

# **How to Resolve the North Korean Nuclear Crisis**

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## **INTRODUCTION**

The events of the first few months of 2013 can only serve to increase doubts about whether there is any possibility of reaching an agreement which would actually lead the DPRK to give up its nuclear weapons capacity. The missile and nuclear tests as well as the assertion of nuclear weapons status and the belligerent statements directed at Japan and the US as well as the ROK all suggest a determination on the part of the new DPRK leadership to press ahead with their nuclear program. The reactions from the new conservative governments in South Korea and Japan also suggest that there is less scope for agreement.

At the same time these events demonstrate the need to press ahead with efforts to secure the denuclearization of the peninsula (if not a wider zone) and to try to persuade the North to give up its nuclear weapons. In the absence of diplomatic progress, tensions will increase and the DPRK nuclear arsenal will move closer to operational status. As we have already seen, the question of whether the ROK and Japan need their own nuclear capacity will become once again a serious concern.

Accepting a nuclear DPRK will set back global non-proliferation efforts and make it harder to prevent an Iranian nuclear weapons program. The possibility that the DPRK will become a proliferator and provide assistance to Iran and other potential nuclear powers cannot be ruled out. The possibility that the DPRK would use a nuclear weapon while low cannot be excluded. This is not to say that a policy of containment against North Korea is not possible. It is to say that it would not be without serious costs and risks and that therefore we need to consider alternatives that might eventually lead to the denuclearization of the Korean peninsula.

The statements on both sides seem to rule out small short term agreements which freeze some or all of the DPRK nuclear or missile programs in return for discrete commitments of economic assistance. The DPRK has clearly asserted that it will not give up its right to be a nuclear power for economic concessions and the West is reluctant to enter into another short term agreement which is likely to collapse as the earlier ones have.

However, the DPRK continues to say that it must maintain a nuclear deterrent as long as the United States shows hostile intent and threats to the North with its nuclear and conventional capacity. The implication of this formulation is that with the appropriate set of changes in the political relationship between especially the United States and the DPRK, the North would be willing to de-nuclearize. This is what I want to explore.

Promoting security in Northeast Asia in the face of the military threat from the DPRK requires that the United States continue to implement a three pronged approach: (1) maintaining and strengthening military capability especially ready conventional forces and strengthening alliance relations; (2) maintaining and strengthening the structure of global sanctions against North Korea by the UN Security Council and other means until the DPRK verifiably dismantles all of its nuclear weapons capability; and (3) developing and seeking to implement a process of regional security cooperation in NEAsia which will might lead to a denuclearized Korean Peninsula and demonstrates USG's resolve not to accept a nuclear DPRK.

I will lay out a new approach to the third objective – the costs and potential gains need to be weighed against other possible new approaches as well as the status quo.

One of the advantages of this approach is that it does not have major resource implications until and unless there is complete agreement. It also does not impede efforts to deal with what some might consider more urgent or more serious security threats such as in the Taiwan Straits or between Japan and China. If it strengthens relations with the ROK and Japan, it might facilitate cooperation on other security matters. If it approves relations with the PRC, it might create a climate in which tensions are reduced. If the process succeeds, it would reduce the risk that a crisis would erupt on the peninsula when there was a military confrontation elsewhere in the region.

It is important to emphasize that the proposal presented in this talk assumes that the first element (military containment) will remain in place even if the new approach is successful and that the second element (multilateral sanctions) will remain in place until and unless the objectives of the third prong are fully achieved and the DPRK has verifiably dismantled all of its nuclear capacity and agreed to on-going inspection and a sanctions regime to ensure that it does not renege on its commitment not to acquire nuclear weapons.

Even if a new comprehensive security structure is put into place in NEAsia the United States and its allies must retain the right to continue their alliances and must maintain effective military capabilities, including needed exercises, which provide credible assurances to Japan and the ROK, in return for which, these allies provide essential support to US regional strategy. As part of this effort, the United States must fully implement the military portions of the pivot and maintain in the area forces capable of responding quickly and decisively to an effort by North Korea to use or threaten to use military force of any kind.

The USG should at the same time deepen the discussions with the ROK and Japan on issues of nuclear deterrence. An important part of these conversations is to explain to both governments and to their publics why the main component of deterrence is the ability to respond promptly and decisively to any North Korean use of nuclear weapons but to do so with overwhelming conventional forces. The USG also needs to explain why the nuclear component of the deterrent

can and will be maintained without stationing or planning to deploy nuclear forces to the region whether or not a NWFZ is negotiated.

As the USG begins to discuss with other states which participate in the Six Party Talks the need for a new comprehensive approach, it must make it clear that the existing sanctions regime must remain in place until and unless a comprehensive agreement is reached and the North verifiably disarms.

If the USG decides to seriously explore a new comprehensive approach, it must make clear that it is in the context of the continuation of the first two prongs of the policy. It also must proceed in a way that does not permit the DPRK to divert the international conversation into a discussion only about the details of a peace settlement. The USG should make it clear that not only must all elements of the settlement come into effect at the same time but they must also be negotiated in parallel.

The first step in the process should be a full consideration of the proposal within the USG and the production of a draft text of all sections of the proposed comprehensive security agreement with appropriate back-up and supporting materials for discussion with the new ROK government and Japan. Once there is agreement among the three states, China and Russia should be approached along with the other two NWS and other nations including Canada and Mongolia.

Initial conversations with the DPRK should be in a Track 1.5 channel so that the concepts can be presented informally to the DPRK officials concerned with nuclear matters. These conversations could also be used to make it clear to the DPRK that discussions on a peace treaty and other cooperative elements can take place only in parallel with discussions of denuclearization and that implementation of any agreement would need to be simultaneous. If the DPRK showed interest informally, bilateral or multilateral conversations could begin once there was agreement with the ROK and Japan that this approach was worth exploring.

This approach is suggested in place of seeking to reconvene the Six Party Talks because they have out-lived their usefulness. While the PRC would like to see a denuclearized peninsula, it gives precedence to preventing instability or a collapse in North Korea and still is not willing to bring the necessary pressure on the North to force it to capitulate. Japan has been primarily focused on resolving the kidnapping issue and is unlikely to play an important role until there is a bilateral agreement with the DPRK resolving that issue. Russia is not a key actor and is unlikely to become one. The DPRK continues to emphasize bilateral discussions with the USG and, at times, with the ROK.

In light of this reality, bilateral conversations and negotiations are the way forward. When and if agreement on the new approach outlined above is in sight, a larger group of states should be brought into the process and invited to participate in a large international conference at which the agreement would be formally negotiated and signed. This larger group of states would adhere to and help enforce various parts of the treaty package.

Such an approach will at least avoid the misunderstandings of the past. The end result will be spelled out in a binding international treaty with a clear understanding of the commitments of each participant and with internationally enforced procedures for verification supported by a larger group of countries. Every participant will know what the final result will be.

The steps towards implementation need to be equally unambiguous. They will need to be spelled out clearly and precisely with no party free to add or subtract from the agreed steps by a unilateral statement to the world or to its own society. The outcome of this approach would not be a new “Agreed Framework” which was not even an agreement, let alone a treaty. It would be an agreement, in a legally binding form, that is, a treaty agreement.

What then are the elements of the proposed comprehensive approach to peace and security in NEAsia?

## **COMPREHENSIVE AGREEMENT ON PEACE AND SECURITY IN NEA**

The proposed comprehensive treaty would be signed and ratified by a number of states. Some sections would be adhered to only by some of the signatories; other would be adhered to by all the parties. Some provisions may go into effect as soon as the treaty is ratified by the required states. Other provisions would enter into force in the future when specified conditions are met. The elements of the Comprehensive Treaty on Peace and Security in Northeast Asia would include:

### **Termination of the state of war**

This is clearly a major objective of the DPRK. Which states need to or should be parties to these provisions to end the Korean War is by no means clear. The text should end the state of war in Korea and provide for the normalization of relations among the signatories while providing for the eventual unification of the peninsula.

### **Creation of a permanent council on security issues**

The Treaty should create a permanent council and organization to monitor the other provisions of the treaty and to deal with alleged violations of all the provisions including those related to the dismantling of the DPRK nuclear capacity and the obligations of the various parties under the NWFZ provisions. The Council might also in the future provide a forum to deal with other security problems in the region if it proves to be successful. In addition to the six parties, the other two nuclear weapons states (UK and France) and other states from the region and beyond would be invited to join including Canada and Mongolia. The IAEA might be asked to play a role in the monitoring process; other verification might be done by a staff recruited by the security organization and be composed of nationals from countries other than the six parties.

## **Mutual declaration of no hostile intent**

This is a key objective of the DPRK which put great stock in getting such a statement from the Clinton Administration. It was flummoxed when the Bush Administration simply withdrew it and when this policy was continued by the Obama Administration. To be credible this commitment must be embodied in the treaty and affect all the parties' relations with each other. There must be clarity about what it means and what it does and does not require. For example, there must be agreement that the treaty alliances between the US, the ROK, and Japan are not inconsistent with this pledge nor are military exercises or the stationing of American military forces on the peninsula.

## **Provisions of assistance for nuclear and other energy**

The right of all parties to the treaty to have access to necessary sources of energy including nuclear power, as provided for in the NPT, will need to be affirmed. Any limitations on the DPRK will need to be spelled out clearly. Whether the rules would apply equally to all the non-nuclear states party to the treaty including the ROK and Japan would be a matter for negotiation. The DPRK will also want assurances that its energy needs will be subsidized. Beyond a general commitment this element will probably need to be negotiated as a separate agreement.

## **Termination of sanctions**

The Parties to the treaty will need to end any existing sanctions on the DPRK. The parties would reserve the right, together or individually, to impose sanctions on any state which violates its commitments under the treaty.

## **Missile Launchers**

Currently the DPRK is under sanctions prohibiting it from testing missiles. A decision will need to be made whether to terminate such sanctions on the grounds that the prohibitions are linked to the DPRK having nuclear weapons which would be married with the missile launchers or to seek to get agreement from the DPRK to abandon missile launching in return for an agreement to launch their satellites.

## **NUCLEAR WEAPONS FREE ZONE**

Finally, the treaty would contain a chapter which would create a Nuclear Weapons-Free Zone (NWFZ) in Northeast Asia. The elements of that Treaty are discussed in the next session.

## **Details of elements of NWFZ**

This chapter of the Treaty would be consistent with the UN resolutions concerning the appropriate elements of a NWFZ treaty. It would have specific obligations for the non-nuclear states and others for the nuclear powers.

The ROK, Japan and the DPRK (and possibly other states including Mongolia and perhaps Canada) would commit themselves not to manufacture, test (for any purpose) or deploy nuclear weapons, nor to allow nuclear weapons to be stored on their territory. The DPRK would commit itself to re-join the NPT and the other states making this commitment would agree to remain parties to the NPT if the provisions of this treaty were being observed.

The precise territorial scope of the non-nuclear commitments would need to be clearly specified and would depend, in part, on which other states, if any, other than the two Koreans and Japan made these commitments. Mongolia has declared itself a nuclear weapons free zone and has secured a joint political commitment from the P-5 to respect its non-nuclear status. It is likely to be open to participation in the treaty. Canada's adherence is more problematical and would certainly require a bilateral approach by the USG.

The non-nuclear states adhering to these commitments might agree to future restrictions on reprocessing. They would agree to permit agreed inspections on their territory by the security organization created by the treaty so as to insure effective verification of the agreement. The inspection provisions and the obligations to provide information would apply equally to all the non-nuclear parties to the treaty accepting the non-nuclear commitments. In the case of North Korea there would need to be specific additional provisions providing for the destruction of their existing stockpile and production facilities under the auspices of the security organization.

The verification of the dismantling of the existing DPRK stockpile and its continuing adherence to its commitment not to manufacture or possess nuclear weapons will be far from easy. It will require that very specific obligations be spelled out which would need to include the right to intrusive inspections on demand and permanent fixed monitoring provisions. The initial dismantling will require not all physical access to all facilities but making available detailed records of the program. If there is a will to do so, it should be possible to develop and implement a program which would provide sufficient assurances that any significant level of cheating would be detected long before it posed a serious security threat. A final determination of whether the treaty provides sufficient verification would need to assess the security consequences of not having the DPRK verifiably dismantle its existing stockpile as well as the consequences of successful evasions of the treaty.

The ROK would need to commit that if Korea were unified before the weapons and the production facilities were dismantled, it would immediately turn over the weapons to a NWS for destruction and agree to international supervision of the dismantlement of the facilities.

The US, the PRC and Russia as well as the UK and France would agree to abide by the provisions of the treaty and not to store nuclear weapons in the zone or support in any way

violations of the treaty by the non-nuclear states. They would agree not to threaten or use nuclear weapons against any non-nuclear state that was observing the terms of the treaty. (Note that this offer by the USG is inherent in the clean negative security assurance offered by the USG in the Nuclear Posture Review and consistent with past commitments of Russia and China as well as the USG. The UK and France have made such commitments to states in other NWF zones. All five states have made these commitments collectively to Mongolia albeit in a political document not a legally binding one.) The parties would agree to confer and to take appropriate actions if any non-nuclear state party to the treaty was threatened with the use of nuclear weapons by another party to the treaty or another state with nuclear weapons.

There would need to be provisions spelling out issues of transit of nuclear armed ships or planes and defining the territorial scope of the treaty in terms of international waters.

### **Alternative transition and entry-into-force arrangements**

It goes without saying that any hope of success for the proposed treaty depends on the DPRK being willing at the end of the day to give up its nuclear weapons. There is a chance that with the right incentives especially from the US and the ROK, and the right pressure especially from China (which is more likely to come quietly and bilaterally) it might be willing to do so. The provisions in the treaty relating to entry into force and possible transition period should be structured so as to maximize the pressure on the DPRK and to give both China and North Korea the greatest incentives to accept the framework. One piece of that is to include in the same treaty the other elements that the North has been seeking. Another is to propose an EIF scenario for adherence by Japan and the ROK that contributes to this process.

One way to achieve this is to have a provision in the treaty which permits the ROK and Japan to sign and ratify the treaty on a conditional basis. The treaty could be structured so that it goes into effect when at least three of the nuclear weapons states (U.S., Russia, and China) ratify the treaty and when two or more non-nuclear weapons states (for example, Japan and ROK) ratify it. However, the non-nuclear weapons states would have the right to withdraw from the treaty after 3 or 5 years, unless the provisions are being enforced effectively throughout the Korean peninsula. Effective enforcement would occur if either the DPRK ratified and implemented the treaty, or it collapses and the peninsula is unified under the ROK. If this condition were not met, Japan and the ROK could opt to remain in the treaty for another period of 3 or 5 years or to terminate their obligation. If the condition were met, they would be permanent parties to the treaty subject only to the standard withdrawal clause.

The obligations of nuclear weapons states that ratify the treaty or the protocol would apply only to those non-nuclear states that also ratify and are in compliance with all the provisions of the treaty.

These provisions would accomplish several purposes. First, the ROK would be obliged to surrender any nuclear weapons or weapons grade material it acquires as a result of the collapse of the DPRK. Second, China would know that if it persuaded the DPRK to adhere to the treaty, it would have a permanent treaty commitment by Japan and the ROK not to acquire nuclear weapons or permit them to be stored on their territory. The DPRK would be aware of this, and would know that it would have a negative security assurance from the USG if it joined the treaty.

Specific provisions would be included to develop a process by which the DPRK would dismantle its existing stockpile over some period of time and receive compensation the specifics of which would be subject to agreement. A provision of the Treaty might permit the DPRK to accept the basic commitment that it becomes a non-nuclear weapons state while delaying its obligation to begin the dismantling process.

Still, it will not be easy to persuade the DPRK to give up its existing nuclear capability and it will certainly take some time. In the interim, having a process under way which presents a way to denuclearize the Korean Peninsula will contribute to the overall effort to prevent nuclear proliferation, will help to reduce tensions in the region and reduce the pressure in the ROK to re-open the issue of its own nuclear capability.

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