



# SPECIAL REPORT

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## ABOUT THE REPORT

The United States Institute of Peace has held an ongoing series of working group meetings on U.S. policy toward the Korean Peninsula since the fall of 1993, as the first nuclear crisis was escalating. In early 2003, following the revelation of North Korea's clandestine program to enrich uranium and thereby circumvent its international agreements not to seek nuclear weapons, the Institute convened a small group of senior experts for several meetings to consider possible policy responses to Pyongyang's latest nuclear challenge. The meetings focused on a paper prepared by William M. Drennan, deputy director of the Institute's Research and Studies Program.

This report, prepared by Drennan, draws on the deliberations of those meetings, which were held on a not-for-attribution basis, and the inputs of Richard H. Solomon, president of the Institute, and Paul Stares, director of the Research and Studies Program.

The Institute would like to acknowledge the invaluable assistance of Ashton H. Ormes, U.S. Army (ret.). While he bears no responsibility for this report, his detailed knowledge of the Korean War Armistice Agreement was indispensable in the preparation of it, as well as during the meetings of experts.

The views expressed in this report do not necessarily reflect views of the United States Institute of Peace, which does not advocate specific policies.

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## A Comprehensive Resolution of the Korean War

### Briefly . . .

Although the Korean War Armistice Agreement stopped the fighting in 1953, it has yet to be replaced by a permanent settlement. A U.S. initiative to convene, under the auspices of the United Nations Security Council, a four-party conference to craft a political settlement of the Korean conflict, in return for the verified dismantling of North Korea's nuclear weapons and other weapons of mass destruction, would:

- Meet the U.S. requirement for a multilateral solution to the nuclear issue.
- Address the fundamental source of insecurity for both Koreas (the unresolved state of war).
- Likely be supported by our allies and other regional states.
- Leave the United States in a stronger position to deal with North Korea if it refuses a political approach to dismantling its weapons of mass destruction (WMD).

### Policy Challenges

The heightened prospect that North Korea (Democratic People's Republic of Korea, DPRK) will develop and eventually deploy nuclear weapons presents the United States with policy alternatives that range from bad to worse. Agreeing to North Korea's demands for U.S. security guarantees in return for its commitment to cease nuclear weapons development would reward their provocative behavior and leave the United States with little or no assurance that they would faithfully comply. Acquiescing to North Korea's construction of an ever larger nuclear arsenal would undermine U.S.–South Korea conventional deterrence on the peninsula, increase the likelihood of further proliferation, and undermine U.S. global efforts to stem the development and proliferation of weapons of mass destruction. That said, preventing the North's acquisition of nuclear weapons by military means holds the risk of igniting an extremely costly war on the Korean Peninsula (possibly involving WMD) while alienating friends and allies in the region.

### A Comprehensive Peace Package

The preferred U.S. approach to addressing the North Korean nuclear problem through multilateral negotiations that include South Korea (Republic of Korea, ROK) has to date

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been rejected by North Korea—presumably because it fears being put in an inferior bargaining position. This approach, however, is now attracting wider endorsement. A U.S. initiative to convene, under the auspices of the United Nations, a four-party conference involving the United States, China, South Korea, and North Korea to formally end the Korean War in a way that also deals with core security concerns, including the nuclear issue, offers a broadly attractive solution to the problem. These talks would proceed according to the principle of “no negotiations under duress.” North Korea would have to verifiably suspend all reprocessing and enrichment activities while the United States (and South Korea) would fore swear military action as long as peace negotiations were in progress.

### *Key Components of a Peace Settlement*

Among the Korean War's nineteen belligerents, the United States, South Korea, North Korea, and China qualify as the *principal belligerents* on the basis of the level of forces committed to the conflict and their subsequent sustained involvement in the temporary armistice arrangements over five decades. A comprehensive peace settlement among these four would represent, therefore, a legitimate formal conclusion to the war. Such a peace settlement could contain the following key components:

- Formal cessation of hostilities and commencement of full diplomatic relations between the United States and North Korea.
- Recognition of the sovereignty and territorial integrity of both Koreas.
- A renewed commitment by both Koreas to the terms of the Nuclear Non-Proliferation Treaty (NPT), International Atomic Energy Agency (IAEA) safeguards, the 1992 Joint Declaration on the Denuclearization of the Korean Peninsula, and the 1992 Agreement on Reconciliation, Non-Aggression, Exchanges, and Cooperation between the South and the North (the “Basic Agreement”). These agreements would require Pyongyang to submit to the permanent and verified dismantling of its WMD programs.
- Conventional force reductions as called for in the Basic Agreement.
- Security guarantees by the United States and China for *both* Koreas.

Complementary agreements involving economic assistance, access to international financial institutions, and humanitarian aid are also conceivable but they are not necessary components of the process of replacing the Armistice Agreement with a permanent peace settlement. Endorsement of the final agreement by the UN Security Council and the other fifteen Korean War belligerents (as well as Japan) would be desirable.

### *Benefits of a Comprehensive Approach*

Addressing the North Korean nuclear problem via an offer to comprehensively settle the Korean War would have several benefits for the United States. A U.S. peace proposal under the auspices of the Security Council would allow the U.S. to defuse the current crisis without resorting to bilateral negotiations, enable it to regain the diplomatic initiative, and possibly spark a debate within the North Korean leadership, potentially splitting it along policy lines. Overall, the United States would be seen—especially by key allies in the region—as responsive to a major challenge to regional stability and global non-proliferation in general.

If the initiative proved to be successful, the final settlement would eliminate a growing national security concern for the United States (nuclear armed ICBMs and marketable fissile material), enhance the security of two key allies (Japan and South Korea), end the last vestige of the Cold War (the Korean Armistice), and, in the longer term, set in motion political processes in North Korea that would either transform or destabilize the regime.

If this initiative proved unsuccessful—either because North Korea rejected it or proved intransigent in the subsequent negotiations—the United States would be in a

strengthened position to lead a multilateral effort to contain or coerce what would be widely seen as a regime hostile to peace.

## Introduction

A comprehensive political settlement of the Korean War, if adhered to by all parties, could defuse the current crisis ignited by North Korea's nuclear weapons programs, and address the larger issue of the current lack of security for both Koreas as a result of the unresolved nature of the war. Given the role of the United Nations (and especially the United Nations Command) in the war and the armistice, and the position of the Bush administration that it will engage the North only in a multilateral setting, a U.S. initiative to convene a peace conference under the auspices of the United Nations Security Council warrants consideration.

The United Nations Security Council voted to support a "police action" in Korea in 1950. The Korean War Armistice Agreement stopped the fighting in 1953, but it has yet to be replaced by the final "peaceful settlement at a political level" envisioned in the agreement. The only attempts—a spring 1954 conference among the nineteen nations that fought in the war and the Four Party Talks of the late 1990s—both foundered. The crisis over North Korea's quest for nuclear weapons and missile delivery systems is but the most recent, and the most serious, manifestation of the continuing dangers inherent in a war that has been suspended but never resolved.

The U.S.-DPRK Agreed Framework of October 21, 1994, defused the first North Korean nuclear crisis by freezing the North's plutonium-based program at Yongbyon. Furthermore, by tying the Agreed Framework to the 1992 North-South Joint Declaration on the Denuclearization of the Korean Peninsula—which, among other things, prohibits North Korea from possessing uranium enrichment as well as nuclear reprocessing facilities—North Korea effectively promised not to seek nuclear weapons. North Korea's subsequent nuclear activities, via a clandestine program to enrich uranium, triggered the most recent nuclear crisis. The crisis has since escalated, as North Korea dismantled monitoring equipment and expelled IAEA personnel from Yongbyon, withdrew from the NPT, and reactivated its nuclear facilities at Yongbyon, including a graphite-moderated research reactor and a large plutonium reprocessing plant. North Korea's recent assertion that it now possesses nuclear weapons has further increased tensions on the peninsula and in the region.

Reprising its stance in the 1993–94 nuclear crisis, North Korea asserts that the current stand-off concerning its quest for a nuclear weapons arsenal can only be resolved through bilateral negotiations between the DPRK and the United States. (Even the recent three-way talks between the United States, North Korea, and China were, in Pyongyang's view, merely a diplomatic figleaf masking North Korea–United States bilateral talks.) Pyongyang's position is partly self-serving—if successful, the North's insistence on talking only with the United States furthers its claim to being the only legitimate governing entity on the peninsula, and potentially splits the allies—and partly a reflection of the North's understanding that the United States is the principal actor/enforcer of the non-proliferation norm. Pyongyang's position also enhances its ability to play one major power, the United States, off against another, China, on the nuclear issue. The U.S. government's position is that North Korea's nuclear programs are a challenge to the entire international community and the global non-proliferation regime, that it will not be blackmailed into bilateral negotiations, and that it will meet with representatives from the North only in a true multilateral setting that includes South Korean participation.

As potentially dangerous as it is, the current crisis is but the latest manifestation of the instability and danger emanating from the unresolved Korean War. Negotiations designed to address discrete military aspects of the security challenge—nuclear as well

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as non-nuclear—posed by North Korea would, assuming they were successful, still only address a part of the more fundamental problem of the insecurity stemming from the unresolved state of war that has existed on the peninsula for fifty years. Recently the task of managing the threat from the North has been compounded by the rapidly changing domestic political context in South Korea, where support for the U.S.-ROK alliance is eroding as the old conservative majority is supplanted by younger generations that are less concerned with the threat from North Korea than are their seniors, and either ambivalent about or hostile to the role of the United States on the peninsula.

The stable conventional deterrence that has long marked the armistice period is now at risk by the North's assertion, reiterated in the immediate aftermath of the war in Iraq, that in the absence of security assurances from the United States, it has both the need and the right to acquire nuclear weapons. In addition, the North is also demanding a non-aggression pact with the United States.

## Policy Challenges

U.S. policy options regarding the North Korean nuclear challenge can be broadly categorized as "tolerate," "confront," and "negotiate."

- *Tolerate.* While not condoning or approving North Korea's behavior, the United States could adopt a hands-off approach, refusing to engage the North unless and until it visibly and verifiably dismantles its highly enriched uranium (HEU) program and maintains the freeze at Yongbyon. The United States would deal with North Korea indirectly through proxies (China, Japan, South Korea), signaling calmness and patience and avoiding explicit military threats while holding out the prospect of directly engaging the North in the future in return for North Korea's honoring its past commitments by dismantling its plutonium and uranium programs.

One argument in favor of this approach is the belief among some experts that North Korea is in such desperate need of outside assistance that, unlike in 1994, it is vulnerable to U.S. leverage. Ultimately, however, if this approach does not produce the desired result, the United States could live with North Korea's acquisition of more nuclear weapons on the assumption that there is no significant strategic difference between a presumed arsenal of one or two nuclear weapons and an arsenal of six or seven; in either case the United States could deter and contain North Korea.

- *Confront.* The United States could adopt a policy of pure coercion designed to further isolate North Korea, force it to abandon its nuclear programs, or drive it into collapse. The United States, either in partnership with allies and friends, or alone if necessary, would use non-military instruments (economic sanctions, international isolation), while holding in reserve military means to prevent both a North Korean "strategic breakout" (a robust nuclear weapons capability) and the specter of North Korea supplying nuclear materials to terrorists groups and unfriendly states.
- *Negotiate.* There are two variants of a negotiation policy—limited and comprehensive.

*Limited negotiations* would focus solely on the nuclear threat, with the goal of keeping North Korea from acquiring any additional weapons material. The United States would resist any temptation to be diverted to other, less immediate goals, such as conventional force reductions or regime change. Washington would signal its willingness to live with the current regime as long as it returns to the status quo ante (dismantling the HEU program, "refreezing" Yongbyon, and abiding by the Agreed Framework and the NPT), thereby re-establishing stable mutual deterrence.

*Comprehensive negotiations* would, like limited negotiations, seek to prevent North Korea from acquiring additional nuclear weapons capability; it would also seek the

elimination of the North's long-range missile programs and perhaps reduction of the conventional threat. Comprehensive negotiations would be premised on the assumptions that a piecemeal approach will not work with North Korea, that the United States cannot cause the collapse of the regime (or should not try), and that the security and measure of legitimization/recognition that a comprehensive approach would lend to North Korea are costs the United States could bear in exchange for preventing a North Korean strategic breakout. A comprehensive approach would also be designed to steer North Korea down the path of political and economic reform and eventual acceptance into the community of nations.

There are advantages and disadvantages to each of these options, but none gets at the root cause of insecurity on the peninsula, the unresolved war. Moreover, if these options should prove to be unsuccessful at permanently eliminating North Korea's nuclear weapons programs, the United States would be faced sooner or later with an even starker choice than that which it confronted in the spring of 1994. To paraphrase the words of former secretary of defense William Perry, the president will have to choose between a disastrous option—allowing North Korea to get an ever larger nuclear arsenal, which we might have to face someday (either on the Korean Peninsula or from terrorists supplied by North Korea)—and an unpalatable option, blocking this development by immediate military action, but thereby risking a highly destructive war in which nuclear (as well as chemical and biological) weapons might be used, and potentially doing long-term damage to our relations with allies and friends in the region.

## A Comprehensive Peace Package

North Korea's demand for a non-aggression pact with the United States is a variation of its longstanding demand for a U.S.-DPRK peace treaty, a demand based on Pyongyang's claim that the United States and the DPRK signed the Armistice Agreement and are thus the only parties with standing to participate in a political settlement ending the war. In addition to asserting that the ROK lacks legitimacy as a sovereign state, Pyongyang dismisses ROK claims to be a party to the Armistice Agreement, citing Seoul's refusal to sign the agreement in 1953.

According to legal experts, North Korea's assertions do not hold up. Nineteen countries fought in the Korean War (seventeen—including the Republic of Korea—under the United Nations flag) and qualify as belligerents with standing to participate in a final political resolution of the war. However, in terms of the numbers of troops committed to the war and their subsequent sustained involvement in the armistice, four of the nineteen—South Korea, North Korea, the United States, and China—qualify as the *principal belligerents*, concludes Patrick M. Norton in his authoritative study "Ending the Korean Armistice Agreement: The Legal Issues" (Northeast Asia Peace and Security Network, Virtual Forum no. 2, March 1997, [www.nautilus.org/fora/security/2a\\_armisticelegal\\_norton.html](http://www.nautilus.org/fora/security/2a_armisticelegal_norton.html)).

On the basis that the four principal belligerents are the "first among equals," a peace conference under the auspices of the United Nations Security Council would seem the best approach, since all four principal belligerents are members of the United Nations, and two are permanent members of the Security Council. Moreover, a conference convened under the authority of the Security Council would meet the Bush administration's requirement for a multilateral setting within which to engage North Korea. In addition, a comprehensive "peaceful settlement at the political level" would in theory address both North Korea's professed sense of insecurity vis-à-vis the United States and the threat posed by North Korea to South Korea and to U.S. interests. Finally, a comprehensive political settlement would address the root cause of insecurity—the continuing state of war—rather than the symptoms of that insecurity (for example, oversized conventional forces on both sides of the Demilitarized Zone, and North Korea's quest for weapons of mass destruction systems).

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## Key Components of a Peace Settlement

Achieving a stable, peaceful, non-nuclear Korean Peninsula should be the common objective of the four principal belligerents. A successful peace settlement would likely contain the following key components:

- Formal cessation of hostilities and commencement of full diplomatic relations between the United States and North Korea.
- Recognition of the sovereignty and territorial integrity of both Koreas.
- A renewed commitment by both Koreas to the terms of the NPT, IAEA safeguards, the 1992 Joint Declaration on the Denuclearization of the Korean Peninsula, and the 1992 Agreement on Reconciliation, Non-Aggression, Exchanges, and Cooperation between the South and the North (the "Basic Agreement"). These agreements would require Pyongyang to submit to the permanent and verified dismantling of its WMD programs.
- Conventional force reductions as called for by the Basic Agreement.
- Security guarantees by the United States and China for both Koreas.

Each of the four parties would have other objectives as well:

- The United States would want to see progress in missile negotiations and economic/agricultural reforms both to open up North Korean society and to break its dependency on outside assistance.
- South Korea would expect, if not formal state-to-state relations, given the "special interim relationship" between the two Koreas, at least genuine rapprochement and peaceful coexistence with the North. (The legal and diplomatic relationship between the two Koreas is murky. The Basic Agreement describes North-South relations as "not being a relationship between states" but rather constituting "a special interim relationship stemming from the process towards unification." Neither Korea has yet recognized the legitimacy of the other, and both have competing claims to sovereignty over the entire peninsula and its adjacent islands.)
- North Korea can be expected to seek, as part of the diplomatic recognition process with the United States, removal from the list of nations sponsoring terrorism, elimination of remaining economic sanctions and the normalization of trade, access to international financial institutions, and continued humanitarian aid.
- China would expect to see the perpetuation of peninsula division, that is, North Korea as a buffer state, but with a stable border with China and a substantial decrease in, if not elimination of, the flow of North Korean refugees into China, as well as continued friendly relations with South Korea.

### *Criteria*

Any proposed peace settlement should meet at least three criteria. First, as Norton points out, a political settlement of the Korean War must address the dual nature of the conflict—both the "civil war" aspect (war between the northern and southern halves of Korea) and the "international" aspect (the involvement of other states, especially the other two principal belligerents, the United States and China).

Fortunately, partial solutions to both the civil and the international war aspects already exist and could form the basis of a quadripartite peace settlement. The 1992 Basic Agreement contains a broad statement of the desire for peace, a fairly specific blueprint for a step-by-step approach, and a foundation for a comprehensive peace accord between the North and South. According to many experts, the international aspects of the war are already partially resolved. Robert E. Bedeski concludes that wars may be terminated by means other than formal treaties, and that a state of war can be ended by normalization or resumption of diplomatic relations ("Challenges to Peace on the Korean Peninsula," *Northeast Asia Peace and Security Network, Policy Forum Online*, no. 7,

July 28, 1997, [www.nautilus.org/fora/security/7a\\_Bedeski.html](http://www.nautilus.org/fora/security/7a_Bedeski.html)). It follows that the establishment of diplomatic relations between the United States and China in 1979, and between the ROK and China in 1992, ended the de facto states of war that had existed since the fall of 1950. The missing element in ending the international aspect of the Korean War is the establishment of diplomatic relations between the United States and the DPRK. Both the 1994 Agreed Framework and the 1999 Perry report envisioned a process of U.S.-DPRK diplomatic engagement, the logical extension of which would have been the establishment of full diplomatic relations.

Second, state sovereignty must be honored. Decisions concerning military alliances, for example, properly reside with the participating states; outside parties should not be allowed a voice or a veto. Specifically, the U.S.-ROK military alliance and the disposition of U.S. forces in South Korea are issues between Washington and Seoul, exclusively.

Finally, a final resolution to the war should leave all parties better off than they are under the Armistice Agreement. Stated another way, the security of each party must be enhanced, not degraded, as a result of changes to the status quo.

### *Sequencing*

Under a UN Security Council umbrella, a comprehensive peace negotiation can be expected to include a process of mutually reinforcing, multi-layered dialogues among the four principal belligerents as an integral part of the four-party effort, potentially setting the stage for broader regional as well as United Nations discussions on peninsula and regional security following the establishment of a formal peace.

A prerequisite for convening a peace conference should be that all parties adhere to the principle of “no negotiations under duress.” North Korea would have to verifiably suspend all nuclear weapons activities under IAEA supervision. In return, the United States (and South Korea) should forswear any military action against the North as long as peace negotiations are in progress.

For political as well as security reasons, the United States should continue to insist that the first step in a comprehensive political settlement must be the verifiable and permanent dismantling of North Korea’s nuclear weapons programs—both the plutonium- and uranium-based programs. More specifically, the North would have to give up the fuel rods removed from the Yongbyon research reactor in 1994 and all plutonium harvested from earlier refueling operations, as well as the centrifuges and other critical components of its uranium enrichment program.

The implementation of the tension-reduction and confidence-building measures included as part of the Basic Agreement would be matched by the lifting of remaining U.S. economic sanctions against the North, its removal from the list of countries sponsoring terrorism, and its access to international financial institutions. Finally, reaffirmation of the 1992 South-North non-aggression pact, or the signing of a South-North peace treaty, would trigger the establishment of full diplomatic recognition of North Korea by the United States, ending the state of war between the United States and the North, following which the structures that maintain the armistice—the Military Armistice Commission, the Neutral Nations Supervisory Commission—would be dismantled. Both the United States and China would then issue security guarantees to *both* Koreas.

Capping the entire process, the United Nations Security Council and the other fifteen Korean War belligerents as well as Japan could then register their approval and endorsement of the establishment of peace on the peninsula.

### **Benefits of a Comprehensive Approach**

U.S. policy responses to issues of war and peace on the peninsula generally, and to North Korea’s nuclear weapons challenge specifically, are unlikely to be effective unless they

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are coordinated with and supported by our alliance partner, South Korea (whose security is most threatened by a hostile North Korea bent on acquiring nuclear weapons), and the major powers in the region. The South Korean public and government share a strong preference for engagement, dialogue, and diplomacy in dealing with the North. A proposal by the United States, in partnership with South Korea, to resolve diplomatically the threat posed by the suspended state of war on the peninsula would likely be warmly welcomed by the government and people of the Republic of Korea, and go a long way to shoring up an alliance that has served both partners well.

Should the initiative succeed, all parties would emerge better off than they are currently. A comprehensive resolution to the war would enable each of the principal belligerents to achieve its objective outlined above. In addition, the peace and stability of Northeast Asia, a region vitally important to the United States for both geopolitical and economic reasons, would be significantly enhanced. A state of “benign” division of the Korean Peninsula—as opposed to the current hostile division—could also set the stage for the eventual peaceful reunification of the two Koreas, either through negotiations or through the “soft” collapse (absorption) of North Korea.

## **Drawbacks and Potential Rewards**

All previous efforts by the United States and its allies to engage North Korea, including the U.S.-DPRK Agreed Framework, the Perry process, and the Kim Dae Jung administration's Sunshine policy, have failed, reinforcing the suspicion that North Korea is bent on acquiring nuclear weapons regardless of the assistance it receives from, or the agreements it signs with, the international community.

Therefore, if a permanent peace is to be achieved, North Korea will have to alter its approach to the outside world. The North will have to drop its insistence that both the permanent resolution of the war and the nuclear issue are matters to be addressed solely between the DPRK and the United States. It will have to explicitly renounce its goal of uniting the peninsula through conquest of the South, and recognize the legitimacy of the ROK. It will have to permanently and verifiably abandon its decades-long quest for nuclear weapons and advanced delivery systems, allow the intrusive international inspections necessary to assure the outside world of its compliance with all non-proliferation commitments, and implement meaningful tension-reduction and confidence-building measures with the South.

In short, a fundamental shift away from the hostility that North Korea has long exhibited toward the outside world will be necessary if multilateral negotiations to end the Korean War are to succeed. The history of the DPRK, the nature of the Kim Il Sung system and the Kim Jong Il regime, and the failure of the Four Party Talks hardly inspire optimism that such a transformation is likely anytime soon. At present, one would assume that North Korea would be unlikely to accept a proposal for a comprehensive peace settlement; it might even attempt to continue to develop nuclear weapons clandestinely while appearing to negotiate.

But low expectations should not deter the United States, in partnership with the ROK and China, from proposing multilateral peace negotiations under the sponsorship of the UN Security Council. Even an effort that ends in failure could leave the United States in a better position than it is in today. Should North Korea continue its strategy of coercion and brinkmanship, and continue down the path to nuclear weapons, the United States would be better situated to create a united front with the other states in the region to heighten deterrence, cut off monetary and other assistance currently flowing to the North, and possibly engage in interdicting North Korean shipments to third parties.

Regardless of North Korea's response, a U.S. proposal to resolve the war under the auspices of the Security Council would re-capture the diplomatic initiative lost in the wake of the revelation of North Korea's uranium-based weapons program, and would likely be

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welcomed around the world, with the United States seen as positively addressing a major challenge to regional peace and the global non-proliferation regime. By demonstrating its willingness to deal with Pyongyang's security concerns, but in a multilateral setting, the United States would counter North Korea's insistence on bilateral negotiations and enhance its image within South Korea and in the region.

## Conclusion

The North Korean leadership appears to be paralyzed by the realization that they cannot recover from their economic calamity without opening to the outside world, and the fear that even modest reforms could generate forces that they would not be able to control, costing them their regime, their elite status—and possibly their lives. For a U.S. offer to be effective, it must assuage those fears. It must address the fundamental insecurity derived from the unresolved state of war, as well as hold out the prospect of an improved economy through increased trade and aid. Such an offer could at a minimum be expected to generate a debate within the ranks of the leadership, perhaps leading to a change in policy or even a change within the leadership. That prospect alone suggests that the concept of a comprehensive peace proposal is worth pursuing.

A serious, specific proposal by the United States for a comprehensive resolution to the Korea War would be seen by the global audience as a bold initiative to end the dangerous standoff on the Korean Peninsula. If the initiative succeeds, the last chapter of the Cold War will have been brought to a close, with enhanced security for the two Koreas and the entire region. If North Korea rejects the proposal, or refuses to engage in sincere negotiations once at the conference table, a subsequent hard-line approach led by the United States to contain or coerce the North Korean regime is more likely to be supported by other states in the region and within the United Nations.

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## Appendix: The Nature of the Armistice Agreement

*This appendix is drawn principally from Norton, "Ending the Armistice Agreement," and, to a lesser extent, Bedeski, "Challenges to Peace on the Korean Peninsula." Unless otherwise noted, all quotations are from Norton.*

North Korea has long asserted that the absence of a South Korean signature on the Armistice Agreement precludes the South's participation in armistice-related matters. The allies have consistently pointed out that neither the DPRK nor the United States (nor the ROK or China, or any other *state*, for that matter) signed the agreement. Indeed, the full title of the Armistice Agreement—"Agreement Between the Commander-in-Chief, United Nations Command [CINCUNC], on the One Hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the Other Hand, Concerning a Military Armistice in Korea"—suggests that the agreement is of an exclusively military nature. Moreover, the Preamble declares that the agreement's "conditions and terms are intended to be purely military in character and to pertain solely to the belligerents in Korea."

This raises several questions. First, is the Armistice Agreement exclusively a military instrument to which no sovereign responsibility attaches? Second, who, precisely, are the belligerents? And third, who has standing to participate in the "peaceful settlement at a political level" envisaged in the agreement?

Concerning the first question, a centuries-old principle holds that "international law has consistently regarded general armistices as of such political significance that they can only be concluded on behalf of the sovereignty of the state." In other words, *states*, not their militaries, are the belligerents in Korea, and the military commanders who signed the Armistice Agreement did so as representatives of their respective states.

But if states are the belligerents, which states? And what about the United Nations? Some have argued that the United Nations is a belligerent, citing as evidence the Security Council resolutions on Korea of June and July 1950 and the following facts: seventeen nations fought under the United Nations flag, the "United Nations Command" is one of the two "sides" referenced in the Armistice Agreement, and CINCUNC signed the agreement.

The claim that the United Nations is a belligerent does not hold up under scrutiny, however. On July 7, 1950, the Security Council "authorized a 'unified command under the United States.' The United States interpreted this authorization as constituting the United States itself, in its sovereign capacity, as the 'Unified Command' . . . The United States then created, as an entity theoretically separate from and subordinate to the Unified Command, the 'United Nations Command,' which it described as an 'international field force' conducting the actual hostilities."

The United Nations exercised no control over the forces fighting under the UNC banner; furthermore, it is not a party to the Armistice Agreement, did not take part in the 1954 Geneva conference, and thus cannot be considered a belligerent.

Just as clearly, CINCUNC "signed the Korean Armistice Agreement as the military representative of the [seventeen] governments whose forces actually participated in the hostilities [on the UNC side]." It follows that these seventeen states are belligerents with the right to participate in a political settlement to the war.

The DPRK and China clearly qualify as belligerents as well. The Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers were as much representatives of their respective states as CINCUNC was of the states that contributed forces to its command.

(The role of a twentieth state, Russia, as the successor to the Soviet Union, is less clear-cut. We now know that Soviet forces, particularly air force elements, participated clandestinely in the war, and the USSR did participate in the failed 1954 conference. A Russian claim to belligerent status would be open to question, however, and Russian

participation in a political settlement does not appear warranted. For a different view on Russia, however, see Norton.)

Therefore, a total of nineteen countries have legitimate grounds to participate in a political settlement to the war. But is participation *required* of all qualified parties? Stated another way, must all nineteen participate, or can a peaceful settlement be reached by a smaller number of belligerents?

A strong case can be made that participation of the fifteen nations whose forces fought alongside the ROK and the United States under the United Nations flag is not essential to a final political solution, considering the passage of time and the relative lack of involvement by those fifteen over the years in maintaining the Armistice Agreement. Given the dominance in terms of numbers of troops committed in combat by the two Koreas, the United States, and China and their uninterrupted, substantial involvement during the subsequent decades in armistice matters, these four are clearly “first among equals.” The tacit approval given by the other fifteen belligerents to the now moribund Four Party Peace Talks—in which the two Koreas, the United States, and China jointly sought a political settlement—suggests that none would object to a UN Security Council–sponsored peace initiative limited to the four principal belligerents.

It should, therefore, be possible to craft an agreement, or set of agreements, among these four establishing a peace settlement to replace the Armistice Agreement that would meet with the approval of all other belligerents.

To summarize:

- The United Nations is neither a belligerent nor a party to the Armistice Agreement.
- The ROK, however, is both, and as such has standing to participate in a political settlement.
- Of the nineteen belligerents, the two Koreas, the United States, and China are the “principal belligerents” with the right and responsibility for the lead roles in a UN Security Council–sponsored peace conference.
- Pyongyang’s claim that the United States and North Korea are the sole parties to the Armistice Agreement is without merit, a fact reinforced most recently by the North’s participation in the Four Party Talks.
- The assent (or understanding, approval, agreement) of the other fifteen belligerents, should they choose to give it, would be welcome, but not essential to formally end the war.

For more information on this topic, see our web site ([www.usip.org](http://www.usip.org)), which has an online edition of this report containing links to related web sites, as well as additional information on the subject.

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