signs until now that the North Korean government is on the brink of collapse as it has been repeatedly argued since the end of the Cold War. It rather seems that the recent developments in the nuclear crisis have strengthened the North Korean position in international relations, thereby also strengthening the North Korean government in terms of internal stability. Furthermore, due to some “reforms” in the North, the North Korean economy has slightly recovered in the last few years and general living standards in the North have improved since the late 1990s.<sup>7</sup> Given these facts, it is argued that one should refrain from believing in a collapse of the North Korean state, since this rather seems to be a metaphysic myth than a

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<sup>6</sup> We will see later that the comparison of this scenario to German reunification is not very exact; for differences see Pollack/Chung Min Lee, *Preparing for Korean Unification, Scenarios and Implications* (Santa Monica, CA: Rand, 1999) p. 57.

<sup>7</sup> See Kenneth Quinones, “Beyond collapse - Continuity and change in North Korea,” *International Journal of Korean Unification Studies*, Vol. 11, No. 2, 2002, pp. 25-62.

real possibility.

Many South Korean politicians also seem to prefer a slow reunification thereby preventing the costs and economic problems of a fast and full-fledged reunification as experienced in the case of Germany.<sup>8</sup> In the South Korean discourse on reunification in general, and in Kim Dae Jung's sunshine and Roh Moo-hyun policies in particular, the most frequently mentioned option of reunification is a three-step process going from a confederation to a federal state to a centralized state. The traditional North Korean approach, which has been upheld since the 1960s and which proposes a "Confederal Republic of Koryo" as a first step, bears some resemblances to this three-step process.<sup>9</sup> However, it is hardly conceivable that the South Korean democratic and constitutional state would be able to form a confederation or even a federal state with a dictatorship. Any such cooperation would encounter serious doubts regarding its constitutionality since Art. 4 of the South Korean Constitution states that reunification has to be based on the principles of freedom and democracy. Therefore, in the opinion of most observers, the "three-step" scenario would require a slow change in North Korean politics and institutions leading to a partial democratization of the North Korean government, which will take many years to accomplish.<sup>10</sup> A peace regime would be the first major step of such a development. Moreover, it would be an absolutely crucial step, since no confederation is conceivable between two states which are technically at war.<sup>11</sup>

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<sup>8</sup> Still, it is a much-debated issue as to whether the Korean reunification would pose greater, smaller or other problems than German reunification. For some arguments see Sharif Shuja, "Korean reunification," *Contemporary Review*, January 8, 2003.

<sup>9</sup> See Cummings, *Korea's Place*, p. 501.

<sup>10</sup> This is a rather common assumption for the Korean reunification process, see Cummings, *Korea's Place*, p. 510; Lee Mi-Kyung, "Why 'peace' precedes reunification," September 9, 2007, [http://www.korea.net/news/news/newsView.asp?serial\\_no=20070907004](http://www.korea.net/news/news/newsView.asp?serial_no=20070907004).

<sup>11</sup> One might even doubt the legal validity in international law of a confederation treaty between two states which are technically at war following the general rule of public

Conservatives in the United States and in Korea still believe in the model of a reunification after a collapse of the North Korean regime.<sup>12</sup> They would argue that the plight of the citizens in North Korea still results in many hardships, and that this situation might deteriorate after this year's flooding which has destroyed much of the harvest. Therefore, the future stability of the North Korean government is far from certain. Furthermore, it is doubtful as to what will come after the eventual death of Kim Jong Il or at the moment when North Korean military leaders may refuse to continue their allegiance to Kim.<sup>13</sup> For these reasons, there are still many observers who believe that a collapse of the North Korean government can occur any time. In the case of a collapse of the North Korean government, it seems possible that South Korea will be able to push for a fast process of reunification in the German style.

However, this article argues that a collapse of the North Korean regime is thinkable both in the absence of, as well as with the prior conclusion of a peace regime. In the German case, the "Grundlagenvertrag" was concluded in 1972 and after the collapse of the GDR - 17 years later - reunification took place. If this was to be a model for Korea, a peace regime could be negotiated now and after some years later, reunification may be achieved after the collapse of the North Korean state.

This scenario does not imply that the South will try to destabilize the North Korean government, since the South has no serious interest in a destabilized North. It is, however, a possibility that the North

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international law of interdiction of contradictory behavior ("venire contra factum proprium").

<sup>12</sup>Mark Katz, "Korea after reunification," *United Press International*, July 6, 2007, [http://www.upi.com/International\\_Intelligence/Analysis/2007/07/06/policy\\_watch\\_korea\\_after\\_unification/4854](http://www.upi.com/International_Intelligence/Analysis/2007/07/06/policy_watch_korea_after_unification/4854). This has been the US position under the Bush administration from 2001 to 2005 and only changed when the tensions over the North Korean nuclear program rose and the neoconservative "democracy-building" approach had obviously failed elsewhere. See Jang Jungsoo, "How can a peace be achieved on the Korean peninsula?"

<sup>13</sup>Mark Katz, "Korea after reunification."

Korean state, due to an authoritarian and rigid leadership, will not be able to reform and democratize itself successfully but instead will collapse.<sup>14</sup> In this scenario, cooperation between the two Koreas prior to reunification could certainly have an impact on the economic and political situation of the North Korean state and the mutual understanding between North and South Korean societies. These improvements could pay off in a reunification process.

This indicates that a peace regime should contain provisions, which, in the case of a collapse of the North Korean state, would favor and facilitate negotiations on reunification. A peace regime can thus be of central importance to both main reunification scenarios. It is a question of political conviction as to which of those reunification scenarios one believes in and it is not within the scope of this article to give an extensive answer to this highly controversial problem.

### ***Political Disputes regarding the Effects of a Peace Regime***

Nevertheless, one might argue about whether the conclusion of a peace regime would stabilize or destabilize the North Korean government and if, in the case of collapse of the North, the prior conclusion of a peace regime would strengthen or weaken the chances of reunification.

Some argue that any peace regime would stabilize the North Korean government and thereby obstruct reunification. It would probably strengthen the North Korean economy and thus address the most fundamental problem in the North Korean state. Furthermore, the conclusion of a peace regime could be perceived as the recognition of the Korean division instead of an attempt to overcome it. It would thereby relegitimize the North Korean government and thus stabilize it internally.

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<sup>14</sup>Kenneth Quinones, "Beyond collapse."

Other observers see things fundamentally differently.<sup>15</sup> In their view, it is clear that, once a peace regime is established and inter-Korean cooperation is flourishing, the North Korean government will not be able to avoid further changes in its society. In the long run, this would favor the development of a critical civil society which could push for more human rights and democratization.<sup>16</sup> This could result in a slow change of the North Korean institutions or the toppling of the North Korean government, which could then lead to one of the reunification scenarios outlined above. In this model, the peace regime is the first necessary, but not in itself sufficient step, towards peaceful reunification.<sup>17</sup>

If one takes a look at the diverging positions, it is possible to find convincing arguments for both of them. Of course, one can argue that it is fundamentally wrong to stabilize a regime which is developing nuclear weapons while its own population is starving to death. Nevertheless, one can argue that the only possibility to achieve real progress in the North and thereby improve the situation for the impoverished North Korean population is better cooperation over the North's devastated economy.<sup>18</sup>

However, this article argues that both views somewhat neglect or underestimate the importance of the exact content of a peace regime. If, as this article argues,<sup>19</sup> a peace regime is understood to be an arrangement which, besides military arrangements, also promotes economic and cultural exchanges, it will inevitably trigger changes in the North. In this case it could be the starting point of an ever-intensifying process of cooperation between the two Koreas, which

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<sup>15</sup> Kwak Tae-Hwan, "The Korean peace progress: Problems and prospects after the summit," *World Affairs*, Washington, 2002; Lee Mi-Kyung, "Why peace."

<sup>16</sup> Lee Mi-Kyung, "Why peace."

<sup>17</sup> Kwak Tae-Hwan, "The Korean peace process."

<sup>18</sup> See Lee Mi-Kyung, "Why peace"; Mark Katz, "Korea after reunification."

<sup>19</sup> See above p. 3f.

will eventually lead to reunification. Therefore, from a functionalist approach, a peace regime should be seen as a means of reaching reunification.

### **How Could a Peace Regime Favor Reunification?**

It is therefore necessary to take a closer look at the possible content of a peace regime to analyze in which ways it could favor reunification.

#### ***The Explicit Notion of the Objective of Reunification***

First, it is of great interest to conclude a peace regime in a clear spirit of reunification as it has been proposed in the October 2007 agreement. In this way, it should be made clear that the intent of the two Koreas is not to put an end to hopes of Korean reunification. Thus, one of the most often mentioned arguments against a peace regime could be refuted. To show this spirit of reunification, the preamble of the peace regime could mention the sincere determination of the two Koreas to reach peaceful reunification. The preamble of a legal document usually does not contain any autonomous operative parts, but it is often used as an interpretative guideline.<sup>20</sup> Mentioning the ultimate objective of reunification in the preamble would therefore make it clear that no provision of the peace regime shall be interpreted in a way which threatens reunification. Furthermore, it would show the firm determination of the two Koreas to promote peaceful reunification and would thus prevent the slow disappearance of the reunification discourse in the public arena. This would certainly help to keep the idea of reunification alive.

Besides this, to mention the objective of reunification could be

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<sup>20</sup> See, for example, Art. 31.2 of the Vienna Convention on the Right of Treaties.

advantageous in case any unexpected destabilization occurs which could lead to a subsequent collapse of the North Korean government. In this case, Korean reunification will certainly not only depend on the determination of the two Korean states to reunify, but also on international negotiations which will take place. In these negotiations, some of the regional powers will probably be reluctant to accept reunification.<sup>21</sup> If it has been previously made clear by the two Koreas that it is their firm intention to reunify, this might limit the influences of these other states in the reunification process. Above all, it would be a sharp argument against any regional power's intentions to keep Korea divided by all means available in order to avoid a shift in the strategic balance in Northeast Asia.<sup>22</sup> Any such position will have to confront the great problem of credibility when challenged by the Koreans' right and desire for self-determination. A clear, common statement in favor of reunification by both Korean states would be a first hint as to the Koreans' choice regarding their right of self-determination.

A clear statement in favor of reunification could therefore prove advantageous in inter-Korean and in international relations.

### ***Relevant Policies of Cooperation***

However, clearly mentioning the will to reunify is not all that a peace regime could do to enhance the chances of reunification. To reach this goal, the operative provisions of the peace regime will be of utmost importance. Beside the termination of the state of war and military arrangements, the peace regime should contain provisions on

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<sup>21</sup> It is widely supported that fewest of the big regional powers have a real strategic interest in Korean reunification. However, here again one might see a parallel to the German reunification where neither France nor Great Britain cherished the idea of German reunification, but still had to accept it.

<sup>22</sup> See the scenario in Steve Fondacaro, *An Alternative Scenario for the Reunification of Korea* (Carlisle Barracks, PA, 1997).

several policies of cooperation. The right choice of such policies is crucial to enhance the chances of reunification. Moreover, this is true for both reunification scenarios discussed in this article: reunification of two equal states and reunification after the collapse of the North.

For the reunification of two sovereign and equal states, the right choice of these common policies would be important, because it is very likely that a confederation would continue to operate on the same policies that the peace regime did.<sup>23</sup> Therefore, the policies already included in the peace regime would be at the core of a confederation treaty and thus at the core of any reunification process. Thus, the peace regime will arguably determine the prospective design of a confederation.

However, in the same way as in the case of the second assumption, i.e., the collapse of the North Korean state subsequent to the conclusion of a peace regime, it is essential for the success of prospective reunification to include the right policies in a peace regime. Given the great problems everyone in the South imagines arising in the case of integrating the economically and technologically impoverished North, the peace regime will be one of the rare chances for the South to actively improve the conditions in the North prior to reunification.

This article cannot give an exhaustive analysis of all fields of policy potentially relevant in the case of reunification. However, some policies could prove especially advantageous for both reunification scenarios and shall therefore be outlined in this article. None of these policies is completely new in inter-Korean relations. However, it would be the main task of the South Korean negotiation delegation to make sensible progress on these policies so that they will coherently work in favor of reunification.

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<sup>23</sup> Best example is the history of European integration which rather randomly started with economic integration (it was a refusing vote in the French national assembly which destroyed hopes for cooperation in the field of defence) and then took over 30 years to add further fields of policy to the until then purely “Economic European Community,” Haratsch/Koenig/Pechstein, 5<sup>th</sup> Edition, *Europarecht* (Tübingen, Mohr Siebeck, 2006), p. 5.

## **Economic Exchange as a Form of Development Cooperation**

The first priority for a peace regime should be further strengthening economic exchanges between the two countries.<sup>24</sup> This can be illustrated as follows:

First, as the example of the European Economic Community (later European Community and European Union) has shown in an impressive way, the creation of economic interdependencies is an appropriate measure to reduce the risk of war.<sup>25</sup> If economic exchanges are strengthened and become more and more vital for the recovery of the North Korean economy, South Korea will become indispensable and consequently an unassailable partner to the North. This is true, even though it is very unlikely that North Korea would accept cooperation and interdependencies in key industries for defence, since it will not be ready to depend on South Korea in these industries. However, the existence and the strengthening of economic ties in other areas should be sufficient to reduce the risk of war.

Second, the recovery of the North Korean economy is extremely important to any reunification scenario.<sup>26</sup> Fears are spreading in South Korean society that unification with the North will generate unbearable costs and will make the contemporary flourishing South Korean economy collapse.<sup>27</sup> The risk of such a scenario, which has especially been brought to mind by the economic problems of German reunification, could be reduced, if economic exchange achieves substantial progress before reunification occurs. Deepened economic exchanges would pre-

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<sup>24</sup> Economic exchange is already today, besides humanitarian aid, the central field of contact between the North and the South. The cooperation in the “Kaesong Industrial Complex” is the most visible prove for that. For other examples, see Kenneth Quinones, “Beyond collapse.”

<sup>25</sup> This was certainly the main reason to conclude the “Treaties of Rome” in 1957, see Haratsch/Koenig/Pechstein, *Europarecht*, p. 4.

<sup>26</sup> See the interview of the former Minister of Unification, Park Jae-kyu, with *The Korea Times* on September 6, 2007.

<sup>27</sup> See Lee Mi-Kyoung, “Why peace.”

dictably strengthen the North Korean economy. This would narrow the economic gap between the two Koreas, something which is considered crucial for reunification.<sup>28</sup> Economic cooperation would furthermore initiate ties between North and South Korean industries which could be an extremely important starting point to help develop the North Korean economy after reunification or in a confederation process.

Thirdly, a slow shift to a market economy in North Korea could have further positive effects. In the first place, it will help the North Korean population to become accustomed to a market economy and thereby be prepared for some of the cultural shock which will inevitably accompany the reunification process.<sup>29</sup> In the second place, many scholars argue that the introduction of elements of a market economy and free trade usually also bring with claims for greater human rights and fundamental freedoms and could thus trigger the change of the political system in North Korea.<sup>30</sup> Even if the latter assumption could be considered too bold, given the development of China which has not yet shown any signs of large-scale democratization, the Chinese example demonstrates that economic exchange inevitably triggers cultural exchanges which will be another crucial point for Korean reunification hopes.<sup>31</sup>

It hence seems obvious that the peace regime should contain the greatest possible number of economic exchange programs.<sup>32</sup> Nevertheless, such programs may be overall unprofitable to South Korea's

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<sup>28</sup> See Park Jae-kyu's interview with *The Korea Times* on September 6, 2007; Sharif Shuja, *Contemporary Review*, 2003.

<sup>29</sup> See Lee Mi-Kyoung, "Why peace."

<sup>30</sup> Moon Chung-In, "Between Kantian peace and Hobbesian anarchy: South Korea's vision for Northeast Asia," prepared for the Mansfield Foundation, [http://www.mansfieldfdn.org/programs/program\\_pdfs/rok\\_us\\_moon.pdf](http://www.mansfieldfdn.org/programs/program_pdfs/rok_us_moon.pdf), p. 1f.

<sup>31</sup> See below, p. 16.

<sup>32</sup> The plans of President Roh Moo-hyun, which include the installation of several industrial complexes like "Kaesong Industrial Complex," seem in this respect, a step in the right direction.

economy and may prove rather costly. Their long-term benefits require spending a great deal of money on them in the beginning, since they might decrease the costs of later reunification tremendously. From the South Korean perspective, economic cooperation with the North should therefore not be seen as purely an economic issue but instead as a *mélange* of commercial affairs (especially the advantages of a cheap North Korean labor force for South Korean companies) and development cooperation with the North.

Furthermore, negotiations on economic exchange will probably be consensual since the North Korean government apparently sees economic exchange with the South as a crucial component in improving the North's economic situation. Therefore the North will not be too reluctant in collaborating on this issue. It might even prove that the strengthening of economic exchange can be seen as a concession or benefit to the North Korean government in future negotiations, even though it could also prove vital for the South in case of reunification.

Concrete measures of economic cooperation could also include a simplification of South Korean investments in the North. What this would mean is an increase in the number of areas where South Korean investments are possible and the creation of an atmosphere of mutual confidence between the North Korean state and South Korean investors. This could be achieved by negotiating terms for the protection of investments with the North.

Besides this, it would be crucial to invest heavily in North Korean infrastructure. The recovery of the North Korean economy in general and the improvement of economic exchange in particular largely depend on investing in the heavily degraded North Korean infrastructure. Such investments could be arranged by giving tenders to South Korean enterprises to repair North Korean highways and streets. The improvement of North Korean infrastructure should be closely linked to the issue of connecting South Korea to the "Silk Road." This would enable South Korea for the first time to deliver goods overland to Europe, and

to most parts of Asia and would thus partially compensate for the costs of the investment in infrastructure.

However, one should abstain from exaggerating the level of economic cooperation possible. The European Community can certainly not serve as an example in this regard, since economic cooperation in the EC was always based on free and capitalistic societies which were at comparable economic levels and which guaranteed the freedom of movement and exchange of goods, services, workers, and capital.<sup>33</sup> To reach such conditions, the two Koreas have a long way to go. Therefore, economic exchange as an initial step will mean the simplification of South Korean investments in the North, the introduction of new industrial complexes and better economic cooperation in general, rather than anything close to a FTA.

### **Inter-Korean Travel**

A second issue which is of special interest for a peace regime is the improvement of inter-Korean travel conditions and cultural exchanges between the two Koreas. One of the main problems in any reunification scenario is the enormous cultural gap between the North and the South Korean population. To give an example: While in the North the technological revolutions of the last 20 years are largely unknown to ordinary citizens, the South Korean population is perhaps one of the most progressive populations of the world in regard to the use of modern technologies. The North Korean population would certainly have the utmost difficulties to adapt to the high technology culture of the South. This has been especially brought to mind by the major problems North Korean defectors and refugees encountered in South Korea when trying to adapt to South Korean way of life. This predicament, which

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<sup>33</sup> Even the former socialist states which entered the European Union in 2004 had a GNP level per person which was at least one third of the EU-15 average, while the North Korean economy is generally believed to have a maximum of 1/10 of the GNP per person of the South.

would pose large-scale difficulties especially in the case of reunification after a North Korean collapse, could be reduced firstly by allowing, and then, step by step, intensifying inter-Korean travel. Thereby one could ensure that on the one hand, South Korean citizens could travel through the North. This would certainly generate encounters between North and South Korean citizens, especially if South Koreans were allowed to travel more independently in the North. On the other hand, one should allow North Korean citizens to travel to South Korea in specific circumstances,<sup>34</sup> which would help give them first-hand experience of the high-tech culture of the South.

To promote inter-Korean travel, two obstacles have to be overcome. First, it is necessary to provide the means for transportation between the two Koreas.<sup>35</sup> Since few North Koreans possess an automobile, the already constructed railway line seems to be the most promising way to enable North Koreans to travel to the South.<sup>36</sup> It will be up to the peace regime to set the conditions under which these railways are actually used and how to organize the border controls. Furthermore, it might be possible to open some roads between the North and the South, thus enabling inter-Korean travel by buses and cars.

The second and more complicated obstacle is how to allow North and South Koreans to travel freely on the Korean peninsula by law. It seems obvious that North Korea will not give complete freedom of movement to its citizens, since this would certainly trigger an exodus from the North to the South, which is wanted by neither side. Thus, the only possibility to enhance the opportunities of inter-Korean

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<sup>34</sup> This will certainly be a difficult issue to negotiate and it is only conceivable in exceptional circumstances that North Koreans could be allowed to travel to the South.

<sup>35</sup> For the improvement of North Korean infrastructure, see above.

<sup>36</sup> This railway would furthermore certainly give a boost to economic exchange. See the speech by Alexander Vershbow, US Ambassador to the ROK, "Prospects for US-North Korea Normalization and a Peace Regime in Northeast Asia," on July 11, 2007, [http://korea.usembassy.gov/113\\_071107.html](http://korea.usembassy.gov/113_071107.html).

travel will be the introduction of a visa system between the two Koreas, allowing citizens in specified circumstances to cross the border. Family reunions, economic activities, tourism, etc. might be some of these circumstances which justify the issue of a visa. Such an agreement in a peace regime should be as detailed as possible to ensure that the North Korean population can really benefit from this new freedom. Furthermore, the two Koreas would have to agree on regular border controls. The possibility of inter-Korean travel would, in some ways, represent an opening of the North, which has been largely isolated up to now.<sup>37</sup>

### **Cultural Exchange and Strengthening of “One-Korea Patriotism”**

Closely connected to the possibility of inter-Korean travel is a common policy of cultural exchange. In this regard, two issues are at stake. First, cultural exchanges would help North Koreans in the case of reunification to accustom themselves to a dynamic South Korean society and would bring greater understanding and knowledge about North Korean tradition and way of life to South Koreans. Such cultural exchanges could be encouraged by establishing a pan-Korean television or radio station which would abstain from any political propaganda but would try to promote a better understanding between the diverging cultures. Another very daring approach would be the introduction of student exchange programs in middle schools, high schools and in universities. Encounters between North and South Korean students could be of major importance in inspiring Korean youth to believe in reunification.<sup>38</sup> These examples show the real potential of such

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<sup>37</sup>In this regard, it is important to note that the planned extension of access to North Korean tourist sites, from a functionalist approach, is to be considered of economic interest rather than as an interest of inter-Korean travel, since this tourism will probably not generate any real contact between North and South Koreans, but will merely take the form of sightseeing tours.

<sup>38</sup>In Europe after the World War II, student exchange programs helped greatly overcome

programs: Both Koreas have to overcome the phase of mutual isolation and have to allow their citizens to form their own opinions as to how the other side lives. This would be the logical continuation of the opening of the two Koreas begun by the inter-Korean travel.

Such an attempt leads to a second much more ambitious goal. In the modern South Korean society and particularly in its youth, there is a wide spread opinion which sees reunification as a risk rather than as a goal. South Koreans are not hostile to the idea of reunification itself, but there are enormous fears about - above all economic - the risks and hardships of eventual reunification. South Koreans, therefore, are theoretically in favor of reunification but realistically they are very reluctant and want to delay the moment of reunification as long as possible.<sup>39</sup> However, for South Korea, in being democracy, important and fundamental decisions about reunification are only thinkable if a majority of the population supports them and is ready to grab any opportunity which arises. Therefore, it is essential to any reunification scenario that a form of “one-Korea patriotism” is strengthened by the political leadership and cooperation between the two Koreas.<sup>40</sup> In this respect, it is worth dwelling upon events such as the common entering of the 2000 Summer Olympics in Sydney. To push it further forward, one might even think about “pan-Korean” teams in some sports such as soccer or baseball.

These attempts would aim at rebuilding the sentiment in the Korean population that Korea still ought to be one state and that it was divided by the Yalta Conference’s “divide and rule” - doctrine and by the confrontation between great powers arising out of the Cold War and not by the free will of the Korean people. To keep up and strengthen

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the mutual distrust between Germany and France.

<sup>39</sup> See Jonathan Pollack, “Korean reunification: Illusion or aspiration?” *The Brown Journal of World Affairs*, Volume VIII, Issue 1 (Winter/Spring 2001) pp. 77-90.

<sup>40</sup> However, it seems important to avoid the development of a strong nationalism which may be perceived as a threat by both Japan and China.

this “we are one people” sentiment in the population in the North and the South is of the utmost importance for any future reunification process.<sup>41</sup>

### **Human Rights**

A very delicate issue in the negotiations might be better levels of respect for human rights in North Korea.<sup>42</sup> Clearly, North Korea will not be very cooperative in this regard. North Korea has always considered human rights exclusively as a domestic affair. Thus, in its view, these issues are not to be discussed in international negotiations.<sup>43</sup> One might argue that in the already very difficult negotiations with North Korea, the especially controversial question of human rights should be left aside since questions of morality should not complicate the struggle for reunification. Such an argumentation, however, is not convincing for various reasons.

First, it seems possible that at least on some issues progress could be made. As it has been argued above, the possibilities of inter-Korean economic exchange and travel can be improved. This implies at least some progress on fundamental liberties like the freedom of movement of North Koreans.

Second, it might seem possible to make some additional progress, even though this will certainly require a lot of patience and willingness to cooperate on the South Korean side. Progress does not necessarily mean more than a common statement on the respect of human rights on the Korean peninsula. However, such a first step could prove to

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<sup>41</sup> “Wir sind ein Volk” was the slogan of the democratic movement in GDR, which finally led to the fall of the Berlin Wall.

<sup>42</sup> For an analysis on the human rights situation in North Korea, see the report by the Korea Institute for National Unification, *White Paper on Human Rights in North Korea 2006*, Seoul, May 2006.

<sup>43</sup> However, in international law, it is a widely supported position that not all human rights violations can be considered as purely internal affairs.

be very important, since the issue of human rights, as difficult as it will be to negotiate, reveals many outstanding interests for any future reunification. Without better respect for human rights in the North, reunification is hardly conceivable. Only if respect for human rights is improved, will slow changes in the North Korean society be possible, which might trigger changes on a larger scale. These changes are required if peaceful reunification is to take place. Therefore, to promote human rights is of central importance to any reunification process.

Nonetheless, it seems obvious that this issue has to be discussed very carefully and not in an accusatory manner. It would be of major importance if not only South Korea but also other countries would put some pressure on North Korea in this respect. Furthermore the issue of human rights is certainly an area where great progress should not be immediately expected all at once. Even a common declaration on the respect of human rights, without any legal character might be a first step worth making. To mention human rights will eventually put pressure on North Korea to better respect them.

## **Demilitarization**

The central military topic in any peace regime which includes military arrangements will certainly be the demilitarization of the Korean peninsula. This is an essential point to reduce the risk of an armed conflict.

It might also turn out to be essential in any reunification process. Demilitarization on the one hand will help lower the military budget in North and South Korea.<sup>44</sup> This will certainly be a key to improve the

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<sup>44</sup>The military budget of both Koreas is way above the global average. See Sharif Shuja, *Contemporary Review*, 2003. However, the military budget of North Korea makes up for about one third of the BIP which prevents any development of the economy in other sectors and thereby leaves the North Korean economy without any real chance of stable growth.

living conditions in the North but also to free resources in the South for economic cooperation with the North. The North Korean economy will not be viable if the military budget is not dramatically reduced. The success of economic cooperation hence also depends on agreements between the two Koreas which lowers the expenses for defence.

On the other hand, disarmament will also be important to create an atmosphere of détente on the Korean peninsula. This aspect also shows the interdependencies between military arrangements and a “civilian” peace regime. Only if the threat of military confrontation is reduced, will the willingness to cooperate grow.

Negotiations on disarmament and demilitarization will certainly have to include the other parties of the six-party talks, as these questions have already been intensely discussed in the talks and have been especially addressed by the Joint Statement released on September 19<sup>th</sup>, 2005. The recent advances in these negotiations could be of great help when trying to discuss this issue in the context of a peace regime.

In the long run, a disarmament and demilitarization policy will probably require changes of the US-ROK combined forces command. This does not mean a withdrawal of American troops from South Korean soil, but a promising policy will need to find ways to normalize the military situation on the Korean peninsula. This military presence, which is perceived as a threat by the other side, should be reduced reciprocally and step by step. Such a military normalization is needed to improve inter-Korean relations. As it has been argued before, civil and especially economic cooperation will only intensify if an atmosphere of mutual confidence can be created.

### ***Evolution of Politics***

Negotiations on all of these issues will be difficult, full success will not be achieved in the beginning. It is therefore vital for any reunification scenario that it is made clear that the progress made in

the peace regime is only the commencement of negotiations which will take place later and which will then seek to further develop the common policies described above. Therefore, the peace regime should contain provisions regarding all these policies to be developed further at later summits or in higher-level diplomatic negotiations between the two governments. The latter approach would have the advantage that negotiations would not always be in the eyes of the media and concessions could be made with fewer difficulties by both sides. One might even raise the issue as to whether a permanent advisory body which could develop cooperation policies could be created.

The crucial point in all this is that the peace regime should not only install “status quo” on the Korean peninsula and leave further progress to later summits. It has to be the peace regime itself which contains the possibilities of strengthening cooperation and moving closer towards reunification.

## **Conclusion**

If one wants to stick to the objective of reunification, and that is what the South Korean Constitution obliges the South Korean government to do, a peace regime can be an appropriate means of reaching this objective. Nonetheless, this is only true if the peace regime not only reduces the risk of military confrontation by stabilizing the strategic situation in Northeast Asia. Besides this, it has to include the objective and means to work on closer civilian cooperation between the two Koreas while affirming a clear view to reunification. Therefore it is crucial to conclude a peace regime which deals with policies vital for any reunification scenario. Furthermore, the peace regime itself should fix the terms of future negotiations and thereby help to develop a rich, prosperous and dynamic dialogue on the Korean peninsula. In

this way, the peace regime can be perceived as a starting point of a process which could then lead to reunification even though the exact path of this process is all but certain.