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THE CASE FOR A PEACE TREATY TO

END THE KOREAN WAR

Introduction

North Korea's detonation of a nuclear device and firing of short range missiles on May 25, 2009 is a direct result of the collapse of the six-party talks, in which the United States, the Democratic People's Republic of Korea (North Korea), Republic of Korea (South Korea), China, Russia and Japan sought to negotiate the denuclearization of the Korean peninsula.

The six-party talks fell apart last December over disagreements between the U.S. and North Korea on verification procedures. As President elect Barack Obama took office North Korea was willing to return to the six-party talks on the condition that denuclearization would be pursued on the basis of normalized relations with the U.S. However the new administration embraced the position that North Korea must first dismantle its nuclear programs as a precondition for normalization. Relations between the two countries continued to deteriorate.

In his first direct engagement with North Korea, President Obama warned in April that Pyongyang would face serious consequences if it went through with its planned satellite launch, on the theory that it was a veiled ballistic missile test. North Korea warned that should the U.S. oppose its right to engage in the peaceful exploration of space, it would never return to the six-party talks nor continue to observe any agreements made by the six parties.

North Korea did indeed conduct a launch on April 5, 2009. True to their positions the U.S. sought tougher United Nations sanctions against North Korea, and North Korea declared subsequently that it will never return to the six-party talks and that it will restart its nuclear reactors and testing of missiles and nuclear devices in response to what it perceives as U.S. hostility. North Korea is now following through with its stated intentions.

No one knows when the next showdown will occur. But there is no doubt that it will come, and that the "consequences" will be more severe. It could be another missile test or detonation of a nuclear device by North Korea, an escalation of joint U.S.-South Korea military exercises, an incident at the DMZ, a skirmish at sea, or worse. The clock is ticking and there is no clear path back to dialogue at present.

As the U.S. and its allies prepare to seek ever tougher sanctions on North Korea, and as North Korea prepares to square off against any efforts to pressure it to disarm, millions of Koreans everywhere demand an end to the hostility and the pursuit of nuclear disarmament on the Korean peninsula on the basis of peaceful relations between the U.S. and North Korea and Seoul and Pyongyang.

The Case for a Peace Treaty to End the Korean War examines the successes, frailty, and eventual loss of faith in the six-party talks by the U.S., as well as North Korea. It thus provides historical context critical to understanding the current crisis in U.S. – North Korea relations, and it also points to solutions which are even more relevant and urgent today.

This policy brief was originally prepared for Korea Peace Day, March 18th, 2009, during which numerous Korean American, human rights and American veterans' organizations gathered in Washington DC to urge Congress and the President to end Cold War hostilities between the United States and North Korea. It is an approach that remains unexplored, and we continue to urge Congress and the Obama administration to pursue it in earnest.

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The Case for a Peace Treaty to End the Korean War

Key points:

- *The Korean War never ended. After three years of fighting, a cease-fire agreement was signed at the 38th parallel on July 27 1953, by the United States, the Democratic People's Republic of Korea (North Korea) and the People's Republic of China. The signing was boycotted by the Republic of Korea (South Korea). Today the U.S. has diplomatic relations with China, but remains locked in a state of war with North Korea. Korea remains divided.*
- *For the past fifty years, the primary rationale for maintaining U.S. troops in South Korea and for sheltering South Korea under the U.S. nuclear umbrella has been to provide a deterrent against any attempt by North Korea to unify Korea by force. In light of North Korea's willingness to normalize relations with the U.S. and accept a continuing U.S. military presence in South Korea, this rationale is an anachronism.*
- *Failure to end hostilities with North Korea stemming from the Korean War is the foremost obstacle to addressing nuclear proliferation by North Korea, ensuring peace and stability on the Korean peninsula, and maintaining long-term U.S. strategic influence in the Northeast Asia region. It is time to end the Korean War.*

A New Era of Opportunity

For the administration of President Barack Obama to achieve the denuclearization of North Korea, it must succeed, foremost, as a peacemaker. That is the lesson of both the Clinton and Bush administrations. Returning from a visit to Pyongyang as part of a civilian delegation in February 2009, former U.S. Ambassador to South Korea Stephen Bosworth, now U.S. envoy to the six-party talks, reported that North Korea was willing to restart discussions on ending its nuclear programs, indicating that the door to denuclearization remains open. But North Korea is not the North Korea of eight years ago, a country enraptured in the belief that peace with the U.S. was at hand. Today, after eight years of bitter discord between the Bush administration and North Korea, results may not come easily or quickly.

While visiting Pyongyang, also in February, Selig Harrison, Asia Program director of the Center for International Policy, asked North Korea's lead negotiator on nuclear issues, Li Gun, if his country would be willing to hand over its plutonium in exchange for a peace treaty formally ending the Korean War and long-term economic aid. "The north's rebuff was categorical and explicit. Its declared plutonium 'has already been weaponized,'" reported Harrison. "Pyongyang is ready to rule out the development of additional nuclear weapons in future negotiations, but when, and whether, it will give up its existing arsenal depends on how relations with Washington evolve," he emphasized. Relations in the present moment are teetering once again toward a state of crisis as evident in the recent clash over North Korea's stated intention to launch a satellite, which Washington fears is a missile test.

Still in the early stages of engaging Pyongyang, the Obama administration needs to decide very soon which course of action has a better chance of ending the threat of nuclear proliferation by North Korea, continuing to fight the Cold War in Korea, or ending it. Fortunately, after nearly two decades of U.S. diplomatic engagement with North Korea, the administration has a wealth of experiences from which to draw.

Background

On June 15, 2000, President Kim Dae Jung of South Korea flew to Pyongyang and met with General Secretary Kim Jong Il of North Korea. This inter-Korean summit was a historic event, transforming relations between the two governments and irrevocably shaping public opinion in South Korea toward a more peaceful and reconciliatory orientation toward North Korea. The date is celebrated on both sides of the demilitarized zone that divides the Korean people.

Less than four months after the inter-Korean summit brought together the two heads of state, Jo Myong Rok, Vice Marshall of North Korea's armed forces met with President Bill Clinton in the White House, the highest-level contact ever established between the U.S. and North Korea, and was followed three days later by an even more historic event. After over half a century of unmitigated hostility, the U.S. and North Korea formally agreed in a joint communiqué to cease the enmity.

The joint communiqué stated that "neither government would have hostile intent toward the other and confirmed the commitment of both governments to make every effort in the future to build a new relationship free from past enmity." Negotiations led to plans to send Clinton to Pyongyang to sign off on a deal that would end the North Korean missile program and provide a hugely symbolic close to decades of a Cold War begun on the peninsula in 1945.

After 52 years of division, the reunification of North and South Korea never felt closer. The prospect of peace on the peninsula seemed quite real. A summit between Washington and Pyongyang would consolidate the gains for peace on the peninsula, and make it much harder, regardless of who became President in 2000, to turn back the clock. But the electoral controversy of Florida laid to rest the possibility of Clinton going to Pyongyang, and finally, late in December, the President reluctantly conceded that time had run out in his bid to end the Cold War in the place of its birth, Korea.

Thereafter, the administration of George W. Bush reversed Clinton policy, cut off bilateral dialog with

Pyongyang, and declared North Korea to be part of an “axis of evil.” For the next several years, the Bush administration repeatedly tested the thesis that the way to denuclearize North Korea was by exerting pressure, while relying upon China to do the talking with North Korea. Eventually, North Korea went nuclear.

The basis for recent progress

Only after North Korea detonated a nuclear device in October 2006 did the Bush administration engage in bilateral talks with Pyongyang in earnest. Starting in 2007, in the six-party talks, U.S. and North Korean diplomats sat down together and with representatives from Russia, China, South Korea, and Japan, revived their commitment to the September 19, 2005 landmark six-party agreement.

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The 2005 agreement begins by stating that “The six parties unanimously reaffirmed that the goal of the six-party talks is the verifiable denuclearization of the Korean peninsula in a peaceful manner.” The agreement also notes that, “The DPRK and the United States undertook to respect each other’s sovereignty, exist peacefully together and take steps to normalize their relations subject to their respective bilateral policies.”

In their 2007 meetings, the six parties also reaffirmed their commitment to section 5 of the 2005 agreement which states that the denuclearization of the “Korean peninsula” would take place in “a phased manner in line with the principle of commitment for commitment, action for action.”

In the first stage of the denuclearization process, which lasted from March 2007 to July 2007, North Korea shut down its nuclear reactors after the U.S. agreed to release North Korean assets frozen in a Macao bank. By June 2008, North Korea had fulfilled its obligations in the second stage of denuclearization, as set forth in the six-party talks of October 2007, including the provisions to declare its nuclear programs and disable its nuclear reactors. However, in the waning months of the Bush administration, tensions erupted over the issue of how to verify North Korea’s compliance with its denuclearization pledges.

The long step backwards

In exchange for North Korea’s fulfillment of its second-stage obligations, the U.S. was to remove it from the “Trading with the Enemy Act,” which it did promptly. The U.S. was also to remove North Korea from its State Sponsors of Terrorism list to pave the way for the third stage of denuclearization. But it did not. Instead, the U.S. demanded that North Korea submit to extensive inspection measures not negotiated in the October 2007 six-party talks as a precondition for removal from the list of terrorist states. In response, North Korea announced that it would re-enable its nuclear reactors.

The Washington Post, which obtained a copy of the inspection demands reported, September 26, 2008, that the measures “sought ‘full access to any site, facility, or location’ deemed relevant to the nuclear program including military facilities.” Nuclear weapons expert and former nuclear weapons inspector in Iraq, David Albright, who reviewed the inspections measures for the *Post*, described them as “completely unacceptable to any country’s sovereignty” and amounting to “a license to spy on any military site they have.”

Ultimately, Washington negotiated a partly written, and partly verbal agreement on verification with North Korea, and removed it from the list of terrorist states on October 11, 2008. However, the agreement, which was to be formally adopted at the December 2008 six-party talks, unraveled over the issue of taking samples at nuclear facilities and removing them from

the country – a procedure which would yield information about how much plutonium had been processed in past activities.

North Korea contends that in negotiations with Washington last October on verification, it agreed only to those measures set forth in writing, including the inspection of facilities, review of documents and interviews with technical people, but not sampling. North Korea's official news agency (KCNA) carried a statement on November 12, 2008, describing the sampling procedure required by the U.S. negotiators as "an act of infringing upon sovereignty, little short of seeking a house-search." The Bush administration maintained that North Korea acceded to every verification measure the U.S. had previously demanded, including sampling. Unable to overcome this difference, the third stage of denuclearization was stillborn as the Bush administration exited the scene.

There has been speculation that North Korea reversed its position and decided to dig its feet in over the issue of sampling as a tactic to gain leverage in negotiations with the new administration. However, the dispute is not new. The insistence on the part of the U.S. to be able to independently verify the amount of plutonium previously processed by North Korea, and Pyongyang's refusal to allow it, is a point of contention that goes back fifteen years to negotiations leading to the Agreed Framework of 1994.

The need for verification - a case for peace

During the negotiations of the 1994 Agreed Framework, the U.S. engaged in direct negotiations with North Korea because of the latter's refusal to allow the International Atomic Energy Association (IAEA) to conduct tests – sampling – that might reveal the amount of plutonium it had processed in the past. North Korea contended that such information was a matter of national security and such testing was an infringement upon its sovereignty.

That the Clinton administration did not demand

verification of previously processed plutonium as a precondition for entering into the Agreed Framework is one of the key reasons why the agreement was opposed by the Republican-dominated congress of the 1990s and even up until this day. For those who have followed U.S. - North Korea relations over the past two decades, the collapse of the six-party talks last December over the issue of sampling should come as no surprise.

The dispute over sampling is emblematic of the stark incompatibility of Washington's aim of achieving the complete, verifiable, and irreversible dismantlement (CVID) of North Korea's nuclear weapons programs as a precondition for trusting it, with Pyongyang's aim of maintaining a "nuclear deterrent" to countries it perceives as hostile to it, mainly the U.S. At the heart of this impasse over CVID is the unresolved Korean War.

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That the U.S. and North Korea would ever enter into a meaningful arms-control agreement while locked in a state of war, eyeing each other with mistrust, strains the limits of reason and the imagination. If war is the stumbling block, let it be removed.

Is peace with North Korea possible?

"Above all, [North Korea] wants, and has pursued steadily since 1991, a long-term, strategic relationship with the United States. This has nothing to do with ide-

ology or political philosophy. It is a cold, hard calculation based on history and the realities of geopolitics as perceived in Pyongyang. The North Koreans believe in their gut that they must buffer the heavy influence their

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neighbors already have, or could soon gain, over their small, weak country,” write Stanford scholars John Lewis and Robert Carlin (*Washington Post*, 1/27/2007).

Seasoned negotiators with North Korea during the Clinton years, Lewis and Carlin published an account of lessons learned in “Negotiating with North Korea: 1992 – 2007,” published in January 2008, much if it based on first-hand knowledge. North Korea's interest in engaging the U.S., according to the account, was based on a “strategic decision by Kim Il Sung in the early 1990s to press for engagement with the United States and even accept a continuing U.S. military presence on the Peninsula as a hedge against expanded, potentially hostile, Chinese or Russian influence.”

At the height of tensions with the U.S., a North Korea official provided an elaboration of this theme to Lewis and Carlin in 2003. It presents an outlook of the North Korean leadership that is largely unacknowledged, or simply unknown, in the west and is worth quoting in full:

The basic strategic fact for us is rooted in history. We have been victimized by all our neighbors from Qing times on. This is why we want closer relations with the U.S. Do you know the Chinese saying, ‘Keep those far away close, and those close to you keep at a distance’? This is our strategic reality, and this is why we want closer relations with the U.S. It

is time for us to become friends. We have learned a lot about each other in the last fifteen years, and we have come to know each other. For over a century the countries around us have competed to control us for their own strategic security and economic reasons, and we became their battlefield. You must look at the strategic picture – the big picture – as we have in order to survive. (Lewis and Carlin, 2008)

Most of the lessons we have learned about what North Korea wants resulted from negotiations during the time period reviewed by Lewis and Carlin. Prior to that, there was no diplomatic contact between the two countries. U.S. State Department officials were routinely instructed not even to acknowledge the presence of North Korea diplomats at social functions. However, the historical record reveals that North Korea's interest in peace with the U.S. dates back nearly four decades.

New York Times editor Harrison Salisbury and Selig Harrison were the first U.S. journalists to interview Kim Il Sung, in 1972. At an October 2008 conference sponsored by the Korea Policy Institute (KPI) at the University of California at Berkeley, Harrison related Kim's message:

[Kim Il Sung] said, “We are being smothered by military expenditures,” and he made an appeal to the U.S. to take a new approach toward North Korea. And he said, “Look, we see you” – this was 1972 – “we see you talking about détente with the Russians and the Chinese. Where is that going to leave us? And so we need to reduce our defense expenditures or we won't be able to survive, and we need your help, in order to do that through arms control.” He mentioned it again in 1994. (Selig Harrison, KPI conference presentation, 2008)

By the mid 1970s, small numbers of Korean Americans began trickling into North Korea to reunite with long-lost relatives. They brought back the same message. By now, thousands of Korean Americans have visited North Korea, and have heard this same message from practically everyone they've met, as if echoing down through the years. In brief, the message is that North Korea wants and needs peace with the U.S.

The need for peace now

The desirability of a long-term U.S. strategic relationship with North Korea based upon pragmatic considerations should be considered by the new administration in the years ahead. But the immediate objective of achieving complete, verifiable, and irreversible dismantlement of North Korea's nuclear program requires a new approach that replaces enmity with peaceful co-existence as the basis for negotiations. A peace treaty with North Korea was on the agenda for serious consideration at the end of the Clinton administration. In a recent statement made in Seoul, former U.S. Ambassador to South Korea James Laney updated the case for a peace treaty this way:

One of the things that have bedeviled all talks until now is the unresolved status of the Korean War. A peace treaty would provide a baseline for relationships, eliminating the question of the other's legitimacy and its right to exist. Absent such a peace treaty, every dispute presents afresh the question of the other side's legitimacy. Only with a treaty in place will both sides be relieved of the political demand to see each move as conferring approval or not. After more than a half century, it is time for us to come to terms with existence [of North Korea] simply as a fact, and not see it as a concession. Further, a treaty would reduce the uncertainties about future policy which inevitably accompany changes in administration, in either South Korea or the US, since it is based upon ratification by the respective legislatures. (James T. Laney, "The New U.S. Administration and Peace on the Korean Peninsula," December 2008)

After eight years of futile efforts to pressure North Korea into agreeing to CVID as a precondition for normalization of relations, it is time to put peace first. The Korea Policy Institute therefore offers the following recommendations to the administration of President Obama upon which to base a new U.S. policy toward Korea and the six-party talks:

1. Sign a peace treaty with North Korea formally ending the Korean War.

2. Normalize relations as a basis for seeking practical ways to resolve differences pertaining to arms control, for engaging in dialog for the improvement of human rights in North Korea, and to facilitate the provision of humanitarian and development assistance needed to help ensure the economic security of the North Korean people, many of whom regularly cross the border into China in search of food as refugees with no legal protection.
3. Encourage North and South Korea to pursue reconciliation and disarmament in accordance with their *Agreement on Reconciliation, Non-aggression, Exchanges and Cooperation* and *Joint Declaration on the Denuclearization of the Korean Peninsula* of 1992, and agreements reached in the North-South summit meetings of 2000 and 2007.
4. Provide leadership in orienting the six-party talks towards the goal of creating a nuclear-free zone in Northeast Asia and of ensuring mutually beneficial economic relations among all countries in the region.
5. Treat the complete, verifiable, irreversible dismantlement of North Korea's nuclear weapons programs as an ongoing process linked to progress made in denuclearizing the entire Korean peninsula as agreed in the September 19, 2005 six-party agreement, and in progress made in North-South and regional nuclear disarmament as described in recommendations 3 and 4, above.
6. Pursue "direct and aggressive diplomacy with North Korea that can yield results" as pledged by President Obama in his campaign for the presidency. Convene a summit meeting between President Obama and General Secretary Kim Jong Il in which the two leaders may engage in a candid exchange of ideas leading to the realization of mutual goals.

