

The Establishment of Peace Regime on Korean Peninsula and the Korea-U.S. Alliance

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Introduction

Establishing a peace regime on the Korean Peninsula has been an ongoing task since the signature of the Armistice Agreement ended the Korean War. The Cold War saw increased competition between the two Koreas and the heightened international isolation of North Korea. The crisis of the world socialist system and the establishment of South Korean diplomatic relations with Russia in 1990 and China in 1992 created unfavorable conditions for North Korea. Having already accumulated nuclear technology in secret, it began developing nuclear weapons in earnest. Settling the North Korean nuclear issue has since become an inevitable prerequisite for the establishment of a peace regime on the Korean Peninsula.

Through six nuclear experiments, North Korea has succeeded in the development of hydrogen bombs, as well as atomic bombs. Finally, after successfully test-firing an intercontinental ballistic missile (ICBM) able to reach the U.S. mainland, North Korea declared the completion of the national nuclear force on November 29, 2017.¹ This prompted an emergency alarm drill by the state authority of Hawaii, which took place on the same day and aimed to increase the nuclear preparedness of Hawaii's 1.4 million inhabitants. North Korea's nuclear threat range currently extends from the Korean Peninsula and the Japanese archipelago all the way to the U.S. mainland.

One proposed solution to North Korea's nuclear problem has been to provide economic incentives for denuclearization. However, there is no precedent of a country giving up its national security in exchange for economic aid alone. When the denuclearization negotiations started, North Korea demanded a security guarantee, but after the speech in the UN General Assembly on September 29, 2018 by Ri Yong-ho, the

¹ "(3rd LD) N.K. declares completion of nukes with new ICBM test," Yonhap News, November 29, 2017, <https://en.yna.co.kr/view/AEN20171129002954315>.

minister of foreign affairs of North Korea, demands shifted to the lifting of sanctions. However, after the breakdown of the U.S.-North Korea talks in Hanoi in February 2019, Chairman of the State Affairs Commission Kim Jong-un gave an administrative policy speech in the Supreme People's Assembly in which he declared that North Korea once again demanded a security guarantee, rather than the lifting of sanctions. As the focus of denuclearization negotiations has changed, so has the issue of the peace regime on the Korean Peninsula begun once again getting attention.

The Link between the Peace Regime on the Korean Peninsula and the Issue of North Korea's Denuclearization

The 2018 U.S.-North Korea joint statement known as the Singapore Declaration promised “to establish new U.S.-North Korea relations” and “to build a lasting and stable peace regime on the Korean peninsula” in exchange for the complete denuclearization of the Korean Peninsula.² The establishment of a peace regime on the Korean Peninsula and the region's denuclearization go firmly hand in hand. However, these two issues have different roots.

The notion of a peace regime on the Korean Peninsula was first discussed on an international level at the 1954 Geneva Conference in view of putting an end to the Korean War, specifically in Article 60 of the Armistice Agreement, which called for “the peaceful settlement of the Korean Peninsula issue.” However, the absence of North Korea in the Military Armistice Commission (MAC) risked making this an armistice regime in name only. The issue was brought up again in four-party talks from 1997 to 1999 between the two Koreas, the United States, and China; peace regime sectional meetings comprised one of the two sections of the talks.

In comparison, the denuclearization of the Korean Peninsula was first brought up when a secret nuclear facility in Nyongbyon County was detected by a French commercial satellite in the late 1980s. In December 1991, president Roh Tae-woo announced the Declaration on the Absence of Nuclear Weapons in South Korea, and the two Koreas adopted the Joint Declaration on Denuclearization of the Korean Peninsula, which promised a shared denuclearization. However, North Korea later withdrew from the Nuclear Nonproliferation Treaty (NPT). U.S.-North Korea high level talks were held, and the Agreed Framework was adopted in Geneva in October 1994, but this agreement was not well implemented. This problem was also discussed in the first to the third six-party talks which took place from 2003 to 2005.

These two issues were first linked together in the fourth six-party talks in 2005. Right before the end of the first-stage meeting, on July 22, 2005, North Korea's Foreign Ministry demanded the establishment of a peace regime as a condition for the denuclearization of the Korean Peninsula. This connection intensified during the second-stage meeting, until finally, in the Joint Statement of the Fourth Round of the Six-Party Talks, the participants promised to build an eternal peace regime on the Korean Peninsula, providing negative security assurance (NSA) and diplomatic relations with North Korea, as a corresponding measure for North Korea abandoning all nuclear weapons and discontinuing its existing nuclear program.

During the meeting with the South Korean delegation of envoys on March 5, 2018, Chairman Kim Jong-un also linked the ideas of a peace regime and denuclearization, saying, North Korea made clear the will of the denuclearization of the Korean Peninsula; if the military threat to North Korea comes to an end and the

² “Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the Democratic People's Republic of Korea at the Singapore Summit,” The White House, June 12, 2018, <https://www.whitehouse.gov/briefings-statements/joint-statement-president-donald-j-trump-united-states-america-chairman-kim-jong-un-democratic-peoples-republic-korea-singapore-summit/>

security of the North Korean system is guaranteed, there is no reason to possess nuclear weapons.³ In the inter-Korean summit meeting held at the Peace House in Panmunjom on April 27 of that same year, the two Koreas came to an agreement on overall epoch-making improvements and development between the two Koreas, the easing of military tensions and resolution of war risks, and the permanent and solid establishment of a peace regime as a corresponding measure to the complete denuclearization of the Korean Peninsula. In the subsequent summit meeting between the United States and North Korea on June 12, the two countries agreed to push ahead with the establishment of the new relations and to work in parallel on building a lasting and stable peace regime on the Korean Peninsula.

Progress on denuclearization and the establishment of a peace regime is predicated on three points. First, a peace treaty should be concluded in order to formally end the Korean War and restore peace. Second, an agreement on amity between North Korea and the United States should be made for the establishment of a stable international environment, and relations between them should be normalized via the promise of the mutual non-aggression. Third, arms controls should be implemented to allow the relaxation of international tensions by removing direct military threat.

Three Factors Required for Establishing a Peace Regime in the Korean Peninsula

1. A Conclusive Peace Treaty for the Korean Peninsula

Any peace regime in the Korean Peninsula is not just for easing the military tension between the two Koreas or planning for peaceful coexistence between South Korea, the United States, and North Korea. Although these three countries fought for more than three years, causing massive casualties, the Korean Peninsula has never formally ended the war and still lies in an unstable armistice. Therefore, the first consideration to build a peace regime is to conclude the peace treaty.

So far, this has been discussed in two ways. One is “2+2 method” where the two Koreas come to an agreement and the United States and China sign up to it as a guarantee, which is the official position of the South Korean government. The other is “4+2+2 method” where the two Koreas, the United States, and China conclude the umbrella treaty, and two supplementary agreements—one between North and South Korea and one between the United States and the North—are added as sub-agreements, a proposal that was discussed in the four-party talks. The North-South supplementary agreement includes arms control and normalization of inter-Korean relations, and the U.S.-DPRK one includes the denuclearization of North Korea, the abandonment of a hostile U.S. policy toward North Korea, and the promise of establishing diplomatic relations between North Korea and the United States.

The common feature between the two methods is that all four countries are engaged in the first stage of the peace treaty. Both of these methods were discussed under the “peace regime” portion of the four-party talks, which took place from 1997 to 1999 and also included a tension-relaxation portion. However, things have since changed. In the April 2017 U.S.-China summit, President Donald Trump asked President Xi Jinping to settle the nuclear issue of North Korea, but China did not accept this role. Rather, North Korea pushed ahead ICBM test-launches and hydrogen bomb experiments. Since early 2018, the participants in the Korean Peninsula peace process have effectively been the two Koreas and the United States.

Reflecting a reality in which China does not enter the negotiation, the existing “4+2+2” method could be reconstructed into “2+2+4” method: first, the two Koreas conclude an inter-Korean framework sub-agree-

3 Choe Sang-hun and Mark Landler, “North Korea Signals Willingness to ‘Denuclearize,’ South Says,” *New York Times*, March 6, 2018, <https://www.nytimes.com/2018/03/06/world/asia/north-korea-south-nuclear-weapons.html>.

ment, then North Korea and the United States conclude a framework agreement of their own as denuclearization negotiations progress, and finally, all four countries—including China—conclude a comprehensive treaty for the peace of the Korean Peninsula, ensuring international legal completeness.

The aim of an inter-Korean framework agreement is to update the former Inter-Korean Basic Agreement—signed in 1992—to reflect the changing situation. It could be made legally binding domestically through ratification in the National Assembly. Alternatively, the National Assembly could ratify the Panmunjom Declaration, announced on April 27, 2018, which would have the same effect without concluding a separate framework agreement. While the Inter-Korean Framework Agreement can be concluded relatively independently, the other two agreements under discussion would require progress on denuclearization to be realized.

2. Establishment of Diplomatic Relations Between North Korea and the United States

In order to establish a peace treaty, the Korean War should be officially and legally ended, leading to the end of hostile relations between affected parties through the normalization of diplomatic relations. Diplomatic relations between the various parties in the Korean War already exist: those between the United States and China were established on January 8, 1978, and those between South Korea and China on August 24, 1992. Furthermore, North and South Korea agreed to normalize their relations in December 1991, when Prime Minister Chung Won-shik and Premier of the Administration Council Yon Hyong-muk signed the Inter-Korean Basic Agreement, but this didn't have legal effect domestically because it was never ratified by the South Korean National Assembly. As for the United States and North Korea, they have not yet achieved the normalization of relations, and they remain in hostile relations.

Therefore, another condition to establish the peace regime of the Korean Peninsula is for the United States and Japan, which are in hostile relations with North Korea, to normalize diplomatic relations with it. Some efforts have been made in this direction. For instance, the United States and North Korea agreed to set up a liaison office in Washington D.C. and Pyongyang in their October 1994 Agreed Framework, and also agreed to establish new relations in October 2000 through the U.S.-DPRK Joint Communiqué, but this came to a halt due to North Korea's second nuclear crisis. The September 2005 Joint Statement of the Six-Party Talks established a U.S.-DPRK working group for the normalization of relations, which affirmed that normalization would be dependent on progress on denuclearization. However, little progress was achieved in these negotiations.

North Korea and Japan adopted the Three-Party Joint Declaration in 1990, and also adopted the Pyongyang Joint Declaration when Prime Minister Junichiro Koizumi visited North Korea for a summit meeting in 2002.⁴ However, little progress has been done on diplomatic relations under the Abe government, since different issues—compensation for colonization demanded by North Korea, the kidnapping issue broached by Japan, and so on—emerged in the discussion and were not settled.

Full diplomatic relations between the United States and North Korea will require not only an agreement between the governments of the two countries but also its ratification by Congress. In that respect, several of Congress' concerns should be settled together. Currently, Congress requires not only denuclearization to establish diplomatic relations with North Korea, but also the resolution of wider issues such as ballistic missiles, biochemical weapons, human rights in North Korea, counterfeit dollar manufacturing, drug

⁴ "Joint Statement on Japan-DPRK Relations by Japan's Liberal Democratic Party, Social Democratic Party of Japan, and Worker's Party of Korea," September 28, 1990, <http://worldjpn.grips.ac.jp/documents/texts/JPKR/19900928.D1J.html> (in Japanese).

trafficking, etc. However, given North Korea's attitude, the chances are slim that it will accept all of these conditions. Presuming that it only tries to satisfy the high-level requirements, diplomatic relations will fail to be established, and the North Korean nuclear issue will remain far from settled.

The U.S.-DPRK Joint Statement adopted in Singapore on June 12, 2018 promises "the establishment of new U.S.-DPRK relations."⁵ The normalization of relations between the United States and a country with which it has had hostile relations generally entails the establishment of ambassador-level diplomatic relations through a liaison office. When the United States established diplomatic relations with China, Vietnam, and Libya, for example, it followed this route. Therefore, it seems that normalization between the United States and North Korea will begin with the installment of a liaison office, leading to the establishment of ambassador-level diplomatic relations.

3. Arms Control Drive in the Korean Peninsula

Establishing a peace regime on the Korean Peninsula is like opening Pandora's box, because it can have a great impact on the existing security order of the Korean Peninsula and of East Asia in general. Opening this Pandora's box cannot help but lead to the discussion of many contentious issues, such as ROK-U.S. military exercises, conventional arms control, extended deterrence, U.S. Forces in Korea, Combined Forces Command (CFC), and United Nations Command (UNC). These are all sensitive issues that can cause great changes in the security environment in East Asia.

An urgent problem concerning security on the Korean Peninsula is the problem of the conversion of wartime operational control (OPCON) and the reorganization of CFC. To take over the wartime OPCON from U.S. Forces in Korea (USFK), South Korea needs to secure strategic intelligence assets and advanced military equipment. The current government is increasing national defense expenditure for this purpose, compared with previous governments. In fact, when we see the rate of increase in defense spending (over a five-year average), the rate for the Moon Jae-in administration is 7.6 percent in 2018, 8.2 percent in 2019, and 7.4 percent in 2020, compared to the Roh Moo-hyun administration's 8.9 percent, the Lee Myung-bak administration's 5.2 percent, and the Park Geun-hye administration's 4.1 percent.

Additionally, after the breakdown of the U.S.-DPRK working-level negotiations on October 5, 2019, North Korean chief negotiator Kim Myong-gil expressed disapproval of Combined Forces military exercises and of importing advanced weapons into the Korean Peninsula, because it can be considered a hostile policy toward North Korea. However, the ROK-U.S. Command Post Exercise (CPX) implemented in August or the introduction of F-35A stealth fighters and reconnaissance satellites are pre-actions needed to transfer wartime operational control. The ROK-U.S. annual Security Consultative Meeting (SCM) which took place in October 2014 defined an agreed-upon "condition-based transfer of the wartime OPCON." The South Korean government carried out an Initial Operational Capability (IOC) assessment in August 2019, the first stage of the three exercises to check out whether the condition is satisfied or not; it will assess Final Operational Capability (FOC) in 2020 and full mission capability in 2021, and the transfer of the wartime operational control will be completed in late 2021 or in early 2022. When this happens, the existing CFC will be reorganized into a new CFC, which will be led by South Korean forces and supported by U.S. forces.

⁵ "Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the Democratic People's Republic of Korea at the Singapore Summit," The White House, June 12, 2018, <https://www.whitehouse.gov/briefings-statements/joint-statement-president-donald-j-trump-united-states-america-chairman-kim-jong-un-democratic-peoples-republic-korea-singapore-summit/>.

To establish a peace regime on the Korean Peninsula, arms control is needed to ease the military tension between South Korea, the United States, and North Korea. According to a U.N. Security Council Resolution on North Korea, North Korea must ensure the destruction of all nuclear weapons as well as its existing nuclear program and destruct all ballistic missiles and biochemical weapons in a CVID manner. However, it is unrealistic to demand this maximum level of sanctions of North Korea, which is currently negotiating denuclearization.

If it is inevitable to maintain joint ROK-U.S. military exercises or to introduce advanced weapons to South Korean forces, then it is also necessary to assess the proper military power of North Korea which can be tolerated by South Korea and the United States after denuclearization. For example, we could set the proper military power of North Korea to the level of effectively countering an attack from nearby countries. Considering the military power of North Korea, which is comparatively inferior, it will also be necessary to conclude a nonaggression pact with South Korea and the United States. If North Korea maintains an appropriate level of military power, and a nonaggression pact is signed, then it will be possible for it to abandon all nuclear weapons and existing nuclear programs, as well as IRBM and ICBM, as promised in the denuclearization negotiation with the United States. In the full meeting of the Central Committee of the North Korean Workers' Party on April 20, 2018, it was declared that "We will discontinue nuclear test and intercontinental ballistic rocket test-fire from April 21" and that "The mission of the northern nuclear test ground has thus come to an end."⁶ It suggests that as a corresponding measure to denuclearization, other than nuclear weapons, only IRBM and ICBM can be destroyed.

After May 2019, North Korea test-launched SRBM and long-range artillery several times, and they test-launched MRBM in SLBM that uses solid fuel on October 2 of that year. In addition, they are believed to retain bio-chemical weapons (BCWs). Accordingly, BCWs and mid- or short-range ballistic missiles below the Hwasong-12 level could contribute to the proper military power that North Korea will be permitted to retain after denuclearization. Combined Forces military exercises will be gradually reduced to a minimized form, but it will be accepted as inevitable that there will be an arms buildup of South Korean forces, ensuring transparency. The United States will need to promise to prohibit military attacks or threats of military attacks on North during the denuclearization negotiation and commit to a nonaggression pact after the denuclearization is completed. A three-party military agreement will need to be drafted in order to binding these military promises.

The Promotion of a Peace Regime on the Korean Peninsula and the Future of the ROK-U.S. Alliance

1. The ROK-U.S. Alliance During the Establishment of a Peace Regime on the Korean Peninsula

The Moon Jae-in administration aims to get the U.S. wartime OPCON transferred from the commander of U.S. Forces Korea (CDR USFK) to the Korean chairman of the joint chiefs of staff by early May 2022, which is the end of President Moon's term. Considering the progress rate of denuclearization negotiations, there is a bare possibility that there will be a peace treaty on the Korean Peninsula by that time. Upon gaining wartime OPCON, the South Korean forces will take the lead of the defense of South Korea, supported by the U.S. forces. In this case, after the transfer, the new South Korean united command will exercise control, and CDR USFK will be second in command. This will function as a war command. If by this time no peace regime has been established, and as long as the armistice regime is maintained, the

⁶ Kim Soo-yeon, "(5th LD) N.K. decides to suspend nuclear, missile tests, shut down atomic test site," Yonhap News Agency, April 21, 2018, <https://en.yna.co.kr/view/AEN20180420010355315>.

two missions (armistice management, force provider) of the UNC will continue, even though the war-time OPCON has been transferred.

The UNC announced a revitalization in 2014. It increased its staff from 30 to 40 members, appointed a general from a non-U.S. member state (Canadian Lieutenant-General Wayne Eyre, followed by Australian Defence Force Rear Admiral Stuart Mayer), as the deputy commander, and named U.S. Army Major General Mark Gillette as the UNC Chief of Staff on August 30, 2018, making him the first separate figure from the Chief of Staff of U.S. armed forces in Korea. Military-supplied countries are dispatching liaison officers to the UNC, who mostly double as an embassy attaché or a diplomat, but have also been variously acting as a traveling representative of the MAC, an armistice agreement inspector, etc.

Recently, the UNC sounded out its opinion to include the army of Germany, which is a non-participating country, into its Sending States. However, since the South Korean Ministry of National Defense had a strong negative reaction to the plan, they took a step backward. The UNC has also expressed its neutrality toward whether the Japan Self-Defense Forces should be included with the Sending States or not. So far, the only sending states agreed upon by South Korea and the United States are these 16 nations.⁷

However, when the U.S. Joint Chiefs of Staff revised guidelines related to the operation of the UNC, where they redefined the Sending States as “the states that contributed to the UN Command militarily or non-militarily, based on UNSC resolution.”⁸ Having broadened this concept, the United States then asked Denmark, Norway, and Italy—which gave medical support in the Korean War—to join the Sending States. Accordingly, the Sending States of the UNC as claimed by the United States consist of a total of 16 countries.

However, after the transfer of wartime OPCON, if North Korea were to provoke a conventional type of local war, the new CFC would carry out the war led by South Korean forces and supported by U.S. forces. However, if North Korea were to provoke a total war by using WMD, or if China or Russia was to intervene, there may be a chance that the OPCON would be delegated from the CFC to the UNC.⁹

2. The Future of the ROK-U.S Alliance after the Conclusion of the Peace Treaty of the Korean Peninsula

If the wartime OPCON which belonged to CDR USFK is transferred to the South Korean commander of the new CFC, the Koreanization of the South Korean defense will be accelerated. What interests us here is whether USFK and the UNC will exist after the conclusion of the peace treaty.

In Article 60 of the Armistice Agreement, there is a rule that says within three months they should call a high-level political meeting, where the withdrawal of all the overseas troops and the peaceful settlement of the Korean peninsula issue is discussed.¹⁰ The Chinese People’s Volunteer Army pulled out on October 26, 1958. In comparison, 28,500 USFK soldiers remain stationed there. The South Korean and U.S. governments argue that this presence is justified by the ROK-U.S. Mutual Defense Treaty and will therefore continue to be so even if a peace treaty is concluded. However, China and North Korea argue that whereas

7 The 16 sending states are —Australia, Belgium, Canada, Colombia, Denmark, France, Greece, Italy, Netherlands, New Zealand, Norway, Philippines, South Africa, Thailand, Turkey, and United Kingdom. “United Nations Command, Continental Forces Command, and United States Forces Korea, “[2018: THE YEAR ON PEN] U.S. Military Forces on the Korean Peninsula,” *USFK*, p. 56, https://www.usfk.mil/Portals/105/Documents/Strategic%20Newsletter/2019%20ENG%20508_SD2019-ENG.pdf?ver=2019-07-09-011123-927

8 Kim Do-kyun, “ “ ”... 16 ”, Ohmynews, October 14, 2019, http://www.ohmynews.com/NWS_View/at_pg.aspx?CNTN_CD=A0002578161.

9 It seems that the second in the new commands goes to the Commander-in-Chief of U.S. Forces Korea, who holds the UN commander at the same time in case of this.

10 Text of the Korean War Armistice Agreement,” U.S. Department of State, July 27, 1953, <https://2001-2009.state.gov/t/ac/rls/or/2004/31006.htm>.

the Armistice Agreement took effect on July 27, 1953, the ROK-U.S. Mutual Defense Treaty was signed on October 1, 1953, and took effect on November 18, 1954; therefore, if the peace treaty is concluded, USFK should be withdrawn.

Recently, North Korea's attitude toward USFK has changed. Kim Yong-chol, the member of the State Affairs Commission who visited the White House on January 18, 2019, delivered Kim Jong-un's message to President Trump that "even though the peace regime on the Korean peninsula is established, he wouldn't demand the withdrawal of USFK."¹¹ This is the second example where a high-level North Korean official expressed acceptance of USFK directly to a high-level U.S. official. While visiting the United States on January 22, 1992, Kim Yong-sun, International Secretary of the Workers' Party of Korea, met Arnold Kanter, the U.S. Undersecretary of State, and delivered a message from former DPRK leader Kim Il-sung that "USFK should stay on for prevent the two Koreas from fighting. Investigating the dynamics between countries in and around northeast Asia, USFK is need to maintain the peace of Korean peninsula."

In 1996, the vice-chairman of the North Korean Asia-Pacific Peace Committee, Ri Jong-hyuk, said, "What threats us is not the presence of USFK itself, but the concrete behavior like military training," and "we will not object to playing a role of USFK in maintaining peace in the Korean peninsula."¹² According to the memoir of former U.S. Secretary of State Madeleine Albright, when she visited Pyongyang in October 2000, Chairman Kim Jong-il said to her, "Our situation has changed after the end of the Cold War, the U.S. forces now play a stabilizing role."¹³

Then, if the peace treaty is concluded, what kind of changes will occur in the status of the UNC? On July 7, 1950, the U.S. forces were endowed with the right to organize the UN forces according to UNSCR Article 82, and the war command was established under the UN flag, composed of 16 UN members. Afterward, the war command functions of the UNC were handed over to the ROK-U.S. Combined Forces Command, which had been newly established in November 1978, along with the wartime OPLAN. Therefore, the task of the UNC was limited to two missions: armistice manager and force provider. This being so, if the peace treaty is concluded, one of the two missions of the UNC—the management of the armistice regime—will no longer be needed. However, even when a peace treaty is concluded, the chances of the UNC surviving as a force provider will be high.

Currently, the position of the United States is that when the peace treaty is concluded, the UNC should be broken up automatically. This could be accomplished through a UN Security Council decision, or the United States itself could break it up through a political decision. Furthermore, once the peace treaty is concluded and if the Korean Peninsula remains without any military conflict for a period of time, it is expected that North Korea, China, and Russia will also demand the breakup of the UNC. If the public support of the international community for the dissolution of the UNC is mounting, there is a possibility that with the consent of the South Korean government, the UNC could change its name into the Northeast Asia Command, and stay alive as a local stabilizer.

V. Suggestion of Legislation for the Peace Regime on the Korean Peninsula within the United States

To encourage the final and fully verified denuclearization of North Korea, the United States should guarantee corresponding security measures. Among the subjects of legislation considered to this effect are "the

11 [] , " , " Newsis, February 7, 2019, https://newsis.com/view/?id=NISX-20190207_0000550689&cID=10301&pID=10300.

12 [] , " , Shin Donga, Jan 1, 2011 <https://shindonga.donga.com/3/all/13/100052/1>.

13 Madeleine Albright, *Madam Secretary- A Memoir* (New York, NY: Hyperion Publishing, 2003).

peace treaty on the Korean peninsula,” “U.S.-DPRK agreement of diplomatic relations,” and “a three-party military agreement between the United States and North and South Korea.” As for the declaration of the end of war, there is no need for separate legislation: its purpose is not to end the Korean War by law, but symbolically. It is therefore possible to install a liaison office only by an executive order.

The best way to offer a guarantee of institutional safety to North Korea is a treaty. Although the ruling Republican Party holds a majority in the Senate, it will not be easy to reach more than two-thirds support for a treaty. Therefore, the peace treaty or the establishment of diplomatic relations could be accomplished not via treaty but by a sole-executive agreement of the U.S. administration. The 1953 Armistice Agreement was also signed via sole-executive agreement, without the ratification of Congress.

However, executive agreements have a weak legal binding force, and can be abolished at any time if the U.S. administration changes; therefore, it is highly likely that North Korea will not accept it. Thus, to guarantee institutional safety, we can think about the congressional-executive agreement, which is accomplished through the same procedure as legislation. Since this method requires a majority in Congress and the Senate, it is necessary to obtain consent of the Democrats who have a majority in Congress.

Even if the U.S. administration doesn’t get the consent of the Congress and Senate, and instead concludes a weakly-binding sole-executive agreement, the legal binding force equivalent to a treaty can still be secured if the United Nations Security Council adopts a resolution to support the agreement between the United States and North Korea. In this way, by getting the UN mandate, the existing UN Security Council Resolution on North Korea will be invalidated en bloc.

Besides, a security guarantee to North Korea can be available through building a nuclear-weapon-free zone in Northeast Asia. This plan is that several non-nuclear weapons states—such as North and South Korea, Japan, and Mongolia—agree on the nuclear-free zone, and nuclear weapon states such as the United States, China, and Russia resolve to offer NSA, donated to the UN. If we agree to build a nuclear-weapon-free zone in Northeast Asia with regional non-nuclear weapons states, it can facilitate the denuclearization of North Korea, and the plan that institutional safety can be guaranteed at the U.N. Security Council level can be examined.

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