

A PAPER IN SUPPORT OF THE HEARING ON

**NORTH KOREAN NUCLEAR NEGOTIATIONS:
STRATEGIES AND PROSPECTS FOR SUCCESS**

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This paper addresses four main issues: the limitations of the current Six Party Talks in addressing the North Korean nuclear weapons programs, the likelihood of North Korea negotiating away its claimed nuclear capabilities, the extent to which the priorities of other countries, and especially China and the Republic of Korea (ROK) can be made to coincide with those of the United States, and finally a description of a possible alternative diplomatic initiative aimed at resolving the crisis on the Korean Peninsula.

Limitations of the Six Party Talks

Despite North Korea's agreement this week to return to the talks, the prospects for a breakthrough do not look promising. U.S. officials point out that North Korea's response in the months since the last round of talks in June 2004 has been to stall on re-convening the next round (it has originally agreed to reconvene in September 2004), proclaimed that it has manufactured nuclear weapons, announced the lifting its missile test moratorium, and announced that it was reprocessing another load of spent fuel rods from the Yongbyon reactor. There are other limiting factors for the Six Party Talks as well.

- The foundation for comprehensive negotiations does not yet exist, since North Korea currently acknowledges only the plutonium portion of its two-pronged nuclear weapons program. After having first admitted to U.S. officials that it had a highly-enriched uranium (HEU) program, North Korea now attempts to deny it. Several months after admitting to Assistant Secretary of State James Kelly that it had an HEU program, the North began insisting that its U.S. interlocutors had misunderstood the North's vice foreign minister, Kang Sok Ju. Later Pyongyang accused the United States of lying. Today, even in the face of the A. Q. Khan revelations, the North continues to deny that it has an HEU program.
- North Korea has yet to respond to an enhanced U.S. offer presented thirteen months ago at the last round of the talks. That offer includes provisional security guarantees and the lifting of some sanctions in return for full disclosure of North Korea's nuclear programs, IAEA inspections, and a pledge to begin eliminating those programs after a three-month preparatory period. The U.S. offer, however, remains on the table, awaiting a North Korean response. Administration officials say there are no plans to update or enhance it ahead of the talks scheduled for the week of July 25th.
- The 1993-1994 nuclear crisis was not resolved until former president Jimmy Carter conducted his personal crisis-negotiation with Kim Il-sung. Lower level officials had not able to deliver in bilateral negotiations, and it is not clear that those same officials can deliver this time, either. A peaceful resolution, if one is indeed possible, may again require that the North senses a genuine crisis and that the most senior levels of government become personally involved, as was the case in June 1994. Both of these elements are currently lacking in the Six Party Talks.

Will North Korea negotiate away its nuclear capabilities?

If North Korea has concluded that only nuclear weapons give it the security essential to the survival of the regime – and most evidence points to this conclusion – then diplomacy cannot succeed. To date, though, North Korean intentions have not been truly tested. It has paid no price for the crisis it has generated. Indeed, it has benefited handsomely from it, to the extent that, for North Korea, the current situation can hardly be called a crisis at all.

Why would North Korea change course, given that its brinkmanship continues to be so effective? It has stalemated the international community and undercut the international norms against the proliferation of nuclear weapons. It has co-opted much of South Korean society and politics. It has created serious divisions in the U.S.-ROK alliance. And in the process it has apparently become a nuclear weapons state with few if any restrictions on its further development of larger, more advanced nuclear systems.

Several other factors are at play with regard to the question of whether the North would ever be willing to negotiate away its nuclear capabilities.

The North Korean elite likely do not see the offers from the outside world – opening up, joining the international community, etc. – as positive inducements. Rather, they likely see these as a threat. In that regard, the elite and their families are trapped. While they surely realize the deplorable condition to which the vast majority of North Koreans have been reduced, alternatives to the status quo -- for them personally -- are worse. Change, opening up, reforming, risk losing control, which could mean losing everything.

The elite also know that without nuclear weapons, North Korea would be inconsequential, little more than an irritant – one that the ROK and the United States would have to continue guarding against, but one that could continue to be deterred, an entity steadily growing weaker in both relative and absolute terms.

All previous efforts by the United States and the ROK to resolve the North Korean nuclear issue – the 1992 South-North joint denuclearization agreement, the 1994 U.S.-North Korea Agreed Framework, the “Perry Process” of the late 1990s, Kim Dae-jung’s Sunshine policy, and Roh Moo-hyun’s Peace and Prosperity policy – have failed. North Korea seems determined to acquire nuclear weapons systems regardless of the agreements it signs with, or the assistance it receives from, the outside world.

Finally, reiterate, the current nuclear confrontation is not yet a crisis for North Korea. The traditional Korean approach to conflict resolution in general, and North Korea’s negotiating style in particular, strongly suggest that the current challenge is not likely to be peacefully resolved (if it is indeed still capable of peaceful resolution) before we descend once again to a dangerous crisis situation.

Other Countries' Priorities

The other four members of the Six Party Talks – the ROK, China, Japan and Russia – agree on the desirability of a nuclear-free Korean Peninsula. However, on the key question of how far they, and especially China and the ROK, are willing to go to prevent North Korea from going (or remaining) nuclear, the answer is less clear.

Until recently, U.S. policy rested in part on the assumption that China would use her influence with Pyongyang to convince the North Korea leadership to abandon its nuclear programs and avail itself of the offers put forth to ease its transition into international society. China has consistently disappointed in this regard, and the administration now has lowered its expectations regarding China. Beijing's role now appears chiefly to be that of communications conduit and convener of the Six Party Talks. At this stage it appears that China's interest in maintaining North Korea as a buffer state trumps other concerns, including that of the proliferation of nuclear weapons on the Korean Peninsula.

The ROK government's position is that North Korea's acquisition of nuclear weapons is intolerable, and that the issue must be resolved peacefully. The ROK has never resolved the inconsistency in this position, raising the question: If the North Korean nuclear challenge cannot be resolved peacefully, is it still intolerable?

Heading into the next round, Administration officials have indicated that they are prepared to move to "Plan B" if the talks do not result in genuine progress. In a move applauded by Seoul and Beijing, the U.S. has signaled its readiness to be flexible regarding the elements in the June 2004 offer, provided that the North responds to that offer in a constructive way that opens the door to real negotiations. But the United States has also indicated its readiness to move to more punitive sanctions if the talks fail.

An Alternative Proposal

Should the upcoming round of Six Party Talks fail to break the impasse over North Korea's quest for nuclear weapons -- as seems likely, given the North's history of obstructionism and coercion, and the unwillingness to date of both China and the ROK to consider the use of tougher measures designed to compel North Korean compliance with international norms – the United States may feel it necessary to move to what one official recently called "Plan B". The specific measures to be employed in Plan B were not specified, but presumably they would include taking the matter to the United Nations Security Council, which has the power to impose sanctions and other coercive measures.

There is at least one other alternative that the administration may want to consider, however, an approach formulated at the United States Institute of Peace several months after the fall 2002 revelation of the North's HEU program. In the spring of 2003 Dr. Richard H. Solomon, the president of the Institute of Peace, convened a small group of experts to consider next steps and alternative approaches to the North's nuclear challenge. As part of that effort, and building on the work of Patrick Norton and Robert

Bedeski, I drafted a paper that was subsequently published by the Institute as a Special Report with the title “A Comprehensive Resolution of the Korean War”.

The essence of the report was the recommendation that the United States urge the United Nations Security Council (UNSC) to convene a peace conference seeking a comprehensive political settlement of the Korean War as a means to address both the North Korean nuclear challenge and the larger issue of the lack of security on both sides of the Demilitarized Zone flowing from the unresolved state of war on the peninsula. Two years and three unproductive rounds of the Six Party Talks later, I remain convinced that the concept has merit, and offer it as an alternative diplomatic initiative for the Subcommittee’s consideration. The Report is available on the Institute’s website (www.usip.org). A (slightly updated) summary of the report follows.

The 27th of this month will mark the 52nd anniversary of the signing of the Korea War Armistice Agreement. The 1953 Agreement envisioned that within three months a “political conference of a higher level” would be convened to finalize a “peaceful settlement of the Korean question”. We are now in the 624th month of the Armistice Agreement and the envisioned peaceful settlement remains as elusive as ever. The nuclear confrontation is but the latest manifestation of the dangers of a war that has been suspended but never resolved. Negotiations addressing specific elements of the security challenge posed by a North Korea still technically in a state of war would, even if successful, cover only a part of the fundamental problem of the continuing dangers inherent in the unresolved state of war.

The North’s quest for nuclear weapons systems has increased the danger exponentially. It is worth recalling that fourteen years ago it seemed that the architecture to prevent North from “going nuclear” was in place. In the early 1990s the North was a member of the Nuclear Nonproliferation Treaty, had signed an IAEA full-scope safeguards agreement, and had concluded a joint denuclearization agreement with the South in which it had vowed not to “not test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons” nor to “possess nuclear reprocessing and uranium enrichment facilities.” After the North violated each of these agreements, the United States entered into the 1994 Agreed Framework with Pyongyang, only to discover in 2002 that it had taken but three years or so for the North to violate that agreement as well by launching a clandestine program to enrich uranium. North Korea now insists that, in the absence of security assurances from the United States, it needs nuclear weapons. Rather than attempting to craft a “better Agreed Framework” at the Six Party Talks, the United States might find that a comprehensive peace proposal, one that addresses the fundamental cause of insecurity -- the ongoing state of war – better serves U.S. interests.

Pyongyang has long asserted (erroneously) that since North Korea and the United States signed the Armistice Agreement, only they have the standing to participate in a permanent political settlement of the war. This claim is without merit. Nineteen countries fought in the war – seventeen under the United Nations Command flag on one side, North Korea and China (in the form of the “Chinese People’s Volunteers”) on the other. All nineteen thus qualify as belligerents, with standing to participate in a peace

conference. However, the participation of all parties is not essential to a permanent resolution of the conflict. In terms of numbers of troops committed and subsequent sustained involvement in the Armistice, four of the nineteen – the ROK, North Korea, the United States and China – are indisputably the *principal belligerents*, and a peace agreement between them would be adequate to bring the war formally to an end.

A peace conference convened by the UNSC would have certain advantages. All four principal belligerents are members of the United Nations, and two – the United States and China -- are permanent members of the Security Council. Such a UNSC peace conference would also meet the Bush administration's requirement of a multilateral setting within which to engage North Korea. More importantly, a comprehensive settlement at the political level would address both North Korea's professed sense of insecurity regarding the United States, as well as the threat the North poses to ROK and to U.S. interests. Finally, a UNSC-sponsored political settlement would address the root cause of insecurity on the peninsula – the continuing state of war – rather than manifestations of that insecurity -- the deployment of huge numbers of conventional forces on both sides of the DMZ, and the North's quest for nuclear weapons.

A prerequisite for convening a peace conference should be adherence by all parties to the principle of "no negotiation under duress." North Korea should be required to verifiably suspend all nuclear weapons activities under IAEA monitoring. The United States should reiterate its pledge not to attack North Korea or to seek regime change.

Elements of a permanent settlement

A comprehensive peace settlement would usefully include the following elements:

- The formal end to hostilities and the establishment of diplomatic relations between the United States and North Korea.
- Recognition by all parties of the sovereignty of both Koreas.
- The renewed commitment by North Korea to the NPT, IAEA safeguards, the 1992 joint denuclearization agreement, and the 1992 Agreement on Reconciliation, Non-aggression, Exchanges and Cooperation between the South and the North (the 1992 "Basic Agreement") – which together would require Pyongyang to fully, permanently and verifiably dismantle its weapons of mass destruction programs.
- Conventional force reductions on both sides of the DMZ.
- Security guarantees for both Koreas by the United States and China

Criteria

Any political settlement should meet three essential criteria. First, it must resolve both the civil war aspect (South vs. North) as well as the international aspect (the involvement of other states, especially the United States and China, in the war).

Second, state sovereignty must be honored. The North must recognize that the U.S.-ROK alliances, and the presence of U.S. forces in the ROK, are exclusively the domain of Washington and Seoul. In a development subsequent to the publishing of the Report, the United States has stated its recognition of North Korea's sovereignty as a participant in the Six Party Talks and as a member of the United Nations.

Finally, the settle should leave all parties better off than they are under the Armistice Agreement; in other words, each party's security should be enhance as a result of a settlement.

Sequencing

The following illustrates one way in which key actions could be sequenced to implement a comprehensive peace settlement.

Implementation of the tension reduction and confidence-building measures of the South-North Basic Agreement could be matched by the lifting of sanctions against the North, removing North Korea from the list of states sponsoring terrorism, and allowing North Korea access to international financial institutions. The signing of a South-North peace agreement (or the full implementation of the Basic Agreement) could be followed by the establishment of diplomatic relations between the United States and North Korea, thus ending the state of war between the two. Finally, the Armistice Agreement and its supporting structures – the Military Armistice Commission and the Neutral Nations Supervisory Commission – could be retired.

Benefits

A proposal by the United States to permanently settle the Korea War through the auspices of the UNSC would likely be well received by both the government and people of South Korea, shoring up an important alliance in an area of vital importance to the United States.

A political settlement would also assist the peninsula in transitioning from its current state of *hostile* division to one of *benign* division -- a condition where the two Koreas co-exist peacefully and where genuine reconciliation has an opportunity to take hold. This could set the stage for eventual reunification under terms acceptable to Koreans in both the South and the North.

Hedging against rejection

If a permanent peace is to be achieved, a fundamental shift away from the hostility that North Korea exhibits to the world will therefore be necessary. But there is little in the history of North Korea or the nature of the Kim Il-sung system and the Kim Jong-il regime to suggest that such a transformation is likely anytime soon. It is far more likely that North Korea would reject a proposal for the comprehensive resolution of the Korean War.

But low expectations should not deter the United States from making such a proposal. Even a failed effort could leave the United States in a better position than it is today. Relations with The ROK would likely improve as a result of the proposal, and building a coalition to pursue more coercive measures should be easier in the face of North Korean recalcitrance. Pyongyang's rejection of a genuine peace proposal initiated by the United States and supported by the ROK and China would shift blame for continued tension away from the United States and onto North Korea, where it rightfully belongs. The United States would re-capture the diplomatic initiative, and be better positioned to create a united front with other regional states to heighten deterrence, tighten sanctions, and garner support for action in the UNSC.

Finally, a U.S. offer to address comprehensively the insecurity North Korea claims to suffer as a result of U.S. belligerence could at a minimum generate a debate within the ranks of the North Korean leadership, possibly leading to a change in policy or even a split among the elite. The North Korean regime has demonstrated clearly its capacity to handle outside pressure; indeed, it appears to require such pressure to justify its totalitarian rule to its oppressed people. What it may not be capable of handling is a genuine offer to settle the Korean War once and for all, thereby removing the "threat" Pyongyang claims to be under from a hostile United States.

The United States would be in an enhanced position regardless of North Korea's reaction. If a proposal to craft a permanent settlement to the Korea War were to succeed, the last vestige of the Cold War would be brought to a close. If North Korea rejects a peace proposal, or fails to act in good faith after having agreed to the peace process, subsequent U.S. initiatives to contain, coerce and possibly even collapse the North Korean regime and system would more likely be supported by other states in the region.

Conclusion

In a claim echoed by some in the ROK and elsewhere, North Korea has asserted that its nuclear weapons program is a defensive reaction to the hostility of the United States. It is worth keeping in mind that North Korea got U.S. hostility the old fashioned way – it earned it, beginning with the invasion of the South in 1950, the innumerable violations of the Armistice Agreement resulting in the deaths of thousands of ROK and scores of American soldiers over the years, assassination attempts against ROK presidents at home and abroad, terrorist attacks against ROK targets, and other egregious actions that the members of the Asia and Pacific Subcommittee know well.

More to the point, North Korea has broken every nuclear agreement it has ever signed. When we catch it cheating, as we have done twice now, first with its plutonium program and more recently with its HEU effort, North Korea has been willing to enter into negotiations, leveraging its cheating for maximum advantage by parceling out aspects of its program a bit at a time, with every action easily reversible at Pyongyang's whim.

But while it has been willing from time to time to *negotiate*, it has never been willing to *negotiate away* its nuclear capabilities, permanently, completely, verifiably. North Korea has been single-minded in its pursuit of a nuclear weapons capability, a quest that has

consumed a tremendous amount of the country's scarce resources. That record, and the nature of a regime that needs an outside enemy to justify the nature of its oppressive rule, are not prescriptions for optimism concerning the Six Party Talks or any other negotiation aimed at eliminating the North Korean nuclear threat.