

## *Signing a Peace Agreement: Issues for Consideration*

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### **Abstract**

There are theoretically two different types of peace agreement: a broad and comprehensive peace agreement, and a narrow and limited peace agreement. In the real world, the latter, small-package peace agreement is the only practical option under which an armistice can be replaced by peace and peacetime international law can start to apply, but a substantial level of armed force will remain on both sides. If a peace agreement were to be concluded, the international mechanisms for maintaining the Korean armistice would disappear. The UN resolutions adopted at the time of the Korean War would become void. The United Nations Command would be decommissioned. The Military Armistice Commission and the Neutral Nations Supervisory Commission would cease to exist. At the same time, necessary security mechanisms would stay, however. The US-ROK alliance would remain; US forces would stay; and the United States would continue to provide a nuclear umbrella to South Korea. The most difficult issue in negotiating a peace agreement is the issue of replacing the Northern Limit Line (NLL) with a new maritime borderline. The most likely candidate for the new line is the one based on the 1994 United Nations Convention on the Law of the Sea. However, the new borderline would hamper South Korean fishing activities, and it would be politically difficult for South Korean leaders to give up the NLL.

**Key Words:** North Korea, peace agreement, peace treaty, peace regime,  
Northern Limit Line

On January 11, 2010, the Foreign Ministry of the Democratic People's Republic of Korea (DPRK) proposed talks for replacing the Armistice Agreement with a peace treaty, officially initiating the third round of a sustained campaign to establish a new peace mechanism on the Korean Peninsula. North Korea has long sought to replace the 1953 Armistice Agreement with a peace agreement or treaty<sup>1</sup> in order to legally put an end to the confrontation with the United States and pave the way for normalization of relations with it. North Korea has already been taking necessary steps to prepare for future peace talks with the United States since early 2009.

This article will discuss some of the important historical developments and technical issues that we need to understand in thinking about signing a peace agreement. I will first review Pyongyang's past peace initiatives and military-diplomatic campaigns for establishing a new peace mechanism, and then discuss technical issues related to the signing of a peace agreement in the future.

## **Peace Initiatives**

North Korea has already proposed the signing of a peace agreement or peace treaty a number of times, and conducted sustained campaigns in an attempt to realize its proposals on several separate occasions. In 1962,

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<sup>1</sup>- The most important difference between a peace treaty and a peace agreement is that while the former would have to be ratified by the US Senate, the latter would not. For this reason, a peace agreement is easier to attain than a peace treaty. Also, the term "peace treaty" cannot be used between North and South Korea since their relationship is not one between sovereign states but "a special one constituted temporarily in the process of unification" as defined in the 1992 Basic Agreement.

Kim Il Sung proposed a peace agreement between the North and the South. Kim insisted that US forces be withdrawn from South Korea, a peace agreement be concluded between the North and the South, and the armed forces of each side be reduced to 100,000 or less.<sup>2</sup> In 1966, Pyongyang proposed a Geneva-type conference for the “peaceful settlement of the Korean Question.”<sup>3</sup> In 1974, it made a new proposal, calling for the conclusion of a bilateral peace agreement with the United States. It was a significant departure from North Korea’s previous position that a peace agreement should be concluded between North and South Korea.<sup>4</sup>

In 1984, Pyongyang proposed tripartite talks with the United States and South Korea to sign a peace agreement with the United States and to adopt a declaration of nonaggression with South Korea. This was a partial adjustment to the 1974 proposal in which South Korea was not invited as a party to the peace talks.<sup>5</sup> In 1993, North Korea’s Vice Minister of Foreign Affairs contended that the nuclear issue could be resolved, hostile relations between the North and the South could be removed, and peace

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<sup>2</sup>- Kim Il Sung, “On the Immediate Tasks of the Government of the Democratic People’s Republic of Korea,” October 23, 1962, in *Kim Il Sung Works*, Vol. 16 (Pyongyang: Foreign Languages Publishing House, 1984), p. 407.

<sup>3</sup>- “North Korean-Bloc Initiatives on the Korean Unification Question,” Memorandum From the Deputy Assistant Secretary for Far Eastern Affairs (Berger) to the Ambassador at Large (Hariman), Washington, September 22, 1966, in US Department of State, *Foreign Relations of the United States, 1964-1968*, Vol. 29, part 1, *Korea* (Washington, DC, US Government Printing Office, 2000), pp. 192-196.

<sup>4</sup>- *Pyongyang Times*, March 30, 1974, p. 3. Kim Il Sung had already suggested the conclusion of a US-DPRK peace agreement to his colleagues in December 1973. Kim Il Sung, “On the Review of This Year’s Work and the Direction of Next Year’s Work,” Speech at a Meeting of the Political Committee of the Workers’ Party of Korea, December 31, 1973, in *Kim Il Sung Works*, Vol. 28 (Pyongyang: Foreign Languages Publishing House, 1986), p. 536.

<sup>5</sup>- *Korean Central News Agency, Joseon Jungang Nyeongam 1985* [Korean Central Annual 1985] (Pyongyang: Joseon Jungang Tonginsinsa, 1985), p. 255; and Rhee Sang-Woo (ed.), *Korean Unification: Source Materials With an Introduction*, Vol. 3 (Seoul: Research Center for Peace and Unification of Korea, 1986), pp. 322-325.

on the Korean Peninsula could be realized only if the Armistice Agreement was replaced by a peace agreement.<sup>6</sup>

### **Military-diplomatic Campaigns for Peace**

Despite these overtures, only the initiatives of 1974 and 1993 were followed up by sustained military and diplomatic campaigns to achieve Pyongyang's stated goals. In both cases, North Korea contended that military tension was rising and the danger of war was looming large on the Korean Peninsula, and in order to avoid another war, the United States and the DPRK must conclude a peace agreement and establish a new peace mechanism. They then took military actions to create the reality which fit their logic.

#### ***The 1974 Initiative***

In March 1974, Ho Dam, North Korean Vice-Premier and Minister of Foreign Affairs, proposed signing a peace agreement with the United States.<sup>7</sup> He argued that the DPRK and the United States were “the actual parties” to the Armistice Agreement based on the fact that the Chinese People's Volunteers had withdrawn from Korea and the “United Nations forces” were, in fact, the US Army. Ho Dam insisted that the peace agreement include the following four points:

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<sup>6</sup>-*Pyongyang Times*, October 16, 1993, p. 8.

<sup>7</sup>-*Pyongyang Times*, March 30, 1974, p. 3.

- (a) Both sides shall pledge to each other not to invade the other side and shall remove all danger of direct armed conflict. The United States shall be obliged not to “instigate the south Korean authorities to war provocation manoeuvres”;
- (b) The two sides shall discontinue arms reinforcement and the arms race;
- (c) The berets of the “United Nations forces” shall be removed from the foreign troops stationed in South Korea and they will be withdrawn at the earliest possible date along with all their weapons;
- (d) Korea shall not be made a military base or operational base of any foreign country after the withdrawal of all foreign troops from South Korea.

The Supreme People’s Assembly sent a letter to the US Congress on March 25. The North Koreans attempted to encourage the Americans to talk to them by first creating tension and then arguing that dialogue was needed to reduce the tension. The March 25 letter argued that although tension had been eased temporarily, it was aggravated again and “military confrontation and war danger have daily been increasing. . . .” On this basis, the letter demanded that “proper measures for the solution of the situation be adopted.”<sup>8</sup> The military tension in the Yellow Sea which the North Korean navy had created since October 1973 was useful in illustrating this point.<sup>9</sup>

In addition to approaching the US Congress, North Korea secretly conveyed to the US government its intention to negotiate normalization

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<sup>8</sup>-*Pyongyang Times*, March 30, 1974, p. 1.

<sup>9</sup>-For the details of the event, see Narushige Michishita, *North Korea’s Military-Diplomatic Campaigns, 1966-2008* (London: Routledge, 2009), chapter 4.

by proposing a meeting to Secretary of State Henry Kissinger in August 1974. Kissinger ruled out the possibility of withdrawing US forces from South Korea in the foreseeable future, but he expressed willingness to have contacts with the North Korean side on the condition that Kim Il Sung gave the United States assurances on positive developments in the situation.<sup>10</sup> The US government had decided in April 1973 that to move on a step-by-step basis toward improvement of bilateral relations with North Korea was one of policy options.<sup>11</sup> In March 1974, it decided to seek United Nations Security Council endorsement of the agreed-upon package of substitute security arrangements on the Korean Peninsula.<sup>12</sup> In October, Kissinger suggested to his Chinese counterpart that he wanted to eliminate the United Nations Command (UNC) without abrogating the Armistice.<sup>13</sup>

Given the withdrawal of the US Seventh Infantry Division from South Korea in 1971 and the withdrawal of the US forces from Vietnam in 1973, the North Koreans now sought to induce the withdrawal of the remaining US forces from South Korea by directly talking to the

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<sup>10</sup>-US Department of State, "Secretary's Meeting with Romanian Special Emissary – US-North Korean Contacts," Memorandum of Conversation, August 26, 1974, Digital National Security Archive (DNSA), document no. 01310.

<sup>11</sup>-US Department of State, "NSSM 154 - United States Policy Concerning the Korean Peninsula," Memorandum for Mr. Henry A. Kissinger, The White House, April 3, 1973, DNSA, document no. 01071, pp. vii-viii. For Kissinger plans, see Hideya Kurata, "Chousenhantou Heiwataisei Juritsumondai-to Beikoku [The United States and the Issue of Establishing a Peace Regime on the Korean Peninsula]," in Yoshinobu Yamamoto (ed.), *Ajia Taiheiyouno Anzenhoshouto Amerika* (Security in the Asia-Pacific and the United States) (Tokyo: Sairyuusha, 2005).

<sup>12</sup>-US National Security Council, "Termination of the U.N. Command in Korea," National Security Decision Memorandum 251, March 29, 1974, DNSA, document no. 00205.

<sup>13</sup>-The White House, "Secretary's Dinner for the Vice Foreign Minister of the People's Republic of China," Memorandum of Conversation, Secretary's Suite, Waldorf Towers, New York City, October 2, 1974, DNSA, document no. 00310.

Americans. North Korea also attempted to justify the conclusion of a peace agreement bilaterally with the United States by emphasizing the fact that the UNC commander - an American general officer - had the “prerogative of the supreme command of the army in South Korea.”<sup>14</sup> The military tension in the Yellow Sea was useful in illustrating this point. By creating tension there, North Korea could show that even in the areas where South Korean forces played a dominant role, they were strictly controlled by an American general officer.

Pyongyang’s effort did not produce concrete results, however. The US Congress did not respond to the North Korean proposal, and no bilateral government-to-government talks were held to discuss the conclusion of a peace agreement. The US position was that the Republic of Korea (ROK) must be included in any peace agreement negotiations.

### ***The 1993 Initiative***

In October 1993, North Korea presented a list of its demands entitled, “Solution of the Nuclear Issue: Factors to be Considered,” to the US side. One of the demands was for the United States to conclude a “peace agreement (or treaty)” that would include legally binding assurances to the DPRK against the threat or use of nuclear weapons.<sup>15</sup> In the same month, North Korea’s Vice Minister of Foreign Affairs stated at the United Nations General Assembly that the Armistice Agreement was out of date and the Armistice mechanism was virtually paralyzed. He then contended that

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<sup>14</sup>- *Pyongyang Times*, March 30, 1974, p. 1.

<sup>15</sup>- C. Kenneth Quinones, *Kitachousen: Bei-Kokumushou Tantoukan-no Koushou Hiroku* [North Korea’s Nuclear Threat “Off the Record” Memories] (Tokyo: Chuuoukouronsha, 2000), p. 259.

the nuclear issue could be resolved, hostile relations between the North and the South could be removed, and peace on the Korean Peninsula could be realized only if the Armistice Agreement was replaced by a peace agreement and the UNC was dissolved.<sup>16</sup>

At the height of the nuclear crisis in 1994, North Korea displayed an interesting military-diplomatic performance between April and May. On April 28, North Korea's Ministry of Foreign Affairs proposed the establishment of a new peace mechanism to the United States.<sup>17</sup> On the same day, the North Koreans notified the US-ROK side that they would recall all of their members, cease to participate in activities related to the Military Armistice Commission (MAC) - an organization to supervise the carrying out of the provisions of the Armistice Agreement - and no longer recognize the UNC representatives to the MAC as counterparts.<sup>18</sup> On the next day, the Korean People's Army (KPA) performed a show of force by sending approximately 100 heavily armed soldiers into the Joint Security Area (JSA) in Panmunjom, in overwhelming excess of the 35 guards with small side arms permitted in the JSA by the Subsequent Agreements of the Armistice Agreement.<sup>19</sup> Finally, North Korea announced the establishment of the KPA Panmunjom Mission on May 2 in order to "ease tension and ensure peace on the Korean Peninsula" through

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<sup>16</sup>-*Pyongyang Times*, October 16, 1993, p. 8.

<sup>17</sup>-*Pyongyang Times*, May 7, 1994, pp. 1 and 3.

<sup>18</sup>-United Nations Command (UNC), *Command Historical Summary, 1 January 1995 - 31 December 1995*, compiled by the Command Historical Branch, UNC, Unit #15237, APO AP 96205-0010, p. 27.

<sup>19</sup>-UNC, *Command Historical Summary, 1 January 1994 - 31 December 1994*, compiled by the Command Historical Branch, UNC, Unit #15237, APO AP 96205-0010, p. 56; and "Agreement on the Military Armistice Commission Headquarters Area, Its Security and Its Construction," in "Subsequent Agreements," UNC Component, MAC (UNCMAC), revised October 1, 1976, Tab "D" (1)-2.



negotiations with the “US army side.”<sup>20</sup> When the UNC called for a MAC Secretary meeting, the North Korean side boycotted it.<sup>21</sup> In August, it was announced that China had decided to withdraw its delegation from the MAC.<sup>22</sup> The Chinese delegation left North Korea in December.<sup>23</sup>

Since then, North Korea has repeated the same kind of military-diplomatic actions. In February, 1995, the KPA temporarily reinforced the JSA with approximately 80 guards armed with load-bearing equipment and helmets, automatic rifles, mortars, and anti-tank weapons rather than the pistols and soft caps that they usually wore and in clear violation of the Armistice Agreement.<sup>24</sup> The US government reiterated that South and North Korea should sign a peace agreement based on the 1991 Basic Agreement.<sup>25</sup> In April, KPA officers and soldiers repeatedly crossed the Military Demarcation Line to the south.<sup>26</sup> The ROK Ministry of National Defense assessed that North Korea was trying to provoke a reaction from the South Korean side and heighten the tension in its effort to discredit the effectiveness of the Armistice.<sup>27</sup> In June, North Korea’s Ministry of Foreign Affairs demanded the withdrawal of US forces in Korea and the conclusion

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<sup>20</sup> - “List of the Members to the Korean People’s Army Panmunjom Mission Entrusted by the Supreme Command of the Korean People’s Army,” reprinted in Lee Mun Hang [James M. Lee], *JSA-Panmunjom, 1953-1994* (Seoul: Sohwa, 2001), pp. 401-402.

<sup>21</sup> - UNC, *Command Historical Summary, 1 January 1994 - 31 December 1994*, compiled by the Command Historical Branch, UNC, Unit #15237, APO AP 96205-0010, Appendix G.

<sup>22</sup> - *Pyongyang Times*, September 10, 1994, p. 8.

<sup>23</sup> - UNC, “Report of the Activities of the United Nations Command for 1999,” Annex, obtained from the UNCMAC, 2001, p. 4.

<sup>24</sup> - UNC, “Report of the Activities of the United Nations Command for 1995,” Annex, obtained from the UNCMAC, 2001, p. 14.

<sup>25</sup> - US Department of State, “Korea: Neutral Nations Supervisory Commission,” Statement, Washington, DC, February 23, 1995.

<sup>26</sup> - UNC, “Report of the Activities of the United Nations Command for 1995,” p. 12.

<sup>27</sup> - *Segye Ilbo*, April 28, 1995, p. 2.

of a US-DPRK peace agreement, but it also said that if these were difficult to achieve, then at least the UNC should be dissolved. It suggested that the DPRK was willing to take a step-by-step approach to the eventual establishment of a new peace regime.<sup>28</sup> In July, the KPA Panmunjom Mission warned that unless an institutional mechanism was established, unforeseen incidents could continue to occur.<sup>29</sup> In July and August, the KPA permitted a large demonstration of force in the JSA.<sup>30</sup>

In February 1996, North Korea's Ministry of Foreign Affairs officially made a three-point proposal to the United States, which included: signing a "tentative agreement"; organizing a US-DPRK joint military body; and negotiating to discuss these two measures. The tentative agreement would replace the Armistice Agreement until a peace agreement could be completed. The US-DPRK joint military body would replace the MAC and be responsible for implementing the tentative agreement.<sup>31</sup> In April, the KPA reinforced its guard force in the JSA with more than 200 additional soldiers armed with assault rifles, heavy and medium machine guns, rocket grenade launchers, and recoilless rifles. These soldiers remained in the JSA for several hours each time, constructing defensive positions.<sup>32</sup>

From March through June 1997, KPA personnel repeatedly intruded deep into the south across the Military Demarcation Line. On April 10, South Korean troops exchanged warning shots with North Korean counterparts across the Military Demarcation Line. The incident occurred

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<sup>28</sup>-*Rodong Sinmun*, June 30, 1995, p. 5.

<sup>29</sup>-*Rodong Sinmun*, July 6, 1995, p. 6; and UNC, *Command Historical Summary 1995*, p. 36.

<sup>30</sup>-UNC, "Report of the Activities of the United Nations Command for 1995," p. 15.

<sup>31</sup>-*Pyongyang Times*, March 2, 1996, p. 1.

<sup>32</sup>-UNC, "Report of the Activities of the United Nations Command for 1996," Annex, obtained from the UNCMAC in April 2001, pp. 14-15.

approximately 90 minutes before US Defense Secretary William Cohen arrived at Panmunjom.<sup>33</sup> After a number of near clashes, a serious firefight finally broke out just one month later. On July 16, a 14-man KPA patrol team crossed the Military Demarcation Line in mountainous Cheorwon, Gangwon-do, about 100 meters into the southern DMZ. Ignoring repeated verbal warnings and warning shots from the UNC guard post, the KPA patrol continued its activity. Then, almost immediately after a UNC guard post fired directly at the vicinity of the KPA patrol, the KPA patrol returned fire. Two KPA guard posts in the area fired about 80 aimed rifle and machinegun shots at two UNC guard posts. South Korean guards opened machinegun fire, and the North Koreans responded by firing one 107-millimeter recoilless shell and a score of mortar shells at the southern side. In response, South Korean soldiers fired scores of rifle shots and one 57-millimeter round from a recoilless gun. The firefight lasted approximately one hour. While there were no casualties on the UNC side, some KPA soldiers appeared to have been injured or killed.<sup>34</sup>

In mid 1998, the KPA proposed, in a general-officer informal meeting, a tripartite agreement between the DPRK, the United States, and the ROK to establish a Joint Military Mechanism. The KPA claimed that the ROK Army would be included in the new scheme only because they had a large army. The UNC regarded this proposal as an attempt by the KPA to undermine the UNC and the Armistice Agreement, and therefore rejected it.<sup>35</sup>

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<sup>33</sup>-*Korea Times*, April 11, 1997.

<sup>34</sup>-UNC, "Report of the Activities of the United Nations Command for 1997," Annex, obtained from the UNCMAC, 2001, p. 15; Bruce Bechtol, Jr., interview by author, Seongnam-si, ROK, February 24, 2008; and *Korea Herald*, July 17, 1997.

<sup>35</sup>-UNC, "Report of the Activities of the United Nations Command for 1998," Annex,

In June 1999, North Korea embarked on yet another military-diplomatic offensive to nullify the Armistice Agreement by rekindling the dispute surrounding the status of the waters around the Northwest Islands - Baengnyeongdo, Daecheongdo, Socheongdo, Yeonpyeongdo, and Udo - and the NLL. As a result, the "Battle of Yeonpyeong" broke out on June 15. The battle lasted for 14 minutes with the South Korean side firing a total of 4,584 rounds of ammunition. The South Korean side then exercised restraint, stopping short of imposing further damage on the North Korean vessels.<sup>36</sup> Just after the naval clash, in July the United States secretly suggested three separate peace agreements to South Korea: one between the United States and North Korea, one between the two Koreas, and one among these three countries plus China. Although South Korea rejected this proposal, North Korea's military-diplomatic campaigns were bearing fruit.<sup>37</sup>

In the UNC-KPA General Officer Talks in July, the KPA presented a long and elaborate explanation and justification of its position on the NLL, touching on international law, debate within South Korea, statements made by the US government, and remarks by a South Korean minister.<sup>38</sup> (By then, the General Officer Talks had practically replaced the MAC as the most important administrative body to deal with Armistice-related

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obtained from the UNCMAC, 2001, p. 18; and UNCMAC, "We own the Zone," briefing material, obtained from UNCMAC on March 14, 2001, p. 72.

<sup>36</sup>-A retired South Korean defense official, interview by author, Seoul, ROK, May 5, 2006.

<sup>37</sup>-Lee Jong-Seok, "Hanbando Pyeonghwacheje Guchug Nonui, Jaengjeom-gwa Daean Mosaeg [Debate on Establishing the Peace Regime on the Korean Peninsula: Issues and the Search for Alternatives]," *Sejong Jeongchaeg Yeongu* [Sejong Policy Research], vol. 4, no. 1 (2008), p. 20.

<sup>38</sup>-Proceedings of the Eighth General Officers Talks, July 2, 1999, provided by the UNCMAC; and UNC, "Report of the Activities of the United Nations Command for 1999."

issues due to the North Korean effort to invalidate the existing Armistice mechanism.) In the ninth General Officer Talks, the KPA proposed a “maritime demarcation line at the West Sea” and insisted that this issue be settled on the basis of the Armistice Agreement and international law.<sup>39</sup> In response, the UNC proposed implementing confidence building measures, and stated that the North-South Joint Military Commission was the correct forum for negotiating maritime boundaries. In September, the KPA General Staff unilaterally declared the establishment of the “Military Demarcation Line at the West Sea of Korea.” It announced that the waters north of the line already proposed by the KPA would be waters under its military control, and that its “self-defensive right” to the line would be exercised by “various means and methods.” It also claimed that by avoiding discussion of the NLL, the United States had abandoned its “duty under the Korean Armistice Agreement.”<sup>40</sup>

In late 2000, the United States and North Korea moved toward reducing tension and talked about establishing peace on the Korean Peninsula. The US-DPRK joint communiqué in October declared:

“ . . . the two sides agreed there are a variety of available means, including Four-Party talks, to reduce tension on the Korean Peninsula and formally end the Korean War by replacing the 1953 Armistice Agreement with permanent peace arrangements.”<sup>41</sup>

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<sup>39</sup>-Proceedings of the Ninth General Officers Talks, July 21, 1999, provided by the UNCMAC; United Nations Command/United States Forces Korea/Combined Forces Command/Eighth United States Army, “Ninth General Officer Talks Held,” News Release, no. 990708, Seoul (UNC), July 21, 1999; UNC, “Report of the Activities of the United Nations Command for 1999,” p. 9; “KPA urges U.S. and South Korea to accept maritime demarcation line at West Sea,” *KCNA*, July 21, 1999; and *Rodong Sinmun*, July 22, 1999, p. 5.

<sup>40</sup>-“Special communiqué of KPA general staff,” *KCNA*, September 2, 1999.

<sup>41</sup>-“US-DPRK Joint Communiqué,” Washington, DC, October 12, 2000.

Nevertheless, US President William Clinton announced his decision not to visit Pyongyang in December 2000.

Despite sustained efforts since 1993, North Korean efforts did not produce significant results. North Korea failed to compromise the Armistice mechanism in any significant way. It also failed to conclude a tentative agreement with the United States, let alone a peace agreement.

### **Consequences of a Peace Agreement**

When we discuss the technicalities of a peace agreement, we have to recognize that there are two different types of peace agreement. The first one is a broad and comprehensive peace agreement under which peace breaks out between the two Koreas and the force levels of both sides are substantially reduced. This is a big-package peace agreement and, therefore, hard to attain in the real world. The second type is a narrow and limited peace agreement under which the armistice is replaced by peace and peacetime international law begins to apply, but military confrontation and a substantial level of armed forces remain on both sides. It is much easier to sign the second type of peace agreement. In fact, the George W. Bush administration seriously considered signing a peace agreement with North Korea. In 2006, Condoleezza Rice and Philip Zelikow suggested the establishment of a peace regime with the conclusion of a peace treaty to Bush and won his approval.<sup>42</sup> When those key US policymakers sought a peace agreement with North Korea, it was the second, small-package

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<sup>42</sup>-Cheon Seong-whun, "Building a peace regime and adjusting the UNC: Political manipulation of peace-building could unravel security framework," *Korea Herald*, April 9, 2008, p. 4.

peace agreement that they had in mind. The following discussion, therefore, will be based on the assumption that the concerned parties are aiming at a small-package peace agreement.

The single most important general consequence of the conclusion of a peace agreement would be the Koreanization of security on the peninsula. If a peace agreement is concluded, international mechanisms for maintaining the Korean Armistice would disappear. The UN resolutions adopted at the time of the Korean War would become void. The Armistice Agreement would have fulfilled its duty. The UNC would be decommissioned. The MAC and the Neutral Nations Supervisory Commission would cease to exist. Although some of the successor agreements and institutions would maintain international elements, most of the new mechanisms would become predominantly Korean.

The only meaningful countercurrent to this trend would be the continued involvement of the United States in the security of Korea. Even after the establishment of peace in Korea, the US-ROK alliance would remain; US forces would stay; and the United States would continue to provide a nuclear umbrella to South Korea as long as North Korea keeps its nuclear weapons. Some observers argue that if a peace agreement is signed, US forces should withdraw from Korea. This is not true, however. Since the US force presence in Korea is justified not by the Armistice Agreement but by the US-ROK Mutual Defense Treaty, the United States and South Korea have sovereign rights to maintain the force presence and the defense treaty even after a peace agreement is signed. If the United States decides to withdraw its forces from South Korea after peace, it would be based on a political decision made by the United States and South Korea instead of a legal obligation resulting from a peace agreement.

In the same vein, the US-Japan alliance will remain even after a new peace regime is established on the Korean Peninsula.

The importance of the US factor is further reinforced by the fact that both North and South Korea are eager to keep the United States engaged in Korea. For the South Koreans, the United States is an ultimate guarantor of its security, and continued US presence is the most important means of preventing North Korea from taking military actions against South Korea. For the North Koreans, talking directly to Washington past Seoul is the only effective means of maintaining, though limited, an upper hand vis-à-vis its much wealthier brethren in the South.

In the early 1990s, the United States and South Korea started Koreanizing the defense of South Korea. In September 1990, the United States issued a report entitled, “Strategic Framework for Asia-Pacific Rim: Looking toward the 21st Century,” alternatively known as the East Asia Strategic Initiative I (EASI I). It spelled out a three-stage plan to reduce US forces in East Asia, including in South Korea. In December 1991, it was announced that there were no US nuclear weapons deployed in South Korea. In June 1992, the United States and the ROK dissolved the US-ROK Combined Field Army. In December 1994, the armistice operational control (OPCON) over designated South Korean units, which until then had belonged to the Commander in Chief of the Combined Forces Command (CFC), was transferred to the Chairman of the ROK Joint Chiefs of Staff.<sup>43</sup> Finally, in 2007, the United States and South Korea

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<sup>43</sup> - Before and even after the transfer of the armistice operational control, the North Koreans continued to use this issue to humiliate South Korea. For instance, the MFA statement on September 9, 1994 said: “An agreement on non-aggression was adopted between the North and the South a long time ago, so if a peace arrangement is established between the DPRK and the United States, which has troops in South Korea and has operational control



agreed to dissolve the US-ROK CFC and transfer wartime OPCON to South Korea in April 2012. If this agreement is implemented, the entirety of South Korean forces would be at the disposal of the South Korean president both in peace and war.

The transfer of OPCON might create a situation in which the United States and South Korea could seriously disagree over how and what kind of military actions should be taken, particularly in response to North Korean provocations or its collapse. While the commander of the CFC, an American general, has OPCON over both US and ROK forces, disagreements between the United States and South Korea cannot become too serious because regardless of what the South Koreans want, the CFC commander has ultimate say over what to do. However, after the transfer, disagreements between the United States and South Korea could actually create serious tensions between the two over military operations. For instance, at the time of the September 1996 submarine incident, President Kim Young Sam wanted to take strong measures against North Korea. The United States preferred to settle the situation quietly, however. As a result, the United States came to have serious concerns about what the South Koreans might do militarily in crisis situations.

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of the South Korean armed forces, this would mean the creation of a longlasting, rigid [sic, probably meaning "solid"] peace mechanism on the Korean Peninsula"; and, "However, only the South Korean authorities, who are not a signatory to the armistice agreement and do not have operational control of their army, are dead set against the establishment of a new peace arrangement." *Pyongyang Times*, September 17, 1994, p. 8. The MFA statement of February 24, 1995 also said: "The United States has held and exercised complete operational control on the armed forces in South Korea as a whole and continues to do so"; and "The South Korean authorities do not have complete operational control over their armed forces and do not exercise any control on the US forces occupying South Korea." *Pyongyang Times*, March 4, 1995, p. 8.

The United States and South Korea have already initiated the Koreanization of the Armistice mechanism. On March 25, 1991, the UNC commander appointed ROK Army Maj. Gen. Hwang Won Tak as a senior member of UNC MAC, a position that had historically been occupied by an American general officer.<sup>44</sup> Furthermore, the ROK Army took full responsibility for guarding the entire 155-mile UNC (southern) portion of the DMZ except for the JSA. In October 1991, the DMZ protection mission executed by the infantry battalion of the US Second Infantry Division was transferred to the ROK Army. The US Second Infantry Division turned over protection of MAC Headquarters Area (MACHA) A to the UNC Security Force-Joint Security Area (UNCSF-JSA) and MACHA B to the First ROK Army Division.<sup>45</sup> In April 1992, the Joint Security Force Company, one of the major components of the UNCSF-JSA, changed command from a US Army Captain to a ROK Army Captain for the first time in history.<sup>46</sup>

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<sup>44</sup>-“Chronology of North Korea’s Attempts to Neutralize the Armistice Agreement,” in Ministry of National Defense, Republic of Korea, *Defense White Paper 1996-1997* (Seoul: Korea Institute for Defense Analyses, 1997), p. 261. Before this appointment, UNCMAC was composed of one American major general (senior officer), one Korean major general, one Korean brigadier general, one British brigadier general, one UNC colonel (MAC members), and one American colonel (secretary).

<sup>45</sup>-The UNCSF-JSA was established in May 1952 during the Korean War to provide security and logistical support to the UNC elements conducting the Armistice negotiations. In late 1952, its mission was modified to include securing the UNC sector of the JSA at Panmunjom; coordinating counter-infiltration patrols; providing civil affairs administration; securing the village of Dae Seong Dong (freedom village); controlling access into the MACHA; and supporting the Swiss and Swedish delegations to the NNSC. UNC, *Annual Historical Summary, 1 January 1991 - 31 December 1991*, pp. 51 and 54.

<sup>46</sup>-UNC, *Command Historical Summary, 1 January 1992 - 31 December 1992*, p. 56.

### *Peace Mechanism*

If a peace agreement is signed and a new peace mechanism is created, several important changes will be made to the current Armistice regime. In terms of a peace mechanism, a new institution will be created to undertake oversight, confidence-building and tension reduction. Most notably, the MAC will need to be replaced by a new institution. Likely candidates include the North-South Joint Military Commission and a hypothetical tripartite body made up of representatives from the two Koreas and the United States. The inter-Korean Joint Military Commission is defined in Article 12 of the 1992 Basic Agreement and is designed to:

discuss problems and carry out steps to build up military confidence and realize arms reduction, in particular, the mutual notification and control of large-scale movements of military units and major military exercises, the peaceful utilization of the Demilitarized Zone, exchanges of military personnel and information, phased reductions in armaments including the elimination of weapons of mass destruction and attack capabilities, and verifications thereof.

The Joint Military Commission is expected to discuss and take measures necessary for the implementation and observance of non-aggression and the removal of the state of military confrontation.<sup>47</sup> From the US and South Korean perspectives, the Joint Military Commission is the logical successor to the MAC.

The problem is, however, that North Korea would not accept the Joint Military Commission as a replacement for the MAC. North Korea has

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<sup>47</sup> - "Protocol on the Implementation and Observance of Chapter II, Nonaggression, of the Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation between South and North Korea," Entry into force on September 17, 1992.

always demanded that a US-DPRK bilateral body replace the MAC. In December 1994, North Korea proposed major-general-level US-DPRK military contacts to replace the MAC meeting, and characterized the meeting held at Panmunjom between US Marine Corps Maj. Gen. Ray Smith and KPA Maj. Gen. Ri Chan Bok as a “US-DPRK general-officer meeting.”<sup>48</sup> In September 1995, North Korean leaders told Selig Harrison, a visiting American scholar, that they envisioned a new peace mechanism equipped with the US-DPRK Mutual Security Consultative Committee and the North-South Joint Military Commission.<sup>49</sup> In February 1996, North Korea’s Ministry of Foreign Affairs proposed the organization of a “DPRK-US joint military body” to operate in Panmunjom, replacing the MAC.<sup>50</sup> In October 1998, the KPA informally proposed a tripartite agreement among the DPRK, the United States, and the ROK to establish a Joint Military Mechanism in place of the MAC, although North Koreans continued to claim that its primary parties were the United States and North Korea.<sup>51</sup>

At a glance, the tripartite mechanism favors the US-ROK side in the sense that they have two votes, or at least two voices, to North Korea’s one. This is misleading, however. As the North Koreans claimed in October 1998, they regard the Americans and themselves as the only primary parties in such a body, and would make every effort to isolate and humiliate the South Korean representatives. In fact, it would be easier for the North Koreans to drive a wedge between the US and South Korean

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<sup>48</sup>-*JoongAng Daily*, December 22, 1994, p. 5.

<sup>49</sup>-*JoongAng Daily*, September 28, 1995, p. 3.

<sup>50</sup>-*Pyongyang Times*, March 2, 1996, p. 1.

<sup>51</sup>-UNC, “Report of the Activities of the United Nations Command for 1998,” p. 18; and UNCMAC, “We own the Zone,” p. 72.

representatives in the tripartite body since they are technically separate and independent from each other. In the current Armistice mechanism, the UNC, which represents both US and South Korean interests, plays an important role in bonding the two allies together, making it difficult for the North Koreans to separate the two.

### *United Nations Command*

If a peace agreement were signed, the UNC would be dismantled and an alternative organization would start fulfilling more or less the same duty. If we are to Koreanize the defense of South Korea, a South Korean military organization should have this duty.

Regarding this issue, North Korea would attempt to keep the United States as its primary interlocutor in the new mechanism and claim that only the US military is entitled to play such a role. In other words, North Korea would demand a US organization to replace the UNC instead of a South Korean one. This would present a contradiction to the North Korean argument that US forces should withdraw from South Korea. North Korea would probably argue that although US warfighting forces should withdraw, US peacekeeping forces could stay.

Several consequences would result if the UNC were replaced by a purely South Korean organization. First, Koreanization of the defense of South Korea would make further progress. Freedom of action on the South Korean part would increase in case of a crisis or other contingencies. Generally speaking, this is in the interest of South Korea, and is consistent with the US policy since the early 1990s. Second, it would make it easier for North Korea to take provocative military actions against South Korea.

Having an American general officer at the top of the chain of command has served as a deterrent against North Korea. Since North Korea has long sought to enhance its relations with the United States, it has typically avoided offending Americans too much. North Koreans are much more willing to physically attack South Koreans, however, as exemplified by the Cheonan incident. This arrangement might therefore be detrimental to the stability of the Korean Peninsula. Third, it would create a situation of entrapment for the United States. In the new arrangement, the United States would lose control of the situation on the Korean Peninsula but still remain physically engaged in Korean affairs by maintaining its troops there. If confrontation between the two Koreas heightens without direct US involvement in the decision-making process, US forces would still be drawn into the situation.

It might therefore be useful for the United States and South Korea to establish a bilateral joint peacekeeping mechanism, most likely with a South Korean general officer at the top, to fulfill the duty of maintaining the new peace mechanism. This would be a good compromise between Koreanization and maintenance of US engagement.

If the UNC is dismantled, the UNC (Rear) deployed at Camp Zama in Japan would also have to go. UNC (Rear)'s mission is, in peacetime, to maintain the agreement regarding the status of UN forces in Japan, and in wartime to support UNC operations within Japan and facilitate the movement of UNC member nation forces through Japan. Under the UN-Japan Status of Forces Agreement (SOFA) signed in 1954, the UNC member countries can use eight designated bases in Japan, namely Yokota Air Base, Yokosuka Naval Base, Camp Zama, Atsugi Naval Air Station, Sasebo Naval Base, Kadena Air Base, Futenma Marine Corps Air Station,

and White Beach Naval Base. If the UNC is gone, non-US UNC members would no longer be allowed to use bases in Japan without making separate agreements. This would not cause a major problem since the US forces, which are expected to play the central role in major contingencies in Korea, would still be able to use bases in Japan under the US-Japan SOFA. However, it would make it difficult for the non-US UNC members to make contributions to the defense of South Korea.

### ***Military Posture***

Since the mid 1970s, the US-ROK forces have consistently improved their overall military capability by making use of their economic and technological superiority over the North. If North Korea attacked South Korea now, the US-ROK forces would be able not only to stop North Korean forces to the north of Seoul but also to conduct counter-offensive operations into North Korea. OPLAN 5027 supposedly involved plans to overthrow the North Korean regime and reunify the Peninsula in case of war.<sup>52</sup> This offensive US-ROK strategy might have partially contributed to North Korea's decision to seek normalization of relations with the United States and replacement of the Armistice Agreement with a peace agreement. In other words, the incorporation of a "northern march" into the war plan has undermined the Armistice's ability to maintain the status quo, namely survival of the North Korean regime.<sup>53</sup>

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<sup>52</sup>- For OPLAN 5027, see Richard Halloran, "... But Carry a Big Stick," *Far Eastern Economic Review*, December 3, 1998, p. 27; Don Oberdorfer, *The Two Koreas: A Contemporary History* (Reading, MA: Addison-Wesley, 1997), p. 312; *Gyeonghyang Simmun*, March 25, 1994, p. 4; and *Dong-A Ilbo*, March 25, 1994, p. 4.

<sup>53</sup>- Ki-Tak Lee, interview by author, Seoul, ROK, July 2, 2002.

Even if a peace agreement is signed, the military posture on both sides would not change significantly. North Korea would maintain the nation in arms. South Korea might gradually reduce its force level based on its long-term defense plan, but that would not result in a dramatic restructuring of its defense force.

No substantial change would result for the US-ROK alliance or US forces in Korea, either. In fact, de-linking of the US force presence from the peace issue has been Pyongyang's policy since 1974. When Ho Dam proposed a peace agreement, he suggested an end to "foreign interference" "in the long run" and demanded that US forces be withdrawn "at the earliest possible date," suggesting that withdrawal of US forces was not a prerequisite to the conclusion of a peace agreement. In 1995, North Koreans suggested that US forces could stay even after the conclusion of a peace agreement, and demanded that the UNC be dissolved instead. While it is likely that Pyongyang thinks that the conclusion of a peace agreement would induce the withdrawal of US forces from South Korea over time, it has not directly linked the two.

In fact, withdrawal of US forces from South Korea is a double-edged sword to the North Korean leaders. On the one hand, it would undermine defense of South Korea and enhance Pyongyang's ability to militarily harass South Korea. On the other hand, however, South Korea would have a much freer hand in dealing with North Korea, particularly in times of crisis or contingency situations. In an extreme case, South Korea could take independent military action to intervene in the northern half of the peninsula.

Even after a peace agreement is signed, the Demilitarized Zone (DMZ) would remain and the Military Demarcation Line would stay.



However, there would have to be an arrangement in which the Military Demarcation Line would become more formalized, becoming a quasi national border. Neither the North nor the South would accept the new borderline as a formal national boundary. However, North Koreans might seek to push the issue to the extent that the new borderline would be regarded as an internationally recognized border in order to ensure its sovereignty and prevent interference in its internal affairs, particularly by South Korea. If that happens, it would be conducive to the peaceful coexistence of the two Koreas but detrimental to their unification.

### ***Maritime Borderlines***

The most difficult issue that South Korea could face in negotiating a peace agreement is the maritime border issue, namely the issue of replacing the NLL with a new maritime borderline. Article 10 of the Protocol on the Implementation and Observance of Chapter II, Nonaggression, of the Agreement on Reconciliation, Nonaggression, and Exchanges and Cooperation between South and North Korea provides:

Discussions regarding the South-North sea demarcation line of nonaggression shall continue. Until the sea demarcation line has been finalized, the nonaggression areas of the sea shall be those that have been under the jurisdiction of each side until the present time.

It is theoretically possible that the North and the South may agree to maintain the NLL and make a special arrangement in the area. In fact, at the inter-Korean summit meeting in 2007, the two Koreas agreed on the creation of a joint fishing zone and maritime peace zone, establishment of a special economic zone, utilization of Haeju harbor, passage of civilian

vessels via direct routes in Haeju and the joint use of the Han River estuary.<sup>54</sup> Given the inter-Korean debate over the issue in the past, however, it is likely that a new sea demarcation line must be defined before any peace agreement is signed.

In this context, the most likely candidate for the new line is the one based on the 1994 United Nations Convention on the Law of the Sea (UNCLOS). According to the UNCLOS, the new line would be constituted by the median line in the areas where the distance between the Northwest Islands and the North Korean baseline is less than 24 nautical miles and a 12-nautical-mile line from the North Korean baseline where there is no South Korean offshore island. This line would look more or less like the NLL in the eastern and western ends, but expand deeper into the south in the area between Socheongdo and Yeonpyeongdo.

In fact, North Koreans have already proposed such a line. In the Fourth Inter-Korean General-level Military Talks in May 2006, the North Korean delegation proposed a new military demarcation line in the Yellow Sea. The line mostly overlapped the NLL in the eastern and western ends, but expanded as deep as 10 kilometers into the south in the area between Socheongdo and Yeonpyeongdo. This line more or less represented what the UNCLOS, under a peacetime situation, would require North and South Korea to draw.<sup>55</sup> The South Korean side rejected

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<sup>54</sup>-“Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity,” Pyongyang, October 4, 2007.

<sup>55</sup>-Je4-cha Nambug Jangseonggeub Gunsahoedam [Fourth Inter-Korean General-level Military Talks], Panmunjom, May 16-18, 2006, [http://dialogue.unikorea.go.kr/sub2/sub2\\_2.asp?CL=111&SN=4&MSN=1](http://dialogue.unikorea.go.kr/sub2/sub2_2.asp?CL=111&SN=4&MSN=1); *JoongAng Daily*, May 18, 2006; and Korea Maritime Institute, *Seohaeyeonan Haeyangpyeonghwagongwon Jijeong mich Gwanri Bangan Yeongu (II)* [A Study on Designation and Management of a Marine Peace Park in the Coastal Area in the West Sea] (Seoul: Korea Maritime Institute, 2006), pp. 76-77.

the proposal, however.

A major difference between the NLL and the new borderline is that while North Korean vessels are not allowed to cross the NLL, they could cross the latter to the south. This is particularly true in the area between Socheongdo and Yeonpyeongdo where the distance between these two islands is much wider than 24 nautical miles. The areas to the south of the new borderline would no longer be South Korea's "maritime operating area (*jagjeon haeyeog*)," but the high seas.<sup>56</sup>

The two Koreas would also have to agree on their exclusive economic zones based on the UNCLOS. The demarcation line for the two exclusive economic zones would be constituted by the median line between the Northwest Islands and the North Korean baseline in some parts, and by the median line between the North Korean baseline and the South Korean baseline in the west coast.<sup>57</sup> As a result, the North Korean exclusive economic zone would expand far deeper into the south than the NLL.

This kind of new arrangement would pose two problems for South Korea. First, the new borderline would hamper South Korean fishing activities. The shallow waters around Yeonpyeongdo and Udo are the most lucrative fishing grounds, termed the "Golden Fishing Site." With the new borderline, South Koreans might not be able to fish in the most productive area. Second, it would be politically difficult for South Korean leaders to give up the NLL. By now, the NLL has become widely regarded as a quasi national border by South Korean citizens. In addition, South

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<sup>56</sup>- Legally speaking, most of the area to the south of the NLL between Socheongdo and Yeonpyeongdo constitutes the high seas even at the present time.

<sup>57</sup>- For hypothetical exclusive economic zones, see Map 7-12 in Kim Yeong Gu, *Hangug-gwa Bada-ui Gugjebeob* [The Republic of Korea and the International Law of the Sea] (Seoul: Hangug Haeyang Jeonryag Yeonguso, 1999), p. 461.

Korea sacrificed one patrol boat and six sailors' lives defending the NLL in the 2002 battle in the Yellow Sea.

Furthermore, the US and ROK allies could become divided over this issue. The North Koreans could highlight the disagreements between the United States and South Korea over the validity of the NLL in the period leading up to the actual signing of a peace agreement. If North Korea were to propose the maritime demarcation line it had proposed in 2006 to the United States, the US negotiators might not be able to reject it since it is actually consistent with international law. This might create frictions between the two allies.

The North Koreans would have to pay the price of adopting international legal norms, too. In 1977, North Korea established a 200-nautical-mile-wide "economic zone" and a 50-nautical-mile-wide "military boundary zone," both based on an internationally unrecognized baseline connecting the eastern ends of the Military Demarcation Line and the Soviet-DPRK border.<sup>58</sup> In fact, North Koreans have long regarded the whole East Korean Bay as its internal water, claiming that the territorial sea should be measured from the boundary of this internal water rather than from the shore.<sup>59</sup> If North Korea is to use international law in creating a maritime order in the Yellow Sea, it will have to do the same in the Sea of Japan. As a result, North Korea would be obliged to abandon its "economic zone" and "military boundary zone," and draw a new and internationally acceptable baseline in the Sea of Japan. And, in order to

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<sup>58</sup> - *Ibid.*, pp. 458-460.

<sup>59</sup> - "Report, Embassy of Hungary in the Soviet Union to the Hungarian Foreign Ministry," January 30, 1968, obtained from James Person, Program Associate, North Korea International Documentation Project (NKIDP), Woodrow Wilson International Center for Scholars [unpublished].

make its international legal claims credible, North Korea must sign and ratify the UNCLOS first.<sup>60</sup>

## Conclusion

In early 2009, North Korea initiated a third round of its military-diplomatic campaign for the establishment of a “new peace mechanism.”<sup>61</sup> In January, the KPA general staff warned that it would take measures to defend the “military demarcation line” in the Yellow Sea, which it had unilaterally established in 1999, if South Korean vessels continued to violate North Korea’s “territorial waters” in the Yellow Sea.<sup>62</sup> In February, North Korea demanded that the UNC be dissolved.<sup>63</sup> In parallel with these pronouncements, the KPA increased its military activities in the Yellow Sea near South Korean offshore islands in the Yellow Sea.<sup>64</sup> At the same time, at the request of the KPA, the General Officer Talks between the UNC and the KPA reconvened in March for the first time since 2002.<sup>65</sup> Then in November, there was a naval clash in the Yellow Sea. On this day, one North Korean patrol boat crossed the NLL to the south near Daecheongdo, and opened fire against some South Korean patrol boats. The North Korean patrol boat returned north after a two-minute battle. It

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<sup>60</sup>- South Korea ratified the UNCLOS in 1995.

<sup>61</sup>- For a more comprehensive analysis of North Korea’s military-diplomatic campaign since 2009, see Narushige Michishita, “Playing the Same Game: North Korea’s Coercive Attempt at U.S. Reconciliation,” *The Washington Quarterly*, vol. 32, no. 3 (October 2009), pp. 139-152, [http://www.twq.com/09october/docs/09oct\\_Michishita.pdf](http://www.twq.com/09october/docs/09oct_Michishita.pdf).

<sup>62</sup>- “Principled Stand of KPA to Defend Socialist Country as Firm as Iron Wall Clarified,” *KCNA*, January 17, 2009.

<sup>63</sup>- “DPRK Delegate on UN Peace-keeping Operations,” *KCNA*, March 3, 2009.

<sup>64</sup>- *Chosun Ilbo*, May 9, 2009.

<sup>65</sup>- UNC, “UN Command and North Koreans hold talks,” Press Releases, March 2, 2009.

was in this context that North Korea officially proposed talks for replacing the Armistice Agreement with a peace treaty to the United States.

The sinking of the South Korean frigate *Cheonan* in March 2010 is consistent with North Korea's overtures for a peace treaty. By provoking serious tension, Pyongyang wanted to create a situation where the signing of a peace agreement appears to be a strategically good option for the United States. In order to back up their case that conflict will be inevitable unless peace is established, North Koreans will continue to raise tensions in the Yellow Sea, the DMZ, and/or the JSA in Panmunjom in the future. North Korean actions could include:

- Crossing of the NLL by naval vessels, fishing boats, commercial ships, and/or fighter aircraft;
- Limited attacks on South Korean vessels in the area, particularly inside the 12-nautical-mile line from the North Korean west coast;
- Infiltration into the southern part of the DMZ and limited armed attacks;
- Armed demonstrations inside the JSA;
- Tampering with the Military Demarcation Line markers

Now that President Lee Myung-bak has declared that South Korea will "immediately exercise our right of self-defense" if its territorial waters, airspace or territory are violated, North Korea may be tempted to fly fighter aircraft across the NLL to highlight the fact that the area to the south of the line does not constitute South Korea's territorial airspace.<sup>66</sup>

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<sup>66</sup>-President Lee Myung-bak, Special Address to the Nation, May 24, 2010.

For South Korean leaders, deciding whether to shoot at the aircraft would be a tough decision, since they know that such an action would not constitute a violation of their territorial airspace, but not defending the NLL might lead to a loss of face. In the months to come, North Korea might fly its fighters across the NLL, heighten the tension, or worse, cause a clash in the air, and then propose resumption of UNC-KPA General Officer Talks to discuss peace.

The signing of a peace agreement will be a painstaking and difficult business in both technical and political terms. However, if US-DPRK relations are improved and the denuclearization process makes progress, the United States might become more willing to sign a peace agreement with North Korea. Moreover, the situation in North Korea might change abruptly given the ongoing power transition process. It is therefore imperative for us to carefully study North Korea's past actions regarding the peace issue and technical and political issues pertaining to the signing of a peace agreement in the future.

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